HOUSE OF REPRESENTATIVES—*Thursday, November 4, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious and loving God, we come together in Your presence and acknowledge one another. We are Your children and we are all one people that have been created by Your hand. We admit our responsibilities, one to another, as members of the human family, and yet there is so much violence and discord about and we do not demonstrate the wholeness we have received as Your gift. Teach us to believe and have faith, to live and act, to show our tie one to another, so we will more fully display the unity we have been given by Your hand. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. BILIRAKIS] please come forward and lead the House in the Pledge of Allegiance.

Mr. BILIRAKIS led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minute requests.

FOOD SAFETY STANDARDS UNDER NAFTA

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

Ms. DANNER. Mr. Speaker, recently, the St. Louis Post-Dispatch conducted a 3-month investigation of pesticide use in Latin America and as the reporter said, an inspection in Dallas last year of a load of Mexican vegetables gave new meaning to the phrase "hot pepper."

Tests on green peppers found two forms of DDT banned in the United States, two more prohibited insecticides, a fifth pesticide that cannot be used on peppers in the United States and a sixth chemical that resembles hydrochloric acid.

From Mexico, United States imports of produce have skyrocketed to over $1 billion a year. More shipments are predicted if Congress approves NAFTA. Yet the overall frequency of FDA inspections of imported food declined in 1992 for the second straight year.

Under NAFTA, any dispute over food safety will be referred to the Codex Alimentarius, a firm based in Rome, Italy, whose standards are lower than the current American standards. These are the people who will make the decision on the safety of the food you and I eat if NAFTA passes.

THE MYTH-MAKERS

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

Mr. BALLENGER. Mr. Speaker, when it comes to NAFTA's opponents, I have to really hand it to them: Never has so much been said by so few to mislead so many.

It really comes down to one fact: The anti-NAFTA coalition is led by a rogues' gallery of demagogs. In fact, they are a veritable all-star roster of myth-makers.

From Ross Perot to Pat Buchanan, from Jerry Brown to Ralph Nader and Jesse Jackson, the men on this all-star roster share one trait: they are all long on name recognition, but notably short on credibility.

Nativism, scare-tactics, and xenophobia are not sufficient reasons to vote against NAFTA.

The myth-makers need to confront the facts: NAFTA will create jobs, improve the environment, help American relations with our neighbors, and expand markets.

Resist the myth-makers. Vote for NAFTA.

ON NAFTA

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

Mr. PICKLE. Mr. Speaker, the most important trade agreement in American history is pending with NAFTA. Passage of NAFTA is immensely important to the United States—it must pass and will pass.

This NAFTA agreement will mean jobs for Americans. First, six jobs will be created for every one job that might be lost. That is a fact as agreed to by most top labor officials. Second, the United States and Mexico have reached agreement on monumental changes for our environment—clean air, and clean water. Never before in this country have environmentalists had such a significant place at the bargaining table. Third, our trading partners to the south include not only Mexico, but also all of South America, and the Caribbean. This is the best chance we have ever had to expand our markets and sell American goods in the Western Hemisphere.

NAFTA is gaining, slowly and surely. Each day brings new supporters. We are within striking distance of victory, and by November 17, we will have the votes to win passage.

Mr. Speaker, I support the North American Free-Trade Agreement. NAFTA will preserve 700,000 American jobs related to trade with Mexico. It will increase exports of U.S. goods and improve the competitiveness of American workers. Last year the United States enjoyed a $5.4 billion trade surplus with Mexico. With NAFTA, the remaining Mexican trade barriers will be removed creating new jobs and vastly increasing exports of United States goods. NAFTA will leave the rest of the world on the outside looking in on the world's largest trading market, and enable us to better compete with Europe and Asia.

NAFTA protects North American goods from outside competition by including specific rules of origin to prevent outside countries from disguising their goods as NAFTA goods in order to receive the NAFTA tariff exemption. The Japanese are opposed to NAFTA because it will enable the United States car industry, and other American industries, to expand, strengthen, and take precedence in the growing Mexican market.

The agreement protects Americans by establishing the North American Free Trade Commission and a Trilateral Secretariat to administer a panel review program to resolve any international disputes. Moreover, with the side agreements on environmental cooperation, labor standard enforcement, and on protection from import surges, NAFTA is good for the United States and good for American jobs. Rejecting NAFTA would be a crucial mistake for the United States foreign policy and international relations.

THE SNOOZE BUTTON

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

Ms. PRYCE of Ohio. Mr. Speaker, the reform alarm is ringing, but the Democrat leadership is reaching for the snooze button. They would rather let reform sleep than respond to the wake up call sent by the voters on Tuesday.

Reform Republicans swept out status-quo Democrats, by offering lower taxes, better government and tougher crime enforcement.

The Democrats in the Congress, however, have not received the message. Instead, they dream up schemes like having the taxpayers pay for political campaigns.

They derail the efforts of the Joint Committee on Reform. And they pass sham crime measures that do not start to meet the needs of the justice system.

Mr. Speaker, the only way to wake up the Democratic power-brokers in this Congress is to kick them out of that comfortable bed called the majority.

As long as the Democrats continue their 40-year stranglehold of this institution, they will never see a need to wake up to reform.F

NAFTA

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

Mr. TRAFICANT. Mr. Speaker, as everybody knows, all the former Presidents have come out and endorsed and support NAFTA. To figure out how the American worker feels about that NAFTA endorsement, I have struggled trying to find some comparative data by which to assess the emotion of the American people.

Last week, at a public auction in New York, an autographed photograph of Richard Nixon sold for $100.

□ 1210

An autographed photograph of Gerald Ford sold for $100. An autographed photograph of Jimmy Carter sold for $100. An autographed photograph of the Three Stooges, Larry, Mo, and Curly, sold for $3,000, 30 times more than the photographs of the Presidents.

I think that says it all. The American worker does not need to have their noses pinched, their ears boxed. They know exactly what NAFTA is going to do, and that public sale at that auction tells us exactly what they think of the advice and counsel on this trade agreement.

REFORM IN A FASHION

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

Mr. EWING. Mr. Speaker, reform has finally come, no thanks to the Democrat majority leadership.

After Tuesday's elections, it has become clear that if the American people want reform, they will have to do it themselves.

The stunning victories in New York City, New Jersey, and Virginia are proof that the American people are tired of Democrat politics as usual.

We were promised months ago that the House would consider reform legislation. We were told that October would be reform month. Now, we have been reassured that reform month is only being delayed, not denied.

However, Mr. Speaker, the elections yesterday clearly show where the reform will come from. It will come from the American people, with their votes against the Democrat status quo.

Mr. Speaker, November is indeed a month for reform. The election yesterday is the first sign that reform means a rejection of the Democratic rule, and an end to their dominance of this institution.

CALLING FOR A REDUCTION OF VIOLENCE AND SEX ON TELEVISION

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

Mr. APPLEGATE. Mr. Speaker, murder, armed robbery, assaults, rape, sex. Do the Members think I am reading the police blotter? It is what we see on television every night of the week. Freedom of expression? Baloney. That is what the courts say. They say TV is not an influence on our young people, that the influence comes from society.

Why do companies like McDonald's and all these others spend billions of dollars for television ads? Because they influence the youth and they get it back big time. Free speech? They say that is a problem. That is only what the courts say free speech is, handcuffing the police and wimpy judges who ought to serve the time for the rapists, the assaulters, and the sex offenders who they put out on the street.

If television movies do not clean up their act, then Congress has to.

VOTERS REJECT TAX-AND-SPEND DEMOCRATS

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

Mr. DOOLITTLE. Mr. Speaker, the voters have spoken. Loud and clear. The tax-and-spend philosophy espoused so long by the Democrat Party has been repudiated.

Our former colleague, George Allen, is the new Governor of Virginia—the first Republican elected to that office since 1977.

Democrat Gov. Jim Florio, who meted out recordbreaking tax increases to the people of New Jersey, has been defeated by a Republican who espouses fiscal restraint and tax cuts.

New York now has a Republican mayor who has promised to bring under control runaway government spending and to put a stop to the bureaucratic nightmare which has so long plagued our Nation's largest city.

Mr. Speaker, it is no coincidence that Republicans rolled to victory all over the country Tuesday. People are tired of paying for big government. For this reason, people oppose President Clinton's plan to socialize medicine.

Real change is needed now. Tuesday's election shows that voters will accept nothing less.

HEALTH INSURANCE INDUSTRY PUTS PEOPLE LAST, PROFITS FIRST

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

Mr. VISCLOSKY. Mr. Speaker, while almost everyone has entered into a constructive dialog on health care reform, the health insurance industry has come out with both guns blazing.

The health insurers have taken aim at the Clinton plan, but instead, they have shot themselves in the foot.

While the Clinton health plan would put an end to skyrocketing costs, the health insurance industry is interested primarily in increasing its profits.

While the Clinton plan would guarantee health care that is always there, the health insurance industry wants to continue the fine print policies that allow it to drop people who become sick.

While the Clinton plan would stop the insurance industry from raising your rates, the industry would stop the Clinton plan so that it could continue to jack up your premiums.

Mr. Speaker, it is clear that the President wants a plan that will keep people healthy and insured. The health insurance industry wants to keep the status quo, which puts people last and profits first.

A TIDAL WAVE

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

Mr. GOSS. Mr. Speaker, across the country Americans are sending a clear strong message to the liberal tax-and-spenders. However, instead of heeding the clear call for less Government, lower taxes and real anticrime initiatives, the President and his crew are trying to bail out the White House

after Tuesday's devastating election results. The President, who just 1 year ago claimed a national mandate with only 43 percent of the vote, dismissed Tuesday's results because "all politics are local." The chairman of the Democrat Party said, "It's very difficult to elicit a national trend." Well, Mr. Speaker, tax-and-spenders swallow their own P.R. at great peril. They should listen to someone with nothing left to lose. Democrat Mary Sue Terry recognized the tidal wave that ended 12 years of liberal Democrat rule in Virginia. This is the same tidal wave that is sweeping big cities from coast to coast. This is not a question of liberals learning how to swim to survive—this is a matter of going with the flow toward fiscal conservatism.

CITRUS AND SUGAR DEALS HARDEN OPPOSITION TO NAFTA

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

Mr. LEVIN. Mr. Speaker, NAFTA proponents apparently have struck a deal to further shield United States citrus and sugar growers against lower cost Mexican production. I asked this question: Why is it free trade and looking forward when we take steps to preserve production of certain U.S. crops, but it is protectionism and looking backward when concerns are raised about the impact of enormous economic differentials in the cost of production of industrial goods?

Throughout industrial America, among those who work in it, supply it, and service it, there is a sinking feeling. Just as in the 1980's when we did not pay serious attention to how our workers and our businesses were competing against Japan's closed markets and strategic targeting of American industry, and we ignored the consequences of the 2,000-plus maquiladora plants mushrooming in Mexico, today we confront a NAFTA, as presently drafted, that does not sufficiently address how our workers and small businesses will compete against Mexico's highly productive workers and plants. This will be especially true after NAFTA enhances Mexico's policy of lowering investments by arbitrarily suppressing salaries and wages.

A citrus and sugar deal might win a few votes, but the price is the hardening of the opposition that is at the core of the resistance to this NAFTA. In their effort to peel off a few votes, NAFTA proponents are highlighting the heart of the matter for the entire Nation.

FACE-FARCE: NEW HATE BILL WOULD TURN PEACEFUL PROTESTERS INTO FELONS

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

Mr. SMITH of New Jersey. Mr. Speaker, the Freedom of Access to Clinic Entrances Act or FACE is a mean-spirited farce—a new hate law proposal—designed to turn deeply moral and ethical middle-class and poor Americans into felons.

Peaceful, prayerful, nonviolent pro-life dissenters made up mostly of women, whose only intent in protesting at abortion mills is to protect unborn babies from child abuse and butchery and to provide mothers one last opportunity to choose life, are singled out for cruel punishment, including 1 to 3 years in jail and up to $250,000 in fines.

This legislation is not designed to chill violence—pro-lifers condemn all violence—but is crafted to end peaceful protest and rescues at abortion mills.

H.R. 796, which will come to the floor shortly, was introduced solely to punish one group of protesters out of the many movements that engage in civil disobedience: pro-lifers. The legislation focuses on the motivation of those persons engaging in civil disobedience, not the action itself. Picket for higher wages—no problem. Picket to save life and you go to jail for years. This bill trashes first amendment free-speech rights.

Mr. Speaker, all acts of peaceful civil disobedience should be treated in an even-handed manner, regardless of the motivation of those engaged in this conduct. To punish one group more harshly represents discrimination against one particular viewpoint.

Over the years I have met many mothers, often with young rescued children in tow, who are deeply grateful because a pro-lifer cared enough to have been outside an abortion mill when she was scheduled to abort.

Very few—if any—women ever return to thank the abortionist for dismembering or chemically poisoning her baby. But it is commonplace for mothers who were rescued to visit with pro-lifers simply to say, "Thanks. You loved me enough to be there when I needed you most."

Passage of this cruel antichild, antiwoman legislation would mean a last line of defense against the violence of abortion, the freedom riders of the 1990's, would be put at risk, and our already too-full prisons would be filled to overflowing with good and compassionate people.

□ 1220

NAFTA WILL DILUTE EQUAL EMPLOYMENT OPPORTUNITY

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, as the Congress approaches the debate on NAFTA, the trade agreement with Mexico, there is one aspect that has received little attention, how NAFTA will affect equal employment opportunities for the Nation's minority citizens.

Under NAFTA, Federal Government procurement would be opened up to Mexican and Canadian companies. The pool of competitors for Government contracts would be significantly broadened.

Currently, most Federal contractors must have equal employment opportunity programs. This has served as an important leverage in the U.S. economy, opening doors to employment for many minorities.

My point is that if fewer American companies get Federal contracts, this important leverage on the private sector will be diluted. Even if foreign companies have equal employment programs, what good does that do American minorities who are looking for work here? What good is a job in Mexico City for an unemployed worker in Detroit?

This is just one more flaw in the NAFTA debacle, weakening our manufacturing base that has provided jobs and hope to many American citizens.

NAFTA IS A TAX CUT

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

Mr. GINGRICH. Mr. Speaker, I rise because one of the leading tax increase advocates in the House was quoted in Congressional Quarterly this week as saying that a vote for NAFTA was a vote for a tax increase.

Now let me say first of all the particular person who spoke helped pass a several hundred billion dollar genuine tax increase this summer. He has voted for virtually every tax increase that has come up. I have opposed every tax increase that has come up. I have fought for tax cuts.

The fact is, and this is a fact, that NAFTA will represent a $1.8 billion tax cut. If you take the current taxes that are being repealed, it is a net $1.8 billion tax cut.

Those of us who favor tax cuts because they help create jobs are voting for NAFTA. The tax increase leaders who fought for the tax increase this summer are trying to distort the facts on NAFTA.

If you look at the data, if you look at the Congressional Budget Office scoring, NAFTA will be a $1.8 billion tax cut. And that is why some of the tax increase leaders are opposed to NAFTA, because it actually lowers taxes.

INTRODUCTION OF LEGISLATION TO BAN THE NEW IMPROVED KILLER BULLET

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

Mr. BARRETT of Wisconsin. Mr. Speaker, I have introduced legislation, to ban a new improved killer bullet which presents grave danger to both the public at large and emergency room personnel.

This hollow-pointed bullet expands on impact, releasing metal claws designed to rip through flesh and bone, creating deeper and more severe wounds than any other types of ammunition. In addition, emergency room workers whose job it is to remove the bullets run the risk of having the metal claws unleashed by the bullet tear their gloves and their own flesh as they work to remove the bullet from wounded persons. These health care workers are at risk for hepatitis and deadly HIV if the bullets puncture their skin and their blood becomes mixed with that of gunshot victims.

Mr. Speaker, I sincerely hope all my colleagues will join me in helping get this bullet off the street and out of the operating room. The bullet is marketed for its impressive stopping power. It is time Congress showed some stopping power of its own by banning this ammunition.

VOTERS REJECT DEMOCRAT TAX-AND-SPEND STATUS QUO

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

Mr. BAKER of California. Mr. Speaker, President Clinton said yesterday that we should not make too much out of Tuesday's election results. Nice try.

The fact is that voters are fed up with the Democrat tax-and-spend status quo. They're tired of seeing more and more of their paychecks going to fund more and more and more Government. They're tired of Democrat politicians who believe that Government has all the answers.

I would suggest to my friends on the other side of the aisle that if they do not want 1994 to be a lot like 1993, they will get the message. The message is this: Stop the taxing. Stop the runaway spending. And, for goodness sakes, reform this Congress.

Mr. Speaker, if President Clinton and the Democrat leaders in this Congress do not change their ways, the message that was sent on Tuesday to Richmond and Trenton and New York is going to be sent to Washington, DC, next year.

SUPPORT THE PENNY-KASICH AMENDMENT

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

Mr. SWETT. Mr. Speaker, I rise today to offer Americans an example where Congress is doing what our country is requesting—no smoke, no mirrors. I was 1 of 15 Democrats and 15 Republicans who, under the leadership of Representatives PENNY and KASICH, crafted a spending cut package of $100 billion in hopes of fostering a bipartisan fight to bring our deficit under control. This represents a one-penny cut for every dollar of spending over the next 5 years. Just one penny for every dollar.

This new, pragmatic approach to legislative cooperation should do more than demonstrate fiscal responsibility. It should improve the stature of Congress in the eyes of all Americans.

We have been promised an up-or-down vote on a substantive, clean amendment. On the day of that vote, there will be no place to hide, and the American people will be able to match our words to our deeds. This body must respond to that challenge and do the right thing. I urge my colleagues to support the Penny-Kasich amendment.

PASS CONSENSUS HEALTH CARE REFORM MEASURES NOW

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

Mr. BILIRAKIS. Mr. Speaker, health care reform is on the minds of all Americans. If Congress approves health consensus items this year, access to health care would be drastically improved and, at the same time, significant savings could be achieved. Ever since Congress began debate on this issue, we all agree on certain consensus items, such as standardized medical forms, preventive health care, and insurance reform.

Insurance portability and coverage for those with preexisting conditions are two of the most important items. People should be able to move from job to job without losing health insurance. Individuals diagnosed with illnesses such as cancer, heart disease, or diabetes should not lose their health insurance or pay great increases in premiums.

Passing health consensus legislation this year will calm people's fears. It will assure our citizens that they will not have to wait until 1998 for access to health care, that we in the Congress care enough to act now.

Our citizens should not be forced to wait for Congress and the White House to resolve their differences over every single health care issue—who knows how long that will take. I challenge my colleagues to prove to the American people that we are committed to enacting health care reforms. Let us begin by passing those consensus items now.

□ 1230

CONGRESS MUST CHANGE

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

Mr. ALLARD. Mr. Speaker, how does Congress get away with adopting laws that apply to everyone except Congress? It is as silly as saying everyone has to pay taxes except employees of the IRS. The difference is Congress gets away with it. There are few reform options that are more appropriate or feature such strong support as eliminating congressional exemptions from the law. When the Joint Committee on the Organization of Congress polled Members on this reform option, 75.4 percent favored applying Federal laws to Congress—94 percent of the freshmen supported the idea. All of the people who offered testimony on this issue to the Joint Committee agreed it is a needed reform. Why then, if we have so much interest, have we not had the opportunity to vote on this agreeable reform? What does it say to our constituents when we can't even bring a widely supported reform measure before the House? It frustrates me and the majority of people who want to see reform become a real issue that the House of Representatives won't actively pursue even the simplist reform proposal. Mr. Speaker, if we cannot start with a minor commitment to reform, how can we possibly expect progress on the complex questions? I used to argue that Congress could do much better if it operated more like a business in the private sector. Unfortunately, I now know that Congress does not have any idea what happens in the private sector. We have managed to allow Congress to spend more than it has and to avoid the laws it adopts. If there is any genuine interest in bringing this institution back to Earth, we should at the very least require Congress to live under its own rules. To do any less is hypocritical.

GIFT BAN/DISCLOSURE

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

Ms. SHEPHERD. Mr. Speaker, despite the unambiguous message from our constituents, despite the public's deep mistrust for Congress, despite the repeated calls from the Democratic and Republican leaders of the largest freshman class in recent memory, the House still delays action on lobbyist disclosure and gift reform.

Opponents of reform say, no change is needed. They are wrong. The people cannot understand why we are entitled to a constant flow of meals, trinkets, trips, and tickets. We are not entitled. It is time for Members of Congress to

pay their own way just like everyone else has to.

Representative FINGERHUT and I have introduced two bills to restore the public trust. First, Members of Congress should not accept gifts of value. Second, any exceptions should be fully disclosed.

Mr. Speaker, the issue is no longer whether or not we will enact full lobbyist disclosure and gift reform—that is inevitable. The issue is whether we will reach out to the American people and do the right thing now—before they do it for us. I urge my colleagues to join me in support of full lobbyist disclosure and gift reform.

NAFTA: AGREEMENT REACHED CONCERNING SUGAR

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

Mr. BARRETT of Nebraska. Mr. Speaker, this morning, with great pleasure, I and many of my colleagues concerned about the sugar provisions in NAFTA held a press conference to announce a significant agreement reached between the United States and Mexico concerning sugar and NAFTA.

This binding agreement will protect American sugar growers from unfair Mexican competition by spelling out that high fructose corn syrup cannot be substituted for sugar to create a Mexican surplus to dump on our market.

My district ranks fifth in the United States, in terms of sugar beet production, so this has been an issue that has weighted heavily on my mind as well as my constituents. I am now satisfied this agreement removes the serious threat posed to the sugar industry by the NAFTA agreement.

I believe this eliminates a major obstacle to the adoption of the NAFTA by this body, and I urge any Member to take a close look at this new sugar agreement, if you still have doubts. I am confident it will lead you to reevaluate your position.

CAMPAIGN FINANCE REFORM

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

Ms. LAMBERT. Mr. Speaker, I rise today to support efforts to reform our Nation's campaign finance laws. The status quo just will not work anymore and the American public knows it. We must establish a workable structure to halt abusive election practices. Gone should be the outrageously expensive campaigns and gone should be the unaccountable and unregulated independent expenditures and in their place should be a fair and open system to accommodate the incumbent and challenger alike. I myself was recently a challenger and whatever system we adopt, we must encourage challengers to come forward to have a truly representative Government, with new ideas responsive to constituent concerns.

However, we must be responsible when adopting such reform measures. I urge my colleagues not to just pay lipservice to campaign finance reform, but to support real and comprehensive reform. We must resist the temptation to go with the status quo. Any measure we present should withstand constitutional scrutiny. Let us get it right the first time and pass meaningful reform measures. Let us challenge the status quo and encourage the leadership to move on an effective campaign finance reform package.

PROMISES, PROMISES, PROMISES

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

Mrs. BENTLEY. Mr. Speaker, under the Canadian Free-Trade Agreement [CFTA], the laws of both nations were to be upheld. The binational dispute panels were to be a temporary measure replaced by individual agreements on problem issues.

That record falls far short of the 1988 written agreement. The panels still are challenging U.S. law, as passed by the U.S. Congress and the various State legislatures. Two-thirds of the panel decisions ruled against the United States, including the overturning of three decisions of the U.S. International Trade Commission.

Regardless of promises made by the White House to the agriculture community—the agreement must be "as is" since Canada already has signed it.

Agriculture representatives should know that 1 week ago, Jose Serra Puche, the Mexican Secretary of Trade, told the Council on Foreign Relations in New York that interpretations of the trade agreement were unacceptable. He said "If you open for reinterpretations, you never stop." He contended that differences in interpretation should be decided by the dispute resolution panels. Remember in trade, even signed promises are not kept.

Mr. Speaker, my friend, the gentleman from Nebraska [Mr. BARRETT], needs to study that statement carefully before he goes out and tries to sell it on the basis of the sugar beet agreement.

BENEFITS OF THE NAFTA AGREEMENT

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

Mr. COPPERSMITH. Mr. Speaker, today I rise to speak in support of NAFTA.

Mr. Speaker, I support NAFTA for three reasons that I wish to share with you and my colleagues.

The first is trade. NAFTA fully opens an expanding market, a rapidly expanding market, to U.S. companies. As the Washington Post editorialized on Tuesday, if you think that U.S. manufacturing is important, you should back NAFTA.

The second reason is jobs. Former Senator Paul Tsongas said that we should not want Americans competing with Mexicans for low-wage jobs; we want Americans to compete with Japanese and Germans for high-wage jobs. That is what NAFTA means; it benefits high-value industries, helps us reverse some of the economic trends of the past 20 years, and builds for our future.

Our future is the third reason. NAFTA will be a test of our leadership in our hemisphere and in the world. Our ability to influence the GATT negotiations, to open up trade with the rest of the world, really depends on our willingness to show leadership in our own hemisphere.

NAFTA will be the test of whether we try to hold on to an illusory past or whether we have the courage to change the status quo and face our future.

Vote "yes" on NAFTA.

VOTERS GIVE DEMOCRATS THE PINK SLIP

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

Mr. SMITH of Texas. Mr. Speaker, voters across America gave Democrats the "pink slip" on Tuesday because Democrats had been giving voters "short shrift" for years.

From urban New York to suburban New Jersey to rural Virginia, voters rejected the party that incarcerates taxpayers instead of criminals.

They rejected the party that favors talking reform over doing reform.

They rejected the party that thinks fiscal policy means get all you can spend, and spend all you can get.

They voted in the party that thinks the wealth of citizens is not measured by how much tax they pay, but by how much income they keep.

They voted in the party that thinks the place for criminals is not the pavement, not parole, but prison.

They voted in the party that thinks reform is a subject for action, not conversation.

America spoke loud and clear on Tuesday and Republicans won because they have been listening to America.

TRIBUTE TO COURAGEOUS CALIFORNIA FIREFIGHTERS

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

Mr. TUCKER. Mr. Speaker, I rise today to pay tribute to the many men and women of the National Guard, the U.S. Fire Service, the Los Angeles and Malibu police and fire departments and other local fire and police departments for the incredible courage they have displayed this week in fighting these devastating fires.

Mr. Speaker, the people of the State of California have undergone tremendous social and economic changes this year, and to see the many heroic deeds and the cooperation being displayed by firefighters, police departments and ordinary citizens of the State of California renews my faith in the goodwill and spirit of humanity in this great State.

□ 1240

NAFTA, CRIME AND TAXES

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

Mr. DICKEY. Mr. Speaker, NAFTA, crime and taxes. I am certainly an advocate of NAFTA, having been so in the campaign, and even strongly now; but I find that this issue along with health care and other issues that are vitally important to this House are going to be swept aside if we do not take care of crime.

Crime is an epidemic. It might even be an addiction in this country. We have to do something about it.

I have made a no-tax pledge. I am saying no to cigarette taxes and alcohol taxes, even in the context of health care reform; but I cannot say no and I have to consider taxes when it comes to crime, when it comes to protecting our people. Otherwise, we are not going to have the luxury of debating these issues and discussing them and doing something with them. We are not going to be able to get from our homes to our offices and back to our homes in safety. Our children are not going to be able to go to school if we do not do something about crime and do it now.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair will entertain two more 1-minute requests on each side.

THIS MONTH'S SCAM IS CALLED NAFTA

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

Mr. TAYLOR of Mississippi. Mr. Speaker, those masters of misinformation are at it again. This month's scam is called NAFTA, and it stands for the newest agreement fleecing Americans.

Today's scam is to tell you that it cuts taxes by $1.8 billion, but what it fails to tell you is that the only people who get a tax break are Mexicans. Your taxes will go up, so that the people who use our ports, our highways, our marketplaces, our policemen, so that their taxes will not only go down, but they will be eliminated.

Mr. Speaker, in this Chamber is the flag of the United States. Four years and two weeks ago I had the privilege of holding up my hand in this body and swearing allegiance to serve this country. I will serve this country by voting against NAFTA.

WHERE IS THE REFORM PACKAGE?

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

Mr. BOEHNER. Mr. Speaker, last year I enthusiastically endorsed setting up a joint committee on reform to make some changes in the House and Senate. This year I have watched with great interest the joint committee's progress as they received hours of testimony on constructive reform ideas. I, like many of my colleagues, testified before the committee.

Now, I am upset to learn that the Senators on the joint committee have separated themselves from the House Members to introduce their own reform package in the Senate. The Senators claim they are frustrated with the partisan disagreements between Members in the House.

Mr. Speaker, when are we going to put aside our political differences for the sake of real congressional reform? Are we going to see a reform package come to the House floor before the end of this year? Or are we going to roll all reform votes to next year, an election year, in hopes of boosting our re-election campaigns.

Mr. Speaker, the American people are getting very frustrated with the political maneuverings going on in Congress. They want reform. I want reform. My Republican colleagues want reform. But it seems that the only reform Democrats are interested in is reform that enhances their majority power in Congress.

NAFTA IS ABOUT ECONOMIC FUTURE OF THIS COUNTRY

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

Mr. KOPETSKI. Mr. Speaker, the North American Free-Trade Agreement will be on the House floor in 2 weeks. At that time Members will be faced with a crucial vote, to move forward with economic growth and job creation or hunker down with the status quo.

Those opposed to NAFTA say, "Not this NAFTA," trying to lead people to believe that new negotiations on NAFTA will commence after failure. Wrong. The reality is that if it is not this NAFTA, then no NAFTA. If not this NAFTA, the probability is that Mexico and Japan—Japan, our major competitor—will attempt to negotiate a bilateral trade agreement. If that happens, Japan will use Mexico as an even greater staging area to ship their goods into the United States; and if no NAFTA, then you have to understand, no GATT Agreement as well.

With passage of NAFTA, the United States will finally take a smart economic action that will position us to compete and win economically in this global economy.

Mr. Speaker, NAFTA is about the economic future and competitiveness of the American worker in this country. I urge my colleagues to be bold, to work with President Clinton for economic growth in this country and for passage of the North American Free-Trade Agreement.

NAFTA IS WIN-WIN ALL THE WAY AROUND

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

Mr. DREIER. Mr. Speaker, first I would like to associate myself with the remarks of my good friend, the gentleman from Oregon.

I would like to say there are a lot of other things about NAFTA. NAFTA is about cutting taxes.

You know, we have heard all this stuff that taxes are only going to be cut for the people of Mexico. Baloney.

The average tariff that the American consumer pays on items that are flown from Mexico into this country is 4 percent. Anyone who votes against NAFTA is voting against a tax cut for the consumers in this country. That needs to be made very clear as we move forward with this debate.

NAFTA is going to create jobs in the United States, jobs in Mexico. It is going to reduce the burden that is imposed on consumers. It is a win-win all the way around. Let us pass it strongly.

REREFERRAL OF H.R. 3161 SOLELY TO COMMITTEE ON EDUCATION AND LABOR

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that the bill, H.R. 3161, be rereferred solely to the Committee on Education and Labor. This measure was inadvertently referred jointly to the Committee on Education and Labor and the Committee on Banking, Finance and Urban Affairs.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to clause 1, rule XX, and by direction of the Committee on Ways and Means, I move to take from the Speaker's table the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ARCHER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 3167 be instructed to concur in the Senate amendment numbered 1 (relating to a "Reduction of Federal Full-Time Equivalent Positions)".

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, and the gentleman from Missouri [Mr. CLAY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

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

Mr. Speaker, my motion to instruct is very simple, but extremely important. It instructs our conferees to accept the Senate amendment which will reduce the Federal bureaucracy by 252,000 employees.

According to the Congressional Budget Office, that will save American taxpayers over $21 billion over the next 5 years alone.

It was offered in the other body by Senators GRAMM and GRASSLEY and adopted by the Senate with an overwhelming vote of 82 for and only 14 against.

It achieves this worthy goal of reducing the bureaucracy by doing what some might characterize as the unthinkable—actually implementing one of the recommendations of Vice President GORE's highly touted National Performance Review to cut Federal employment by 252,000 positions.

It is precisely the number that Vice President GORE recommended in his so-called reinventing government.

The Federal employment levels in the Senate amendment for fiscal years 1994 and 1995 are taken directly from the President's fiscal year 1994 budget.

□ 1250

The remaining cuts needed to reach the 252,000 level are allocated evenly among the next 4 fiscal years, 1996 through 1999. As we all know, it is one thing to bask in the glory of proposing to save money, but it is another thing entirely to vote for the legislation that effectively forces the necessary cuts.

This motion to instruct conferees is our chance to do that. We have a legitimate proposal on the floor today to take us a step closer to achieving $21½ billion in deficit reduction over the next 5 years, and even more over the 6-year period. Let us put that in perspective.

The President has just sent to Congress his long-awaited proposal for spending cuts.

After all the anticipation and publicity, the bill saves a mere $10 billion over 5 years. We have a chance today to save more than twice that amount.

The Gramm-Grassley amendment is good policy. Its underpinnings come straight from the Vice President's report of the National Performance Review. In that report, the administration embraced exactly the same level of cuts in Federal employment contained in this Senate amendment.

It is good policy to cut the size of the Federal Government by 252,000 employees—with those reductions coming in a fair, orderly fashion over 6 years—largely through attrition.

Certainly there are a large number of necessary, hard-working, dedicated employees who work for the Federal Government. This is not an assault on them or their contribution to our society. But it is a recognition that Federal programs can be managed more efficiently and with fewer people. That is something that the President, the Vice President and we in Congress agree on.

That is why the Gramm-Grassley amendment was supported by a whopping 82 Members of the other body—and a majority of both parties in that body.

That is also why I cannot imagine that a majority of this Chamber will vote against this effort to put teeth into one of the administration's own proposals.

Members would not want to respond to the charge that when given a clear shot at saving taxpayers $21 billion, they ducked. That is why I expect this motion to pass. Who among us—with perhaps a few exceptions—will want to explain to voters why they opposed cutting the bloated Federal bureaucracy by 252,000 employees?

But this vote is just the first step. If my motion is adopted, we will have to monitor the conference process closely—to see that the wishes of the House and Senate are indeed carried out in the conference report that returns to both bodies for final approval.

Those who want to preserve the bureaucratic status quo will make every attempt to strip the amendment out in conference in spite of what we do here today.

There may come a time when you are going to have to back up what you may think is an easy vote today with a much tougher one on the conference report.

But today's business is my motion to send a clear signal to the conferees that the House joins with the Senate in urging the enactment of this important provision.

We have an opportunity to save over $21 billion by adopting a proposal which hails directly from the administration's report on how to reinvent government.

It enjoys broad bipartisan Senate support. We should do no less in the House of Representatives. This is the time for us to send a signal to the American voters that there is no gridlock in the Congress, that we agree with them and that we will vote for this motion to instruct.

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

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

Mr. Speaker, I rise in opposition to the motion offered by the gentleman from Texas [Mr. ARCHER]. The Senate amendment would establish mandatory ceilings on the number of full-time equivalent positions in all executive agencies for fiscal years 1994 through 1999; and prohibit the hiring of any employee by any agency until the total number of full-time employees is in compliance with the applicable ceiling for the fiscal year.

Under the amendment, exceptions to the ceilings can be made only upon a Presidential determination of the existence of a war or national security requirement or upon enactment of a joint resolution by a vote of three-fifths of the Members of each House of Congress.

According to its sponsor, the intent of the Senate amendment is to ensure that the Federal work force is reduced by 252,000 positions by the end of fiscal year 1999. This objective, of course, coincides with that of the administration, as initially proposed in Vice President GORE's "Report of the National Performance Review".

There can be little doubt that the President is committed to achieving the work force reductions proposed by the national performance review. On September 11, he addressed a memorandum to all Department and Agency heads instructing them to prepare streamlining plans for submission to the Office of Management and Budget by December 1. Each streamliningplan must address the means by which the agency will reduce the ratio of managers and supervisors to other personnel; ways to reduce overcontrol and micromanagement that now generate redtape and hamper efficiency in Government operations; simplify the internal organization and administrative processes of the agency; realize cost

savings: improve the quality of Government services; and raise the morale and productivity of the agency's employees. In addition, on October 1, 1993, the administration transmitted a legislative proposal to the Congress which will facilitate the streamlining of the workforce by allowing agencies to use separation incentive payments to encourage Federal employees to voluntarily retire or resign. That legislation, the Federal Workforce Restructuring Act of 1993, has been ordered reported by the Committee on Post Office and Civil Service.

Mr. Speaker, the Senate amendment constitutes an unnecessary intrusion into the administrative responsibilities and operations of the executive branch. It establishes inflexible ceilings and thereby prevents the administration from achieving its overall objective in a sensible, orderly and humane manner. It has the potential of imposing an across-the-board hiring freeze that could have a serious detrimental effect on the delivery of essential Government services. Except in the case of war or the enactment of legislation, it does not accommodate situations when an agency must quickly increase its workforce to respond to a problem affecting the health, safety or welfare of the American public or to handle an unexpected increase in the agency's workload.

For example, if there were a serious outbreak of fires in our national forests at a time when the employment ceiling has been reached, the Government would be unable to hire any emergency personnel to combat the fires.

Finally, Mr. Speaker, I am not convinced that the reduction goal of 252,000 positions is a viable objective. The administration has yet to furnish my committee any credible data showing how that particular target was determined. Should this goal prove to be unattainable within the projected timeframe, the administration needs the flexibility to adjust its target. The Senate amendment, of course, offers no such flexibility.

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

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me, and it is interesting to hear the arguments against this particular approach. Let us remember where this 252,000 figure came from. It came directly from the administration. This is not simply something that someone in the Senate pulled out of the air. This is the number of people that the administration is saying they want to reduce out of Federal employment.

What the Senate amendment suggests is: Let's get about the job. The problem that we so often have is that the administration talks about these things, puts out fancy publications talking about these things, has the President get up and talk about all these things, but, when it comes to actually doing something like job reductions, all of a sudden we find all kinds of reasons why it cannot be done now and why it cannot be done a particular way.

□ 1300

If we are going to bring about change, it has to be more than words; it involves real action. The Senate has proposed real action here. What we have on the floor right now is a proposal to really act to reduce the numbers of Federal employees.

The gentleman from Missouri [Mr. CLAY] who just spoke in opposition to this motion was actually telling us about the need for increased employment. The administration told us that we were going to reduce employment by 252,000. The gentleman gets up and opposes this because he said we may need increased employment, and he cites, for example, the need to fight forest fires.

Are we going to fight forest fires by hiring new permanent employees for the Federal Government? That is not the way we deal with emergencies. You hire temporary employees. This does not prevent you from hiring temporary employees. This does not prevent you from hiring private contractors to come in to take care of those kinds of contingencies.

But, of course, the Federal employee unions would not be real happy if what we ended up doing was some private contracting, if we ended up putting private people out to deal with these emergencies.

So the real fact is that what we are dealing with here is union policies, the unions attempting to get in the way of doing something real at the present time. I think the choice is pretty stark. It is very clear that we are voting on the House floor. We have a chance today to move directly toward eliminating 252,000 Federal jobs or we can stick with the people of the status quo, the people who do not want change and suggest that sometime later there will be another bill, that we will do this somehow someplace else, that there will be another way that is easier or more compassionate, or whatever the language will be.

The fact is that we never seem to get there. This is the opportunity, this is the chance, this is the bill that is going to pass. We are going to have 252,000 jobs reduced over a period of the next 5 or 6 years if we act today. If we vote against acting today, we are saying that perhaps we will act at some point in the future and maybe we will not, and certainly we will not move toward real change, we will not move toward real reform, because the voices of the status quo want to keep us right where we are. The voices of the status quo are suggesting a no vote on the motion to instruct offered by the gentleman from Texas [Mr. ARCHER].

Mr. Speaker, I would suggest a yes vote. Let us vote for real reform and real change.

Mr. CLAY. Mr. Speaker, I yield myself 30 seconds to correct two statements made by the previous speaker.

First of all, Mr. Speaker, I did not accuse the Senate of pulling the figure of 252,000 out of the air. I accused the administration, Mr. GORE's committee, of pulling it out of the air, not the Senate.

Second, the gentleman is in error when he says that temporary emergency help could be hired to fight forest fires. Under this provision it is impossible because temporary and emergency employees count toward the overall ceiling that he is proposing.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, there is nothing in this provision that would prevent private contractors being hired to handle temporary emergencies, is there?

Mr. CLAY. It costs more.

Mr. WALKER. It does not cost more; it costs less. There is nothing in here that prevents that; is that right?

Mr. CLAY. I am sure the gentleman knows that contracting out costs much more than hiring Federal employees.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The time of the gentleman from Missouri [Mr. CLAY] has expired.

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

The previous speaker talked about real change. In fact, that is what we are trying to effect. I do not rise in opposition to the reduction of forces by 252,000. We have obviously incrementally increased that. Why have we obviously incrementally increased that? Because of the necessity to make greater savings. We all tend to agree on that, I believe.

The administration has responded to that. The initial proposal was 100,000. In point of fact, that has been reflected in the budgets that we have adopted and in the actions the Committee on Appropriations has taken anticipating that reduction.

As the chairman of one of the subcommittees of the Committee on Appropriations, in fact, I asked every executive agency that came before me to know that we would expect that the reduction set forth by the President in his budget message would in fact be accomplished.

So that is not the issue here. The 252,000 force reduction can be accomplished. It will be difficult, there is no doubt about that, because we have not cut the workload. There are agencies that, as everybody in this Congress and in the country essentially knows, need to do their jobs.

Furthermore, of course, the last two administrations talked about reducing numbers of Federal employees. Of course, they did that in some agencies while substantially increasing, as all of us know, numbers of employees in other agencies that they favored. So the net number of Federal employees did not, in fact, decrease in any significant way under the two previous administrations. In fact, when this administration accomplishes its objectives, which I think will happen, we will have decreased by substantially more the Federal structure.

Having said all that, this is an unemployment bill. This unemployment bill has been held up in the Senate. It has had a checkered career in trying to get out of this House. There are people who are in trouble, people who, because of the fact that the economy has not responded as quickly as all of us would have liked, have been unable to find employment. There are people who have worked; they are people who want to work. These are people who want to support themselves and their families through gainful employment.

This amendment is not a relevant amendment to the legislation in question. In fact, ironically, on the unemployment bill it will in fact seek to create greater unemployment. That is an ironic perspective, I would suggest, for many members of the Federal service.

But putting that aside, this amendment should not be on this bill. This amendment is a relatively simplistic carrying out of what is a complicated procedure. Why is it acomplicated procedure? Because, as any manager will tell us, we can accomplish a reduction, but the framework in which we accomplish that reduction of employees must be made in terms of management responsibilities and management objectives. This arbitrary provision does not give any flexibility to managers. If they were in the private sector, they would have the same difficulty as those in the Federal sector because it does not give them the flexibility to reduce in line with the demands on their agencies, and it does not make sense from a management standpoint. So from a management standpoint it ought to be rejected.

That is not to say that in the next budget, for instance, that comes down, which we are going to be voting on in a few months, again I would say to the Members that we will have in fact carried forward in our budget, as a matter of fact, a 150,000 reduction, so this is a net 100,000 addition that the Vice President has suggested. We have carried forth that reduction which has already been suggested, and I suggest we will complete that process in the next budget that comes up.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. If I have any time left, I will yield to the gentleman from Georgia.

The SPEAKER pro tempore. The time of the gentleman from Maryland [Mr. HOYER] has expired.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I would like to ask the gentleman from Maryland, has he received any communication from the administration urging him to oppose the Senate-mandated 252,000-person cut?

Mr. HOYER. Mr. Speaker, if the gentleman will yield, I have not received any communication from them, no.

Mr. LINDER. Has the administration given any instructions at all as to how they would like us to proceed on this Senate amendment?

Mr. HOYER. I am not used to getting instructions from any administration.

Mr. LINDER. Have they suggested that?

Mr. HOYER. I understand the gentleman's point. The fact of the matter is that I have not received any request one way or the other. I have not talked to the administration about this particular amendment.

Mr. LINDER. Mr. Speaker, I thank the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I urge the Members to reject the motion.

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

Mr. Speaker, it is no surprise that the Members speaking against this motion represent in many instances large numbers of Federal employees who live in their districts, inside and outside the beltway, but the American people have a very different view of this.

□ 1310

It is also interesting to note that these caps on employment levels of Federal employees, not including postal workers and not including military, apply only to executive branch employees. Upon adoption of the Senate amendment, they can be implemented by the President through the Office of Management and Budget, in consultation with the Office of Personnel Management. The President has complete discretion. It is his proposal that we are attempting to put teeth into today, but we hear again the siren song of promises:

"Oh, well, we will do it later," or "We have this objection," or "that objection."

It makes one wonder whether, again, it will be promises, promises that will never be attained. I wonder if some of those Members who are speaking against the bill today will vote for anything that has teeth in it.

I will say this: This is the time and the place to make it happen, precisely as it has been recommended by this administration. The numbers are the same. There is flexibility within their decisionmaking process as to how it is to be done. I suspect most of it can be done by attrition, but there is the outlet of being able to hire a private contractor in an emergency, which my friend, the gentleman from Pennsylvania [Mr. WALKER] alluded to. There is plenty of flexibility, but there are teeth to make it happen by having the caps there in the law.

There is no need to wait and hold up this unemployment compensation benefit bill by having an extensive conference debate between the 82 Senators who voted for this and a House that will not go along with it. It will potentially delay the implementation of unemployment benefits.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, was the gentleman as fascinated as I was with the representation a moment ago about how the unemployment bill had gotten held up and now we have to reject this amendment because it will hold up the unemployment bill further?

My perception, and the gentleman has worked much closer with this than I have, is that the Democratic leadership has been unable to move this in large part because of special interest concerns within their own caucus. And now we end up with them fighting among themselves again, when, as the gentleman pointed out, 82 Senators voted in favor of this amendment.

The fact is that what will delay this bill the most is if the House decides not to go along with this approach and thereby assures that we get hung up in a long conference. It seems to me, given the position of the other body, that the fastest way to move the unemployment bill forward is to do it by approving the gentleman's motion and assure that the conference can come together very quickly.

Mr. ARCHER. Mr. Speaker, that is certainly my opinion.

Mr. HOYER. Mr. Speaker, will the gentleman yeild?

Mr. ARCHER. I yield to the gentleman from Maryland.

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

I wanted to make the point, as I said in my statement, that, yes, as the gentleman alluded to, I represent a large number of Federal employees.

I also supported, as I think the gentleman from Texas knows, the 100,000 reduction and then the increase to 150,000 in the number of employees that would be reduced over the 5 years. As I

indicated, that has now been increased another 100,000. But I think it fair to reiterate that I voted for that budget, which called for that reduction.

In fact, in my subcommittee, which I chair, we incorporated policies to attain that objective so that they would be real.

My point simply was, and I think validly, that this is a budget decision and an appropriations and authorizing decision. It is extraneous to this bill, and because it is extraneous to this bill will get, in my opinion, superficial, tangential treatment, as I think it did, frankly, in the other body, not from a management standpoint but from a political statement standpoint. That is what this is.

Mr. ARCHER. Mr. Speaker, reclaiming my time, this is a chance to save the taxpayers of this country $21 billion over 5 years and more than that over 6 years. It will pass the hurdle in the other body of the 60-vote procedural barrier, which always plagues us here in the House. It can be done now. It can be done effectively. I think the American people want it. I think we should do it today and not cover it all up with more gridlock that the American people spoke out against in the elections last year.

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

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

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

First, I would like to say to the gentleman from Texas [Mr. ARCHER] that I do appreciate the sincerity and the intensity with which he wants to back up the goals in this area of the Clinton administration bill. But I think it is a little bit unfortunate, because he is going to have people coming over here asking for information pretty soon to characterize opposition to this bill as opposition to the hoped-for 250,000 cut. I think Members can very much be in a position to want to cooperate and expedite the 250,000 cut while voting "no" on the Archer motion.

In essence, the administration was before our committee several weeks ago. And we, as the gentleman from Missouri [Mr. CLAY] said, have not yet been able to find where the 250,000 figure came from. There is no analysis presented to us, Mr. Speaker, agency by agency as to what the numbers will be in the various agencies.

And particularly when the Federal Government is accused of so much management-personnel excess, there are no figures in yet as far as, for example, management-employee ratios.

I think the fact is that the administration is working on this. I think we can trust them to be sincere about it. But why, as the gentleman from Missouri [Mr. CLAY] has so eloquently stated, why bind the administration's hands as far as flexibility, efficiency, the need and the desire for expedited and streamlined hiring in the event of national emergencies?

I would just note, again, that the administration also did not ask for this. We can trust them to do their job without this not-sought-after help.

I would also say, and most emphatically emphasize, that a vote against Archer is not a vote against the 250,000 goal.

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

I would simply comment, in response to the gentleman's last statement, that it becomes clearer and clearer that the opposition of the other side that we have heard today, from what few have spoken against my motion, is based on the fact that they want to carve out loopholes and ultimately pass a bill that has no teeth in it. The American people should understand that that is the defense, that is the excuse that they are going to use to vote against this motion.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Pennsylvania.

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

The question I was going to ask the gentleman from Indiana is whether or not the Vice President has completely messed up here. It sounds to me as though the attack we have heard so far today is an attack on the National Performance Review, that the National Performance Review did not do its job right, that the 252,000 is a phony figure. They do not know where it came from, that this whole thing is a sham.

I find that disappointing. I think most of us welcomed what the Vice President did, felt as though there were some items here that should be moved very quickly. And what we are now hearing is exactly what some of us predicted we would hear, the Democrats having gotten a tough document out of their own administration are now figuring out ways to get around it.

As the gentleman from Texas points out, it sounds as though what they want to do is come up with a sham bill that will sound like they are doing something about 252,000 but will make certain it has enough loopholes that none of the 252,000 ever get eliminated.

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

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

□ 1320

Mr. MCCLOSKEY. Mr. Speaker, with all due respect to our worthy colleagues on the Republican side, I think the gentleman from Pennsylvania [Mr. WALKER] knows that I did not characterize the Gore innovations as a sham bill or a policy. I simply said, and it is a matter of fact in the RECORD, and we have a responsibility to deal in truth with any administration, that the administration could not provide agency-by-agency or overall, or did not at that time, any statement as to where those facts came from.

I would also state to my worthy friend, the gentleman from Texas [Mr. ARCHER], it is unfortunate if the tenor of this debate takes a tone to be pejorative about the motivations of sincere people who may have the, I guess, audacity in the gentleman's eyes to vote against this dubious idea. I think we can trust the administration to try to follow through on what they said they want to do. I think they would have good cooperation from both sides of the aisle in this House.

Mr. CLAY. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, let me say it is unfortunate to characterize the motives and actions of Members on this side as attempting to set up loopholes, as talking about avoiding legislation. What is happening on the other side, I think, in my opinion, and the people who would support this amendment, is the creation of a mechanism that leaves no flexibility for the administration, that does not provide for an orderly reduction of employees.

If anyone who has read what the Senate amendment does does not understand that we cannot hire people in emergencies of any type in any agency, then I would suggest that they read the CONGRESSIONAL RECORD dated October 28, 1993, S14594, which says:

> No agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full time equivalent positions for all agencies equals or is less than the applicable number required under subsection B, which limits the number of employees annually over a five year period.

So until we reach that period, we would not be able to hire anybody in any agency for any emergency.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding to me.

Mr. Speaker, I will go back to the gentleman and say, it does not have any prevention whatsoever in bringing in private contractors, for instance, to deal with the forest fire, because those are not people that are being hired into the agency, so in fact that discretion is left to the agencies and could easily be done.

I would also point out that our concern is that the gentleman from Indiana [Mr. MCCLOSKEY] and the gentleman from Missouri [Mr. CLAY] have characterized the NPR report as not being factual. What they have said is when they reviewed this matter they

simply found they had not done a good job.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, I am serious in trying to seek if the administration has any position in this. I would like to ask the gentleman from Missouri [Mr. CLAY] if the Chair has received any requests or any position from the administration on the Senate amendment to the unemployment bill.

Mr. CLAY. If the gentleman will yield, did the gentleman make an inquiry?

Mr. LINDER. Mr. Speaker, let me try it again.

I am sincere in trying to seek information on whether the administration has expressed its position as to the Senate amendment to the unemployment bill to the gentleman from Missouri [Mr. CLAY] or to anyone that he knows of.

Mr. CLAY. Not that I know of, but it is irrelevant, I would say to the gentleman. I do not take orders from this administration or any administration.

Mr. LINDER. It is not irrelevant to me if the administration has a position.

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, I rise in opposition to this motion to instruct conferees, a motion that rubs salt into the wounds of the millions of Americans who are out of work.

The motion seeks to instruct House conferees on H.R. 3167, the unemployment benefits extension, to agree to a Senate amendment that requires that the number of Federal employees be reduced by 252.000 by fiscal year 1999.

The maker of the motion argues that the administration has set that level of reduction as a goal and that the mandate of the National Performance Review requires such a reduction.

This House may well agree with the provisions of the Government Reform and Savings Act of 1993, the administration's proposal to begin the performance review process.

But, we should not begin the process by saying to the long-term unemployed that, "We will extend your benefits for a third time by 7 to 13 weeks, but we have no plans to put you to work."

That, Mr. Speaker, is the effect of this motion, and I urge my colleagues to reject it as insensitive, uncaring, inappropriate, and bad government.

It seems that those of us who have jobs and who hear of the problems of the 16 million unemployed and underemployed Americans in the comfort of our homes have failed to hear the message of America.

Workers should not have to suffer the indignity and degrading feeling of being exposed, every 13 weeks, to the uncertainty of having some income during these difficult economic times.

The unemployment picture in America is like the economic picture for most of the indicators of the Nation's financial health. There are some signs of recovery, but we have yet to experience real improvement.

It appears that the Nation is experiencing a slow, gradual recovery and that some people are going back to work.

That news, however, is very deceptive, particularly when compared to the bad news.

The bad news is that many of the new private sector jobs are temporary or part-time and that most of the workers who lost their jobs during the recession have not gotten those jobs back.

The bad news is that when the chill of winter sets in, over 1 million long-term unemployed persons will be out of work and without unemployment benefits. Benefits are running out fast, while jobs are being created slowly.

The bad news is that in Pennsylvania, my State, 172,685 workers opened new claims for unemployment benefits in the 4 months ending in July of this year.

And, in Philadelphia, my city, 26,823 workers opened new claims during that same period of time.

Unemployment in Pennsylvania is up by a full 1 percent since the Emergency Unemployment Compensation Program began in November 1991. In Philadelphia, unemployment is up by 2.2 percent since 1991.

The bad news is that the Nation's employers are in a cost-cutting frenzy. In their zeal to dig out of the recession, employers are laying off workers at an unusual rate.

I agree with Labor Secretary Robert B. Reich, who stated, "For Americans to compete solely on the basis of costs is for us to become contestants in a vain race to the bottom."

We must lift up our citizens. We must put Americans to work in stable, full-time jobs, at livable wages. We must develop a policy and programs that allow anyone who wants to work the opportunity to do so.

It is for that reason, that I introduced the Full Employment Act of 1994, and I invite each of you here today to join me in pushing for a full employment economy. We must put Americans to work.

In the meantime, we must deal with the reality of joblessness now. I agree with President Truman who, on one occasion noted that, "It's a recession when your neighbor loses his job, but, it's a depression when you lose your job."

The economy needs immediate repair. We must extend the unemployment program, but we should do it in a way that preserves dignity.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

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

Mr. Speaker, it is day 33 for Americans who are unemployed who are waiting for benefits, being held hostage by the special interests of the Democratic Party.

For the first 16 days of the hostage crisis in this country, they were held hostage by a group of folks who wanted to preserve benefits to aliens in this country, welfare benefits; wanted to preserve the generous array of welfare benefits to people who were sponsored to come into this country by people of means who brought their relatives over here and were able and continue to be able to provide for them. They wanted to make sure that those people were able to get welfare benefits.

Now we have, for the additional 17 days, a hostage crisis based upon a special group of unionized employees whose jobs want to be protected. Let us start worrying about the rest of America out there that we are supposed to be here to represent, the unemployed workers, the people who want an opportunity to get back on their feet.

□ 1330

Let us pass this motion and let us move forward. Get this bill enacted into law.

Mr. CLAY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, it is important to focus on what this debate is about. We are talking here about means, not ends. And when the goal is efficiency, means is the ballgame.

The Senate amendment disrupts, and I believe actually jeopardizes the administration's very responsible effort to achieve major reductions in the Government personnel it seeks. The National Performance Review established a strong and totally unprecedented goal. But it provided guidelines on streamlining that ensure a Government that works better as well as costs less.

Vice President GORE's National Performance Review directs agencies to reduce layers of management, close or consolidate field offices, make greater use of new technology and reduce red-tape. President Clinton has directed agency heads to develop and submit to OMB their streamlining plans to address these important objectives by December 1. The implementation of these plans will enable agencies to downsize without jeopardizing productivity.

There is a difference between deficit-reduction downsizing and efficiency downsizing. This Government has never done efficiency downsizing before. The deficit reduction goal is already locked into our budget. This amendment does not concern deficit reduction. These are reductions based on the tougher standard of efficiency.

Simply cutting people to save money or meet quotas is far easier than using a scalpel to achieve cuts that meet the efficiency goal. Mandating fixed Governmentwide reductions in employment ceilings will handcuff the agencies' ability to downsize in a rational manner that ensures the continued fulfillment of their missions. Fixed ceilings will lead to haphazard quota-driven cuts which retard rather than produce efficiency. This is not how to produce a Government that works better.

Importantly, Mr. Speaker, the NPR calls for the decentralization of personnel management and gives agencies greater flexibility to make decisions in this area. Governmentwide personnel ceilings take us in the opposite direction.

The OMB and OPM would have to constantly monitor and manipulate individual agency personnel levels in order to ensure that the Governmentwide ceiling is met. This makes for more bureaucracy and redtape, not less.

I strongly urge all of my colleagues to oppose the Archer motion. Let the President get the personnel reductions he seeks in a rational and well-planned way.

Mr. ARCHER. Mr. Speaker, I have only one remaining speaker and I reserve the right to close.

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, this amendment epitomizes what is the worst about the Congress and the way we act. We find ways to take the cheap way out, to avoid responsibility for making tough decisions, for being held accountable.

What we are suggesting in this amendment is that we cut a quarter of a million Federal employees without having any idea of what impact that is going to have upon the very Federal programs that we have created, what impact it is going to have on our constituents. But we are going to go out there, and we are going to take credit for cutting 252,000 people and saving billions of dollars. And we will not have to take the blame for any of the problems that our Social Security recipients encounter, any of the people that are dependent upon the administration of unemployment compensation or employment training, or fighting forest fires, or maintaining parklands or anything else, because that is not our responsibility. We cut a quarter of a million people and save billions of dollars.

We have no idea what the impact of our decision will be. How irresponsible.

I believe that we probably could eliminate from the Federal work force 252,000 people, but not by taking the easy way out. What we would have to do is to identify those programs that can be cut, eliminate the program managers that are not necessary, eliminate some of the auditors and the accountants and the quality control people, the people that are there because of our congressional oversight that we mandated be put into that office to make sure that the Federal employees are not allowed to make any mistakes. That is why our Federal employment work force has grown so.

Do Members know that if we were to cut these 252,000 it would bring us down to a Federal work force of about what we had in 1963? But in 1963 the Federal budget was $135 billion. Today it is $1.5 trillion. In 1963, 14.2 percent of the Federal budget was Federal employees. Today it is half of that.

What we have done is to force upon the executive branch the requirement to carry out programs to appease every constituent group and to make sure that they do not make any mistakes by keeping the auditors and the accountants and the budget analysts looking over their shoulder. If we want to reform Government, let us do it. Let us find what programs are not necessary, but not this kind of easy way out.

The other thing that is going to happen is that the only people who are going to take advantage of the early retirement options are the people with mobility, the people that can find jobs in the private sector, the very people we need to keep in the Federal Government. The people that are going to stay are the people who need the employment security, that are not going to carry with them the kinds of education and skills necessary for the outside work force. So what is going to happen is those people, if we require a quarter of a million reduction, are going to bump people underneath them, and that person underneath them bumps the next person. And what we will wind up with is having people being overpaid for jobs that are not challenging them, not taking advantage of their education and their skills, and the very people that we are probably getting the most from, who are the most underpaid, who were most recently hired, they are the ones who are going to lose their jobs. And those jobs are going to be filled by people getting higher pay with less responsibility.

This is an irresponsible amendment. It is typical of the worst ways that the Congress acts.

If we want to get tough, let us make the tough decisions. Let us show some courage, and let us do this in a responsible way.

Mr. CLAY. Mr. Speaker, I yield myself what time I may consume.

Mr. Speaker, let me reiterate the statement of the last speaker. This amendment is irresponsible, and in addition to that it is mischievous.

Let me say that the President has worked in an orderly fashion toward reducing the work force by 252,000. He has instructed each member of the Cabinet to come up with a plan by December 1 to say when, where and how this Government will be reduced.

What is being done now by this amendment is forcing the agencies of government, putting them in a position where they have no flexibility at all.

Let me give an example of what this amendment will do. If the IRS, for instance, determined that they had 450 more examiners than they needed, but they had 200 less auditors than they were required to have or should have in order to increase the efficiency in their collections, if they fired 400 or 350 examiners they would not be able then to hire the 200 auditors that they needed until they reached this level, this ceiling that they are imposing on the Federal Government. I think that is mischievous, and I think it is irresponsible, and I encourage the Members of this House to reject the amendment.

Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, it is very interesting to listen to the Democrat side of the aisle in effect say that their executive branch, their Vice President, is mischievous, irresponsible, and has pulled numbers out of a hat.

□ 1340

In effect, they are saying they are going to give a vote of "no confidence" to their own administration. After all, it will be their administration that will implement these caps, that will determine who is left out by attrition, what job vacancies remain because of attrition, who ultimately will bear the brunt of this downsizing. It will not be arbitrary. They will make that decision through OMB in conjunction with the Office of Personnel Management. They say, "We have no confidence in our team," and yet here we are on the Republican side attempting on a bipartisan basis to work with the administration on its recommendations as we are doing on NAFTA, to try to make this Congress work in the way that the American people would like to see it work. We hear negativism on the Democratic side. We hear, "We will put the pig in the sty, but give us time to grease it before you go after it. That's the old greased-pig phenomenon, where you cannot catch it and you cannot pin it down. We want to put teeth into the President's and Vice President's recommendations.

Mr. Speaker, a vote for this motion is a vote for the American people, for the taxpayers of this country, for those who believe in cutting Government down to size in a way that private industry has had to reduce its size. Private industry has had to face profit or loss—and they had no choice. They could not get out with the greased-pig syndrome and we should not do that in Government either.

I urge my colleagues to vote for this motion to instruct which will accelerate the ultimate passage of this bill and which will give the American taxpayers, finally, some relief from an overburdened Federal bureaucracy.

Mr. MICHEL. Mr. Speaker, I rise today in support of the motion to instruct conferees to accept the Senate amendment to H.R. 3167 which would implement the Federal employment reductions as proposed by Vice President GORE's National Performance Review.

This amendment, adopted by a significant majority in the other body, would require that full-time equivalent positions within the Federal Government be reduced by 252,000 from the fiscal year 1993 through fiscal year 1999.

The definition of full-time equivalent positions in this amendment is the existing statutory definition of civilian Federal employment. This is also the definition used in the National Performance Review recommendation.

Under this definition, all non-Postal, civilian employees of the executive branch are covered under these year-by-year employment caps.

The specific levels reflected in these caps are the levels for fiscal years 1994 and 1995, as specified in President Clinton's fiscal year 1994 budget submission.

The remaining cuts needed to reach the 252,000 reduction, are allocated equally among the following 4 years.

The employment reductions necessary to reach these employment caps shall be made by the President, through the Office of Management and Budget, in consultation with the Office of Personnel Management.

The employment caps would be enforced by a governmentwide hiring freeze in any quarter when the Federal employment caps are exceeded.

The hiring freeze would remain in place until Federal employment is reduced below the cap level.

According to the Congressional Budget Office, this amendment would provide budget savings of over $21 billion by fiscal year 1998.

Of course, there would be additional savings because this amendment caps employment through fiscal year 1999.

Mandating the President's proposal to reduce Federal civilian personnel by 252,000 would result in significant budgetary savings.

I urge my colleagues to vote to instruct the House conferees to accept this Senate amendment to implement a major portion of the administration's National Performance Review.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to support the motion by Mr. ARCHER to accede to a Senate amendment that would require a reduction of the Federal work force by 252,000.

As my colleagues are aware, in September the National Performance Review and the White House recommended reducing the Government's work force over 5 years by 252,000. By doing so, the White House recognized what many people have already acknowledged; That the Federal work force has grown too big and inefficient and is in need of reform.

Congress will soon be asked to authorize a major buyout program to implement this reduction program. However, that legislation will not specify the target of 252,000 Federal employees for these buyouts. By passing this motion, Congress can codify the goal of cutting 252,000 Federal employees that was first proposed by the White House.

Earlier this year, I introduced H.R. 3086, the Government Employee Limitation Act. This bill established a schedule by which the Government would reduce its work force by 252,000. In addition, it would have reduced the maximum number of permanent staff allowed for Members of Congress from 18 to 16. This motion would carry the substance of H.R. 3086 into law.

Mr. Speaker, putting the goal of reducing the Federal work force by 252,000 into law sends an important message that Congress is finally serious about reducing the deficit. The National Performance Review claims that the Federal Government can save over $40 billion in 5 years if the Federal work force is reduced by 252,000. It's high time Congress started to trim the bloat out of the Federal bureaucracy. Therefore, I urge my colleagues to vote for the Archer motion.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas [Mr. ARCHER].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 275, nays 146, not voting 12, as follows:

[Roll No. 544]

YEAS—275

Allard	Brewster	Cox	Ewing	Lambert	Reed
Andrews (TX)	Brooks	Cramer	Fawell	LaRocco	Regula
Archer	Browder	Crane	Fields (TX)	Laughlin	Ridge
Armey	Brown (CA)	Crapo	Fingerhut	Lazio	Roberts
Bacchus (FL)	Brown (OH)	Cunningham	Fish	Leach	Roemer
Bachus (AL)	Bryant	Danner	Fowler	Lehman	Rogers
Baker (CA)	Bunning	Darden	Franks (CT)	Levin	Rohrabacher
Baker (LA)	Burton	Deal	Franks (NJ)	Levy	Ros-Lehtinen
Ballenger	Buyer	DeLay	Frost	Lewis (CA)	Roth
Barca	Callahan	Derrick	Gallegly	Lewis (FL)	Roukema
Barcia	Calvert	Deutsch	Gallo	Lightfoot	Rowland
Barrett (NE)	Camp	Diaz-Balart	Gekas	Linder	Royce
Barrett (WI)	Canady	Dickey	Geren	Lipinski	Sangmeister
Bartlett	Cantwell	Doolittle	Gilchrest	Livingston	Santorum
Barton	Castle	Dornan	Gillmor	Lloyd	Sarpalius
Bateman	Chapman	Dreier	Gilman	Long	Saxton
Bereuter	Clinger	Duncan	Gingrich	Machtley	Schaefer
Bevill	Coble	Dunn	Glickman	Manzullo	Schenk
Bilirakis	Collins (GA)	Durbin	Goodlatte	Margolies-Mezvinsky	Schiff
Billey	Combest	Edwards (TX)	Goodling	Martinez	Schumer
Blute	Condit	Emerson	Gordon	Mazzoli	Sensenbrenner
Boehlert	Cooper	English (AZ)	Goss	McCandless	Sharp
Boehner	Coppersmith	English (OK)	Grams	McCollum	Shaw
Bonilla	Costello	Everett	Grandy	McCrery	Shays
			Greenwood	McCurdy	Shepherd
			Gunderson	McDade	Shuster
			Gutierrez	McHale	Sisisky
			Hall (TX)	McInnis	Skeen
			Hamilton	McKeon	Skelton
			Hancock	McMillan	Slattery
			Hansen	McNulty	Smith (NJ)
			Harman	Meehan	Smith (OR)
			Hastert	Meyers	Smith (TX)
			Hayes	Mica	Snowe
			Hefley	Michel	Solomon
			Herger	Miller (FL)	Spence
			Hinchey	Minge	Spratt
			Hoagland	Molinari	Stearns
			Hobson	Montgomery	Stenholm
			Hockstra	Moorhead	Strickland
			Hoke	Myers	Stump
			Holden	Neal (MA)	Stupak
			Horn	Neal (NC)	Sundquist
			Houghton	Nussle	Swett
			Huffington	Ortiz	Talent
			Hunter	Orton	Tanner
			Hutchinson	Oxley	Tauzin
			Hutto	Packard	Taylor (MS)
			Hyde	Pallone	Taylor (NC)
			Inglis	Parker	Tejeda
			Inhofe	Pastor	Thomas (CA)
			Inslee	Paxon	Thomas (WY)
			Istook	Payne (VA)	Thurman
			Jacobs	Penny	Torkildsen
			Johnson (CT)	Peterson (MN)	Torricelli
			Johnson (GA)	Petri	Upton
			Johnson, Sam	Pickle	Valentine
			Johnston	Pombo	Vucanovich
			Kaptur	Pomeroy	Walker
			Kasich	Porter	Walsh
			Kim	Portman	Weldon
			King	Poshard	Wilson
			Kingston	Pryce (OH)	Wolf
			Kleczka	Quillen	Woolsey
			Klug	Quinn	Young (AK)
			Knollenberg	Ramstad	Young (FL)
			Kolbe	Ravenel	Zeliff
			Kyl		Zimmer

NAYS—146

Abercrombie	Coyne	Green
Ackerman	de la Garza	Hall (OH)
Andrews (ME)	DeFazio	Hastings
Andrews (NJ)	DeLauro	Hefner
Applegate	Dellums	Hilliard
Barlow	Dicks	Hochbrueckner
Becerra	Dingell	Hoyer
Bentley	Dixon	Hughes
Bishop	Edwards (CA)	Jefferson
Blackwell	Engel	Johnson (SD)
Bonior	Eshoo	Johnson, E.B.
Borski	Evans	Kanjorski
Boucher	Farr	Kennedy
Brown (FL)	Fazio	Kennelly
Byrne	Fields (LA)	Kildee
Cardin	Filner	Klein
Carr	Foglietta	Klink
Clay	Ford (MI)	Kopetski
Clayton	Ford (TN)	Kreidler
Clement	Frank (MA)	LaFalce
Clyburn	Furse	Lantos
Coleman	Geidenson	Lewis (GA)
Collins (IL)	Gephardt	Lowey
Collins (MI)	Gibbons	Maloney
Conyers	Gonzalez	Mann

Manton	Pelosi	Swift
Markey	Peterson (FL)	Synar
Matsui	Pickett	Thompson
McCloskey	Price (NC)	Thornton
McDermott	Rahall	Towns
McKinney	Rangel	Traficant
Meek	Reynolds	Tucker
Menendez	Richardson	Unsoeld
Mfume	Rose	Velazquez
Miller (CA)	Rostenkowski	Vento
Mineta	Roybal-Allard	Visclosky
Mink	Rush	Volkmer
Moakley	Sabo	Washington
Mollohan	Sanders	Waters
Moran	Sawyer	Watt
Murphy	Schroeder	Waxman
Murtha	Scott	Wheat
Nadler	Serrano	Whitten
Natcher	Skaggs	Williams
Oberstar	Slaughter	Wise
Obey	Smith (IA)	Wyden
Olver	Stark	Wynn
Owens	Stokes	Yates
Payne (NJ)	Studds	

NOT VOTING—12

Baesler	Dooley	McHugh
Bellenson	Flake	Morella
Berman	Hamburg	Smith (MI)
Bilbray	Lancaster	Torres

□ 1407

Messrs. RANGEL, RUSH, FRANK of Massachusetts, and GONZALEZ changed their vote from "yea" to "nay."

Messrs. ROWLAND, PETRI, INSLEE, BROWN of Ohio, PALLONE, COSTELLO, BILIRAKIS, and PASTOR, Ms. ENGLISH of Arizona, Ms. CANTWELL, Messrs. REED, DARDEN, and MCNULTY, and Ms. LAMBERT changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Without objection, the Chair appoints the following Members to the conference committee:

From the Committee on Ways and Means, for consideration of the House bill, and Senate amendment No. 2, and modifications committed to conference: Messrs. ROSTENKOWSKI, FORD of Tennessee, and ARCHER.

From the Committee on Post Office and Civil Service, for consideration of Senate amendment No. 1, and modifications committed to conference: Messrs. CLAY, MCCLOSKEY, and MYERS of Indiana.

There was no objection.

MARITIME SECURITY AND COMPETITIVENESS ACT OF 1993

The SPEAKER pro tempore. Pursuant to House Resolution 289, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2151.

□ 1409

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2151) to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet Program, and for other purposes, with Ms. BYRNE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, November 3, 1993, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Security and Competitiveness Act of 1993".

□ 1410

Mr. STUDDS. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time to advise Members of our intention, or perhaps I should say, our hopes, speaking on behalf of the ranking minority member, the gentleman from Texas [Mr. FIELDS], and myself. While this is a long and complex and important piece of legislation and we are aware of a number of amendments, we are at the moment aware of only one amendment likely to engender a considerable debate and controversy, and it is our hope that we have begun initial discussions with the authors of that amendment, in this case the gentleman from Minnesota and the gentleman from Iowa, and that we might be able to reach a mutual agreement with regard to a time limitation on that amendment.

I rise to inform Members that if we are able to do that—and there really is no reason we ought not be able to do that—if we are able to do that, we ought to be able to conclude this bill not only before the intended goal of rising this evening at 6 but, at the risk of sounding hallucinatory to my colleagues, I think we might even be able to get Members free earlier than that if we all exercise a little bit of self-restraint in terms of the numbers or words and syllables which we use.

Madam Chairman, I urge the Members to bear that in mind. There is every reason to be hopeful that we can move with some expeditiousness on this bill.

The CHAIRMAN. The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSE OF THE MERCHANT MARINE ACT, 1936.

Section 101 of the Merchant Marine Act, 1936, (46 App. U.S.C. 1101) is amended to read as follows:

"SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE OF MERCHANT MARINE.

"The Secretary of Transportation shall carry out this Act in a manner that ensures the existence of an operating fleet of United States documented vessels that is—

"(1) sufficient to carry the domestic waterborne commerce of the United States and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times;

"(2) adequate to serve as a naval auxiliary in time of war or national emergency;

"(3) owned and operated by citizens of the United States, to the extent practicable;

"(4) composed of the best-equipped, safest, and most modern vessels;

"(5) manned with the best trained and efficient personnel who are citizens of the United States; and

"(6) supplemented by modern and efficient United States facilities for shipbuilding and ship repair.".

The CHAIRMAN. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. MARITIME SECURITY FLEET PROGRAM.

(a) The Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.) is amended by inserting after title III the following new title:

"TITLE IV—MARITIME SECURITY FLEET PROGRAM

"SEC. 401. ESTABLISHMENT OF MARITIME SECURITY FLEET.

"The Secretary of Transportation shall establish a fleet of active commercial vessels to enhance sealift capabilities and maintain a presence in international commercial shipping of United States documented vessels. The fleet shall be known as the 'Maritime Security Fleet'.

"SEC. 402. COMPOSITION OF FLEET.

"The Fleet shall consist of privately owned United States documented vessels for which there are in effect operating agreements.

"SEC. 403. VESSELS ELIGIBLE FOR ENROLLMENT IN FLEET.

"(a) IN GENERAL.—A vessel is eligible to be enrolled in the Fleet if the Secretary decides, in accordance with this section, that it is eligible. The Secretary may decide whether a vessel is eligible to be enrolled in the Fleet only pursuant to an eligibility decision application submitted to the Secretary by the owner or operator of the vessel. The Secretary shall make such a decision by no later than 90 days after the date of submittal of an eligibility decision application for the vessel by the owner or operator of the vessel.

"(b) VESSEL ELIGIBILITY, GENERALLY.—Except as provided in subsection (c), the Secretary shall decide that a vessel is eligible to be enrolled in the Fleet if—

"(1) the person that will be the contractor with respect to an operating agreement for the vessel agrees to enter into an operating agreement with the Secretary for the vessel under section 404;

"(2) the person that will be a contractor with respect to an operating agreement for the vessel is a citizen of the United States;

"(3)(A) the vessel is a United States documented vessel on May 19, 1993;

"(B) the vessel is—

"(i) in existence on May 19, 1993;

"(ii) a United States documented vessel after May 19, 1993; and

"(iii) not more than 10 years of age on the date of that documentation;

"(C) the vessel is built and, if rebuilt, rebuilt in a United States shipyard;

"(D) the vessel is built in a shipyard that is not a foreign subsidized shipyard under a contract entered into before May 19, 1993;

"(E)(i) the vessel is built in a foreign shipyard under a contract entered into on or before May 19, 1993; and

"(ii) the owner has contracted to build another vessel for enrollment in the Fleet in a United States shipyard that will be delivered within 30 months after the effective date of an operating agreement for the vessel referred to in clause (i), or the Secretary finds and certifies in writing that a United States shipyard cannot sell a vessel to the owner at the world price due to the unavailability of series transition payments under title XIV to build that vessel; or

"(F)(i) the vessel is built under a contract entered into after May 19, 1993;

"(ii) the proposed owner of the vessel solicited nationwide bids for at least 6 months to build the vessel in a United States shipyard;

"(iii) the Secretary finds and certifies in writing that a United States shipyard cannot sell a vessel to the proposed owner at the world price due to the unavailability of series transition payments under title XIV to build that vessel;

"(iv) the vessel is delivered from the foreign shipyard within 30 months after the Secretary's certification under clause (iii); and

"(v) the vessel is substantially the same type and design as the vessel described in the solicitation made under clause (ii); and

"(4) the vessel is self-propelled and is—

"(A) a container vessel with a capacity of at least 750 Twenty-foot Equivalent Units;

"(B) a roll-on/roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 Twenty-foot Equivalent Units;

"(C) a LASH vessel with a barge capacity of at least 75 barges;

"(D) a vessel subject to a contract under title VI on May 19, 1993; or

"(E) any other type of vessel that is determined by the Secretary to be suitable for use by the United States for national defense or military purposes in time of war or national emergency.

"(c) DETERMINATIONS OF ELIGIBILITY.—

"(1) DETERMINATIONS REQUIRED.—The Secretary shall make determinations under subsection (b) for each vessel for which an eligibility decision application is submitted under this section.

"(2) DETERMINATION REGARDING CERTIFICATION.—The Secretary shall—

"(A) make the finding and certification under paragraph (3)(E)(ii) for a vessel, or determine not to, by not later than 60 days after the date of receipt of an eligibility decision application for the vessel; and

"(B) make the finding and certification under paragraph (3)(F)(iii) for a vessel, or determine not to, by not later than 60 days after the closing date of the solicitation pursuant to paragraph (3)(F)(ii) for the vessel.

"(3) WRITTEN EXPLANATION.—The Secretary shall provide to the person that submits an eligibility application for a vessel a written explanation of any decision that the vessel is not eligible for enrollment in the Fleet.

"(d) LIST OF ELIGIBLE VESSELS.—

"(1) IN GENERAL.—The Secretary shall maintain a list of vessels that the Secretary decides in accordance with this section are eligible to be enrolled in the Fleet.

"(2) REMOVAL OF VESSELS FROM LIST.—The Secretary shall remove a vessel from the list maintained under this subsection, and the vessel shall not be an eligible vessel for purposes of this title—

"(A) at any time that the conditions for eligibility under subsection (b) are not fulfilled for the vessel; or

"(B) if the status of the person who submitted an eligibility decision application for the vessel, as owner or operator of the vessel, changes and after that change—

"(i) the owner or operator of the vessel fails to submit a new eligibility decision application for the vessel; or

"(ii) such an application is not approved by the Secretary.

"SEC. 404. OPERATING AGREEMENTS, GENERALLY.

"(a) REQUIREMENT FOR ENROLLMENT OF VESSELS.—A vessel may be enrolled in the Fleet only if it is an eligible vessel for which the owner or operator of the vessel applies for and enters into an operating agreement with the Secretary under this section.

"(b) PRIORITY FOR AWARDING AGREEMENTS.—Subject to the availability of appropriations, the Secretary shall enter into operating agreements according to the following priority:

"(1) VESSELS OWNED BY CITIZENS.—

"(A) PRIORITY.—First, for any vessel that is—

"(i) owned and operated by persons who are citizens of the United States under section 2 of the Shipping Act, 1916; or

"(ii) less than 5 years of age and owned and operated by a corporation that is—

"(I) eligible to document a vessel under chapter 121 of title 46, United States Code; and

"(II) affiliated with a corporation operating or managing other United States documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense.

"(B) LIMITATION ON NUMBER OF OPERATING AGREEMENTS.—The total number of operating agreements that may be entered into by a person under the priority in subparagraph (A)—

"(i) for vessels described in subparagraph (A)(i), may not exceed the sum of—

"(I) the number of United States documented vessels the person operated in the foreign commerce of the United States (except mixed coastwise and foreign commerce) on January 1, 1993; and

"(II) the number of United States documented vessels the person chartered to the Secretary of Defense on that date; and

"(ii) for vessels described in subparagraph (A)(ii), may not exceed 4 vessels.

"(C) TREATMENT OF RELATED PARTIES.—For purposes of subparagraph (B), a related party with respect to a person shall be treated as the person.

"(2) OTHER VESSELS OWNED BY CITIZENS AND GOVERNMENT CONTRACTORS.—To the extent that amounts are available after applying paragraph (1), any vessel that is—

"(A) owned and operated by—

"(i) citizens of the United States under section 2 of the Shipping Act, 1916, that have not been awarded an operating agreement under the priority established under paragraph (1); or

"(ii)(I) eligible to document a vessel under chapter 121 of title 46, United States Code; and

"(II) affiliated with a corporation operating or managing other United States documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense; and

"(B) on the list maintained under section 403(d).

"(3) OTHER VESSELS.—To the extent that amounts are available after applying paragraphs (1) and (2), any vessel that is—

"(A) owned and operated by a person that is eligible to document a vessel under chapter 121 of title 46, United States Code; and

"(B) on the list maintained under section 403(d).

"(c) AWARD OF AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall award operating agreements within each priority under subsection (b) (1), (2), and (3) under regulations prescribed by the Secretary.

"(2) NUMBER OF AGREEMENTS AWARDED.—Regulations under paragraph (1) shall provide that if appropriated amounts are not sufficient for operating agreements for all vessels within a priority under subsection (b) (1), (2), or (3), the Secretary shall award to each person submitting a request a number of operating agreements that bears approximately the same ratio to the total number of vessels in the priority, as the amount of appropriations available for operating agreements for vessels in the priority bears to the amount of appropriations necessary for operating agreements for all vessels in the priority.

"(3) TREATMENT OF RELATED PARTIES.—For purposes of paragraph (2), a related party with respect to a person shall be treated as the person.

"(d) TIME LIMIT FOR DECISION ON ENTERING OPERATING AGREEMENT.—The Secretary shall enter an operating agreement for a vessel within 90 days after making the decision that the vessel is eligible to be enrolled in the Fleet under section 403(a).

"(e) EFFECTIVE DATE OF OPERATING AGREEMENT.—The effective date of an operating agreement may not be later than the later of—

"(1) the date the vessel covered by the agreement enters into the trade required under section 405(a)(1)(A);

"(2) the date the vessel covered by the agreement is withdrawn from an operating differential subsidy contract under title VI;

"(3) the date of termination of an operating differential subsidy contract under title VI that applies to the vessel; or

"(4) the date of the expiration or termination of a charter of the vessel to the United States Government that was entered into before the date of the enactment of the Maritime Security and Competitiveness Act of 1993.

"(f) EXPIRATION OF OFFERS FOR AGREEMENTS.—Unless extended by the Secretary, an offer by the Secretary to enter into an operating agreement under this section expires 120 days after the date the offer is made.

"(g) LENGTH OF AGREEMENTS.—An operating agreement is effective for 10 years from the effective date of the agreement.

"(h) REPAYMENT REQUIREMENTS.—

"(1) NONCOMPLIANCE.—A contractor that fails to comply with the terms of an operating agreement shall be liable to the United States Government for all amounts received by the contractor as payments for the vessel under this title with respect to the period of that noncompliance, and for interest on those amounts determined under paragraph (3).

"(2) FAILURE TO OPERATE REPLACEMENT VESSEL.—A contractor under an operating agreement that covers a vessel that is 25 or more years of age and that fails to replace the vessel as provided in section 405(a)(3) (A) or (B) shall be liable to the United States Government for all amounts received by the contractor as payments for the vessel under this title with respect to periods after the date the vessel becomes 25 years of age, and for interest on those amounts determined under paragraph (3).

"(3) DETERMINATION OF INTEREST.—Interest under paragraphs (1) and (2) shall be at an annual rate equal to 125 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for auctions of 3 month United States Treasury bills settled during the quarter preceding the date of the failure to comply or the failure to replace, respectively.

"(i) PROHIBITION ON AGREEMENTS FOR CERTAIN VESSELS.—The Secretary may not enter into an operating agreement for a vessel that is owned or operated by a person that was a contractor for the vessel under an operating agreement terminated under section 405(a)(10), before the end of the term of the agreement that was terminated.

"(j) BINDING OBLIGATION OF GOVERNMENT.—An operating agreement constitutes a contractual obligation of the United States Government

to pay the amounts provided for under that agreement.

"SEC. 405. TERMS OF OPERATING AGREEMENTS.

"(a) OPERATING AGREEMENT REQUIREMENTS.—An operating agreement shall, during the effective period of the agreement, provide the following:

"(1) OPERATION AND DOCUMENTATION.—The vessel covered by the operating agreement—

"(A) shall be operated in the foreign trade or domestic trade allowed under a registry endorsement for the vessel issued under section 12105 of title 46, United States Code;

"(B) may not be operated in the coastwise trade of the United States or in mixed coastwise and foreign trade, except for coastwise trade allowed under a registry endorsement issued for the vessel under section 12105 of title 46, United States Code; and

"(C) shall be documented under chapter 121 of title 46, United States Code.

"(2) ANNUAL PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall pay the contractor, in accordance with this subsection, the following amounts for each fiscal year in which the vessel is operated in accordance with the agreement:

"(i) For fiscal year 1994, $2,300,000.

"(ii) For each fiscal year thereafter, $2,100,000.

"(B) LIMITATION.—The Secretary shall not pay any amount pursuant to this paragraph for any day in which the vessel is—

"(i) under a charter to the United States Government that was entered into before the date of the enactment of the Maritime Security and Competitiveness Act of 1993; or

"(ii) covered by an operating differential subsidy contract under title VI.

"(3) TERMINATION BASED ON AGE OF VESSEL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the operating agreement shall terminate on the later of—

"(i) the date the vessel covered by the agreement is 25 years of age, or

"(ii) the date the vessel covered by the agreement is 30 years of age, in the case of an agreement that covers a vessel that is repowered in a United States shipyard after the effective date of the operating agreement and before the vessel is 25 years of age.

"(B) EXCEPTION.—The operating agreement shall not terminate under subparagraph (A) if the contractor agrees to acquire a replacement for the vessel from among vessels on the list maintained under section 403(d), and—

"(i) in the case of a vessel to be replaced with a new vessel, the contractor enters into a binding contract with a shipyard that requires the shipyard to deliver the replacement vessel by not later than 30 months after the later of the date the operating agreement is entered into or the date the operating agreement would otherwise terminate under subparagraph (A); or

"(ii) in the case of a vessel to be replaced with an existing vessel, the contractor acquires the replacement vessel from among vessels on the list maintained under section 403(d), by not later than 12 months after the later of the date the operating agreement is entered into or the date the operating agreement would otherwise expire under subparagraph (A).

"(4) AVAILABILITY OF VESSEL.—

"(A) IN GENERAL.—On a request of the President during time of war or national emergency or when considered by the President, acting through the Secretary in consultation with the Secretary of Defense, to be necessary in the interest of national security, and subject to subparagraph (B), the contractor as soon as practicable shall, as specified by the Secretary—

"(i) make the vessel covered by the agreement available to the Secretary under a time charter; or

"(ii) provide space on the vessel covered by the agreement to the Secretary on a guaranteed basis.

"(B) CONDITION FOR CHARTER.—The Secretary shall allow a contractor to comply with this paragraph by providing space on a vessel under subparagraph (A)(ii) unless the Secretary determines that it is necessary in the interest of national security that the contractor make the vessel available under a time charter.

"(5) DELIVERY OF VESSEL.—The contractor shall deliver a vessel to the Secretary pursuant to a time charter under paragraph (4)(A)(i), as specified in the request for the vessel—

"(A) at the first port in the United States the vessel is scheduled to call after the date of receipt of the request;

"(B) at the port in the United States to which the vessel is nearest on the date of receipt of the request; or

"(C) in any other reasonable manner authorized by the agreement and specified in the request.

"(6) DELIVERY COSTS.—In addition to amounts paid under paragraph (2), the Secretary shall reimburse the contractor for costs incurred by the contractor in delivering the vessel covered by the agreement to the Secretary in accordance with the agreement.

"(7) COMPENSATION.—In addition to amounts paid under paragraph (2), the Secretary shall pay the contractor, as provided in the operating agreement, reasonable compensation at reasonable commercial rates for the period of time the vessel is chartered or the contractor provides space on the vessel under paragraph (4).

"(8) REQUIRED OPERATION.—

"(A) IN GENERAL.—A vessel covered by the operating agreement shall be operated in the trade required under paragraph (1), and under conditions eligible for payment under this title, for at least 320 days in a fiscal year, including days during which the vessel is dry-docked, surveyed, inspected, or repaired.

"(B) REDUCTION IN PAYMENTS.—If a vessel operates in the trade required under paragraph (1), and under conditions eligible for payment under this title, for less than the time required under subparagraph (A), the payments required under paragraph (2) shall be reduced on a pro rata basis to reflect the lesser time in that operation.

"(9) SUBSTITUTION OF VESSELS AUTHORIZED.—The contractor may substitute for the vessel covered by the agreement another vessel on the list maintained under section 403(d).

"(10) OTHER TERMINATION.—The operating agreement shall terminate if—

"(A) in the case of a vessel that transports less than 12,000 tons of bulk cargo under the agreement—

"(i) the vessel covered by the agreement is not operated under an operating agreement for one year; and

"(ii) a substitute for that vessel is not operated under the agreement during that year; or

"(B) the contractor notifies the Secretary that the contractor intends to terminate the agreement, by not later than 60 days before the effective date of the termination.

"(b) PAYMENTS.—

"(1) IN GENERAL.—The amount required to be paid by the Secretary each year to a contractor under an operating agreement pursuant to subsection (a)(2)—

"(A) shall be paid at a pro rated amount at the beginning of each month in equal installments; and

"(B) except as provided in paragraph (2), may not be reduced by reason of operation of the vessel covered by the agreement to carry civilian or military preference cargoes under—

"(i) section 901(a), 901(b), or 901b;

"(ii) section 2631 of title 10, United States Code; or

"(iii) the Act of March 26, 1934 (48 Stat. 500).

"(2) REDUCTION FOR PREFERENCE CARGO.—A contractor with respect to a vessel may not receive any payment under this title for any day in which the vessel is engaged in transporting more than 12,000 tons of preference cargo described in paragraph (1)(B) that is bulk cargo (as defined in section 3 of the Shipping Act of 1984).

"(c) REDELIVERY OF VESSELS.—The Secretary shall, upon the termination of the need for which a vessel is delivered under subsection (a)(4), return the vessel to the contractor—

"(1) at a place that is mutually agreed upon by the Secretary of Defense and the contractor; and

"(2) in the condition in which it was delivered to the Secretary, excluding normal wear and tear.

"(d) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the agreement) to any other person that is a citizen of the United States, after notification of the Secretary in accordance with regulations prescribed by the Secretary, unless the transfer is disapproved by the Secretary within 90 days after the date of that notification. A transfer shall not be effective before the end of that 90-day period. A person to whom an agreement is transferred may receive payments from the Secretary under the agreement only if the vessel to be covered by the agreement after the transfer is on the list maintained under section 403(d).

"SEC. 406. NONCONTIGUOUS TRADE RESTRICTIONS.

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except as provided in this section, a contractor may not receive any payment under this title—

"(A) if the contractor or a related party with respect to the contractor, directly or indirectly owns, charters, or operates a vessel engaged in the transportation of cargo in noncontiguous trade other than in accordance with a waiver under subsection (b), (c), or (d); or

"(B) if the contractor is authorized to operate a vessel in noncontiguous trade under such a waiver, and there is a—

"(i) material change in the domestic ports served by the contractor from the ports permitted to be served under the waiver;

"(ii) material increase in the annual number or the frequency of sailings by the contractor from the number or frequency permitted under the waiver; or

"(iii) material increase in the annual volume of cargo carried or annual capacity utilized by the contractor from the annual volume of cargo or annual capacity permitted under the waiver.

"(2) LIMITATIONS ON PROHIBITION.—Paragraph (1) applies to a contractor only in the years specified for payments under the operating agreement entered into by the contractor.

"(b) GENERAL WAIVER AUTHORITY.—

"(1) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive, in writing, the application of subsection (a) to a contractor pursuant to an application submitted in accordance with this subsection, unless the Secretary finds that—

"(A) the waiver would result in unfair competition to any person that operates vessels as a carrier of cargo in a service exclusively in the noncontiguous trade for which the waiver is applied;

"(B) subject to paragraph (6), existing service in that noncontiguous trade is adequate; or

"(C) the waiver will result in prejudice to the objects or policy of this title or Act.

"(2) TERMS OF WAIVER.—Any waiver granted by the Secretary under this subsection shall state—

"(A) the domestic ports permitted to be served;
"(B) the annual number or frequency of sailings that may be provided; and
"(C)(i) the annual volume of cargo permitted,
"(ii) for containerized or trailer service, the annual 40-foot equivalent unit shipboard container and trailer or vehicle or general cargo capacity permitted, or
"(iii) for tug and barge service, the annual barge house cubic foot capacity and the annual barge deck general cargo capacity, or 40-foot equivalent unit container, trailer, or vehicle capacity, permitted.

"(3) APPLICATIONS FOR WAIVERS.—An application for a waiver under this subsection may be submitted by a contractor and shall describe, as applicable, the nature and scope of—
"(A) the service proposed to be conducted in a noncontiguous trade under the waiver; or
"(B) any proposed material change or increase in a service in a noncontiguous trade permitted under a previous waiver.

"(4) ACTION ON APPLICATION AND HEARING.—
"(A) NOTICE AND PROCEEDING.—Within 30 days after receipt of an application for a waiver under this subsection, the Secretary shall—
"(i) publish a notice of the application; and
"(ii) begin a proceeding on the application under section 554 of title 5, United States Code, to receive—
"(I) evidence of the nature, quantity, and quality of the existing service in the noncontiguous trade for which the waiver is applied;
"(II) a description of the proposed service or proposed material change or increase in a previously permitted service;
"(III) the projected effect of the proposed service or proposed material change or increase in existing service; and
"(IV) recommendations on conditions that should be contained in any waiver for the proposed service or material change or increase.
"(B) INTERVENTION.—An applicant for a waiver under this subsection, and any person that operates cargo vessels in the noncontiguous trade for which a waiver is applied and that has any interest in the application, may intervene in the proceedings on the application.
"(C) HEARING.—Before deciding whether to grant a waiver under this subsection, the Secretary shall hold a public hearing in an expeditious manner, reasonable notice of which shall be published.

"(5) DECISION.—The Secretary shall complete all proceedings and hearings on an application under this subsection and issue a decision on the record within 90 days after receipt of the final briefs submitted for the record.

"(6) LIMITATION ON CONSIDERATION OF CERTAIN EXISTING SERVICE.—
"(A) LIMITATION.—In determining whether to grant a waiver under this subsection for noncontiguous trade with Hawaii, the Secretary shall not consider the criterion set forth in paragraph (1)(B) if a qualified operator—
"(i) is a contractor, and
"(ii) operates 4 or more vessels in foreign commerce in competition with another contractor.
"(B) QUALIFIED OPERATOR.—In this paragraph, the term 'qualified operator' means a person that on July 1, 1992, offered service as an operator of containerized vessels, trailer vessels, or combination container and trailer vessels in noncontiguous trade with Hawaii and the Johnston Islands (including a related party with respect to the person).

"(c) WAIVERS FOR EXISTING NONCONTIGUOUS TRADE OPERATORS.—
"(1) IN GENERAL.—The Secretary shall waive the application of subsection (a) to a contractor pursuant to an application submitted in accordance with this subsection if the Secretary finds that the contractor, or a related party or predecessor in interest with respect to the contractor—
"(A) engaged in bona fide operation of a vessel as a carrier of cargo by water—
"(i) in a noncontiguous trade on July 1, 1992; or
"(ii) in furnishing seasonal service in a season ordinarily covered by its operation, during the 12 calendar months preceding July 1, 1992; and
"(B) has operated in that service since that time, except for interruptions of service resulting from military contingency or over which the contractor (or related party or predecessor in interest) had no control.

"(2) TERMS OF WAIVER.—
"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the level of service permitted under a waiver under this subsection shall be the level of service provided by the applicant (or related party or predecessor in interest) in the relevant noncontiguous trade during, for year-round service, the 6 calendar months preceding July 1, 1992, or for seasonal service, the 12 calendar months preceding July 1, 1992, determined by—
"(i) the domestic ports called;
"(ii) the number of sailings actually made, except as to interruptions in the service in the noncontiguous trade resulting from military contingency or over which the applicant (or related party or predecessor in interest) had no control; and
"(iii) the volume of cargo carried or, for containerized or trailer service, the 40-foot equivalent unit shipboard container, trailer, or vehicle or general cargo capacity employed, or, for tug and barge service, the barge house cubic foot capacity and barge deck general cargo capacity or 40-foot equivalent unit container, trailer, or vehicle capacity, employed.
"(B) CERTAIN CONTAINERIZED VESSELS.—If an applicant under this subsection was offering service as an operator of containerized vessels in noncontiguous trades with Hawaii, Puerto Rico, and Alaska on July 1, 1992, a waiver under this subsection for the applicant shall permit a level of service consisting of—
"(i) 104 sailings each year from the West Coast of the United States to Hawaii with an annual capacity allocated to the service of 75 percent of the total capacity of the vessels employed in the service on July 1, 1992;
"(ii) 156 sailings each year in each direction between the East Coast or Gulf Coast of the United States and Puerto Rico with an annual capacity allocated to the service of 75 percent of the total capacity of its vessels employed in the service on the date of the enactment of the Maritime Security and Competitiveness Act of 1993; and
"(iii) 103 sailings each year in each direction between Washington and Alaska with an annual capacity allocated to the service in each direction of 100 percent of the total capacity of its vessels employed in the service on July 1, 1992.
"(C) CERTAIN TUGS AND BARGES.—If an applicant under this subsection was offering service as an operator of tugs and barges in noncontiguous trades with Hawaii, Puerto Rico, and Alaska on July 1, 1992, a waiver under this subsection for the applicant shall permit a level of service consisting of—
"(i) 17 sailings each year in each direction between ports in Washington, Oregon, and Northern California and ports in Hawaii with an annual barge house cubic foot capacity and annual barge deck 40-foot equivalent unit container capacity in each direction of 100 percent of the total of the capacity of its vessels employed in the service during the 6 calendar months preceding July 1, 1992, annualized;
"(ii) 253 sailings each year in each direction between the East Coast or Gulf Coast of the United States and Puerto Rico with an annual 40-foot equivalent unit container or trailer capacity equal to 100 percent of the capacity of its barges employed in the service on the date of the enactment of the Maritime Security and Competitiveness Act of 1993;
"(iii) 37 regularly scheduled tandem tow rail barge sailings and 10 additional single tow rail barge sailings each year in each direction between Washington and the Alaskan port range between and including Anchorage and Whittier with an annual capacity allocated to the service in each direction of 100 percent of the total rail car capacity of its vessels employed in the service on July 1, 1992;
"(iv) 8 regularly scheduled single tow sailings each year in each direction between Washington and points in Alaska (not including the port range between and including Anchorage and Whittier, except occasional deviations to discharge incidental quantities of cargo) with an annual capacity allocated to the service in each direction of 100 percent of the total capacity of its vessels employed in the service on July 1, 1992; and
"(v) unscheduled, contract carrier tug and barge service between points in Alaska south of the Arctic Circle not served by the common carrier service permitted under clause (iii) and points in the contiguous 48 States, with an annual capacity allocated to that service not exceeding 100 percent of the total capacity of the equipment that was dedicated to service south of the Arctic Circle on July 1, 1992, and actually utilized in that service in the 2-year period preceding that date.
"(D) ANNUALIZATION.—Capacity otherwise required by this paragraph to be permitted under a waiver under this subsection shall be annualized if not a seasonal service.
"(E) ADJUSTMENTS.—
"(i) Each written waiver granted by the Secretary under this subsection shall contain a statement that the annual capacity permitted under this waiver in any direction shall increase for a calendar year by the percentage of increase during the preceding calendar year in the real gross product of the State or territory to which goods are transported in the noncontiguous trade covered by the waiver, or its equivalent economic measure as determined by the Secretary if the real gross product is not available, and that the increase shall not be considered to be a material change or increase for purposes of subsection (a)(1)(B).
"(ii) The increase in permitted capacity under clause (i) in the noncontiguous trade with Alaska shall be allowed only to the extent the operator actually uses that increased capacity to carry cargo in the permitted service in the calendar year immediately following the preceding increase in gross product. However, if an operator operating exclusively containerized vessels in that trade on July 1, 1992, carries an average loan factor of at least 90 percent of permitted capacity (including the capacity, if any, both authorized and used under the previous sentence) during 9 months of any one calendar year, than in the next following calendar year and thereafter, the requirement that additional capacity must be used in the immediately following year does not apply.
"(F) SERVICE LEVELS NOT INCREASED BY TERMINATION OF AGREEMENT.—The termination of an operating agreement under section 405(a)(10) shall not be considered to increase a level of service specified in subparagraph (A), (B), or (C) if the contractor under the agreement enters into another operating agreement after that termination.

"(3) APPLICATIONS FOR WAIVERS.—For a waiver under this subsection a contractor shall submit to the Secretary an application certifying the facts required to be found under paragraph (1) (A) or (B), as applicable.

"(4) ACTION ON APPLICATION.—
"(A) NOTICE.—The Secretary shall publish a notice of receipt of an application for a waiver

under this subsection within 30 days after receiving the application.

"(B) HEARING PROHIBITED.—The Secretary may not conduct a hearing on an application for a waiver under this subsection.

"(C) SUBMISSION OF COMMENTS.—The Secretary shall give every person operating a cargo vessel in a noncontiguous trade for which a waiver is applied for under this subsection and who has any interest in the application a reasonable opportunity to submit comments on the application and on the description of the service that would be permitted by any waiver that is granted by the Secretary under the application.

"(5) DECISION ON APPLICATION.—Subject to the time required for publication of notice and for receipt and evaluation of comments by the Secretary, an application for a waiver under this subsection submitted at the same time the applicant applies for inclusion of a vessel in the Fleet shall be granted in accordance with the level of service determined by the Secretary under this subsection by not later than the date on which the Secretary offers to the applicant an operating agreement with respect to that vessel.

"(6) CHANGE OR INCREASE IN SERVICE.—Any material change or increase in a service that is subject to a waiver under this subsection is not authorized except to the extent the change or increase is permitted by a waiver under subsection (b).

"(d) EMERGENCY WAIVER.—Notwithstanding any other provision of this section, the Secretary may, without hearing, temporarily waive the application of subsection (a)(1)(B) if the Secretary finds that a material change or increase is essential in order to respond adequately to (1) an environmental or natural disaster or emergency, or (2) another emergency declared by the President. Any waiver shall be for a period of not to exceed 45 days, except that a waiver may be renewed for 30-day periods if the Secretary finds that adequate capacity continues to be otherwise unavailable.

"(e) ANNUAL REPORT ON WAIVERS.—Each waiver under this section shall require the person who is granted the waiver to submit to the Secretary each year an annual report setting forth for the service authorized by the waiver—

"(1) the ports served during the year;

"(2) the number or frequency of sailings performed during the year; and

"(3) the volume of cargo carried or, for containerized or trailer service, the annual 40-foot equivalent unit shipboard container, trailer, or vehicle capacity utilized during the year, or for tug and barge service, the annual barge house and barge deck capacity utilized during the year.

"(f) DEFINITIONS.—In this section—

"(1) the term 'noncontiguous trade' means trade between—

"(A) a point in the contiguous 48 States; and

"(B) a point in Alaska, Hawaii, or Puerto Rico, other than a point in Alaska north of the Arctic Circle; and

"(2) the term 'related party' means—

"(A) a holding company, subsidiary, affiliate, or associate of a contractor; and

"(B) an officer, director, agency, or other executive of a contractor or of a person referred to in subparagraph (A).

"SEC. 407. OPERATING COMPETING FOREIGN VESSELS.

"(a) IN GENERAL.—Except as provided in this section, a contractor (including a related party with respect to a contractor) may not own, charter, or operate a foreign vessel in competition with a United States documented vessel.

"(b) EXCEPTION.—Subsection (a) does not apply to a foreign vessel if—

"(1)(A) the contractor has applied for an operating agreement for a vessel to be operated in the same service as the foreign vessel; and

"(B) the Secretary, due to the unavailability of funds, does not award an operating agreement to that contractor for a United States documented vessel for that service within 60 days after that application is submitted;

"(2) the Secretary, after notice and an opportunity for a hearing, under special circumstances, and for good cause shown, waives subsection (a) for the contractor for a specified period of time; or

"(3) the foreign vessel was operated by that contractor on August 5, 1993.

"SEC. 408. FUNDING FOR OPERATING AGREEMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary any amounts necessary to liquidate obligations under operating agreements.

"(b) TRANSFER OF BALANCES FROM OPERATING DIFFERENTIAL SUBSIDY PROGRAM.—Any amounts otherwise available for operating differential subsidy contracts under title VI that are no longer required for those contracts are available, until expended, for operating agreements.

"SEC. 409. DEFINITIONS.

"In this title:

"(1) CONTRACTOR.—The term 'contractor' means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary.

"(2) ELIGIBILITY DECISION APPLICATION.—The term 'eligibility decision application' means an application for a decision by the Secretary under section 403 that a vessel is eligible to be enrolled in the Fleet.

"(3) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that the Secretary decides under section 403 is eligible to be enrolled in the Fleet.

"(4) FLEET.—The term 'Fleet' means the Maritime Security Fleet established under section 402.

"(5) OPERATING AGREEMENT.—The term 'operating agreement' means an operating agreement entered into by the Secretary under section 404.

"(6) RELATED PARTY.—The term 'related party' means, with respect to a contractor or other person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, other executive, or agent of the person or of an entity referred to in paragraph (1).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(8) UNITED STATES DOCUMENTED VESSEL.—The term 'United States documented vessel' means a vessel that is documented under chapter 121 of title 46, United States Code.".

AMENDMENTS OFFERED BY MR. STUDDS

Mr. STUDDS. Madam Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD.

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

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. STUDDS: Page 40, strike line 13 and all that follows through line 16, and insert the following:

"'(a) AUTHORIZATION OF APPROPRIATIONS.—For entering into operating agreements under this title there are authorized to be appropriated to the Secretary $1,200,000,000 for fiscal year 1995. Amounts appropriated under this subsection shall remain available until expended.".

Page 68, line 24, after "Transportation" insert ", in consultation with the heads of other appropriate agencies,".

Page 69, line 6, after "Secretary" insert ", in consultation with the heads of other appropriate agencies,".

On page 69, between lines 19–20, insert the following:

"(c) Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall take actions to ensure and maintain a significant increase of government-impelled cargo through Great Lake ports, through administrative waivers and action and through an exemption of cargo preference requirements.".

Mr. STUDDS. Madam Chairman, this three-part amendment is quite simple. First, it establishes an overall cap of $1.2 billion dollars on the amounts that may be appropriated in fiscal year 1995 for the Maritime Security Fleet Program. This is funding required for the entire 10 years of the maritime security fleet contracts.

When the Committee on Merchant Marine and Fisheries was marking up H.R. 2151 in August, the administration had not yet decided on a general approach or framework for maritime reform programs. Since that time, I have met with President Clinton, Secretary of Transportation Pena, and the Director of OMB, Leon Panetta.

The Clinton administration is strongly committed to a program to promote and preserve the U.S. merchant marine and recognizes the importance of our maritime industry to our national and economic security. When I met with the President, I promised him that I would not bring an open-ended bill to the floor. This amendment caps the total authorization of the 10 year MSF Program at $1.2 billion, a level consistent with the administration's views.

Second, the amendment makes minor modifications to section 15 of the bill which were requested by the distinguished chairman of the Committee on Agriculture, Mr. DE LA GARZA. We believe these changes will ensure that the expertise of the Department of Agriculture and other Federal agencies will be drawn upon when the terms of ocean transportation of Government cargoes are determined.

Finally, the amendment ensures that maritime reform and revitalization touches all American ports and waterways by directing the Secretary of Transportation to increase shipments of Government cargoes through the Great Lakes.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi: Page 5, line 2, insert "or" after the semicolon.

Page 5, strike line 3 and all that follows through line 8.

Page 5, line 9, strike "(C)" and insert "(B)".

Page 5, line 10, insert "and" after the semicolon.

Page 5, strike line 11 and all that follows through page 6, line 16.

Mr. TAYLOR of Mississippi. Mr. Speaker, this is a made in America amendment.

This bill, though well intentioned is seriously flawed, because it would allow U.S. taxpayers funds to subsidize the operation of foreign built ships.

I hope to correct that. I want to send a clear message to our Nation's citizens and in particular, our Nation's shipowners that if funds are appropriated to subsidize the operation of their vessels that this Congress will only subsidize those vessels that are built in the United States.

For too long a U.S. flagged and taxpayer subsidized ship did not mean U.S. built ship. And that is wrong.

This measure, as introduced, would authorize the spending of $1.2 billion of U.S. taxpayers dollars over the next 10 years to protect 4,800 merchant mariners who crew these ships.

This Congress will authorize that $1,200,000,000 expenditure because it is vital to this island nation's defense to be able to supply this Nation in time of war or national emergency with ships we can count on.

However, this bill is flawed because this $1.2 billion will do absolutely nothing for the 180,000 Pennsylvania steelworkers, Ohio engine manufacturers, California electrical workers, Illinois machinists or the shipbuilders, welders and pipefitters on the gulf coast, Atlantic or Pacific coasts of this country.

All they get is rhetoric—and empty, unfounded promises.

But we can and must change that.

This amendment will give each Member of Congress the opportunity to right that wrong.

This amendment will guarantee that from this day on, only those ships that are built in this country and crewed by our citizens will be worthy of a subsidy paid for by the citizens of this country.

Madam Chairman, I had intended to reserve 2 minutes in anticipation that the committee would come back and say, "Well, we have addressed your problems, Mr. TAYLOR." However, under this procedure I understand I cannot do that, so let me proceed.

In the bill, we say that only those ships that the Secretary of Transportation says we can buy, if there are no series transition payments in the budget, will be allowed into the fleet.

Madam Chairman, the appropriators have met, their bills are finished, and there is no money for series transition payments anywhere in the budget of the United States. They are holding out a false promise. They are making a bogus statement to the shipbuilders of America.

Madam Chairman, it is just not right to take the money of these people, to take the money of 180,000 people who beat their brains out in shipyards and steel mills every day and say, "We want to take your tax dollars and we are going to subsidize a ship built by your competitors." This is an "us-or-them" amendment. We can look out for our folks, the people who pay our salaries, the people who go to church with us, the people who go the school with us, or we can use this money to subsidize shipyards in Japan, Korea, Spain, and all around the world.

I ask my colleagues to do what is right for America. I ask my colleagues to vote for this amendment.

Mr. STUDDS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the amendment offered by the gentleman from Mississippi [Mr. TAYLOR] is essentially a cry of the heart, but it is a misdirected cry. The gentleman offered this amendment in committee, and it was resoundingly defeated, not because we did not agree with the intention of the gentleman but because his amendment would not achieve his intention.

It is portrayed as an effort on behalf of American shipyards. No one in this Chamber cares more about or would do more to bring shipbuilding back to American shipyards than this Member. Much of what I do every day is trying to bring back to life a shipyard in my own constituency.

Madam Chairman, this bill tries to revive and revivify, if you will, a U.S.-flag-operating fleet and to bring back to life a U.S. shipbuilding industry. They are related, but they are separate challenges.

In the defense authorizing and appropriating bills we have title 11 loan guarantees. The gentleman is correct in that. It is real money, and it will be available. The gentleman is also correct in saying that we do not yet have the series transition payments. That is because they are not in this bill and we are about to authorize them. We do not have the operating subsidies either, but they are in the bill and we are about to authorize them.

Let me remind the Members that our bill prohibits U.S. operators from buying foreign-built vessels until the proposed owner solicits bids from U.S. yards for a period of at least 6 months and the Secretary of Transportation finds and certifies in writing that a U.S. shipyard cannot sell a vessel to a proposed owner at the world price due to the unavailability of series transition payments.

□ 1420

In simple English, what that says is if, no matter what else we have tried to do, there is still no way in which the U.S. shipyard can do this, that, nonetheless, we will not hold hostage the U.S. operating fleet, and will allow these subsidies to go ahead.

The amendment of the gentleman from Mississippi [Mr. TAYLOR] will not result in one additional ship being built in a U.S. shipyard. Thus, owners, under his amendment, would continue to build ships in foreign shipyards, but they would also register their vessels under foreign flags, and we will be losers on both parts.

Madam Chairman, let me point out that this amendment, which is, and I acknowledge the concern of the gentleman, he has the same passion that I do on this subject, and I hope that there will come a time within our political lifetimes that we can stand here together and celebrate the rebirth of American shipbuilding. This amendment is opposed by the Shipbuilders Council of America, who understand and acknowledge, both as I do, the spirit of the gentleman from Mississippi [Mr. TAYLOR] and the spirit in which this amendment is offered, and the fact of life, which is, quite simply, that this will not result in another ship being built in a U.S. yard.

Now, if the shipbuilders themselves oppose an amendment that is offered in their name and supposedly for their sake, it ought to be a sobering reminder to us that the real world is, unfortunately, a little more complicated than we would wish.

I would ask the House, for the very same reason that a bipartisan majority of the Committee on Merchant Marine and Fisheries, every one of whom shares the passion of the gentleman with regard to U.S. shipbuilding, that we must reject this amendment.

Mr. TAYLOR of Mississippi. Madam Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Madam Chairman, I appreciate the gentleman yielding.

Madam Chairman, I would like to point out a couple things. By the chairman's own admission, the administration has agreed to help find the funds to take care of the operating subsidies. The administration has made no such promise to help out with the series transition payments, so once again it is an empty promise.

By the gentleman's own correct admission, seven guys in thousand-dollar suits who call themselves the Shipbuilders Council have agreed and signed off on the bill. But I would dare say that the 190,000 people who work in the shipyards and foundries and engine manufacturers across this country would take great offense to the idea of spending their tax dollars on a foreign built ship.

Mr. STUDDS. Madam Chairman, let me reclaim my time, if I may.

I would say to the gentleman that those folks who work in the shipyards would be a great deal more appreciative of a ship to be built than an amendment to be spoken of.

Mr. FIELDS of Texas. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], a hard-working and respected member of the Merchant Marine and Fisheries Committee.

Our committee carefully considered this amendment when Mr. TAYLOR offered it during the mark up of H.R. 2151 and we overwhelmingly rejected it.

This amendment would permit only those existing foreign-built vessels that are receiving an operating-differential subsidy, to participate in the new Maritime Security Fleet [MSF] Program which is created by H.R. 2151.

For several years, our committee has attempted to find ways to encourage American companies to obtain U.S.-built vessels. Due in large part to the fact that foreign nations have continued to subsidize their shipbuilding companies, American shipyards have been unable to penetrate the worldwide market for the construction of commercial vessels. As a result, the cost of building a world-class containership in an American shipyard is currently several times more than a comparable vessel built in a foreign subsidized yard. In addition, it takes at least twice as long to build one of these vessels in an American shipyard.

The Committee on Merchant Marine and Fisheries is cognizant of this problem, attempted to address it by establishing the Series Transition Payment [STP] Program. These payments are designed to assist American shipyards to convert from their past practice of exclusively building Navy vessels to the constructing of commercial vessels. We think there is money available for this program.

As a result of our committee's concerns with the very issues that Mr. TAYLOR has articulated, we believe that we have taken the most logical, and appropriate steps toward providing help to the American shipbuilding industry. In fact, the Shipbuilders Council has endorsed this legislation and supports H.R. 2151 without the Taylor amendment.

This amendment would undermine the entire concept contained in H.R. 2151, which is to assure that American ship operators are able to continue to be competitive in international shipping and will remain under the U.S. flag for both economic and national defense purposes.

I am very much afraid that if this amendment were to be adopted by this body, it would result in all American flag companies simply throwing in the towel and requesting permission to reflag the entire fleet of vessels operating in the international trade. That, of course, is the exact opposite of what is the fundamental purpose of H.R. 2151.

I urge the Members of this body to vote "no" on the Taylor amendment which will do great harm to this legislation.

Mr. TAYLOR of Mississippi. Madam Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I will be glad to yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Madam Chairman, I want to thank the gentleman from Texas [Mr. FIELDS] for yielding.

Madam Chairman, again, the statement was made, the whole premise of ignoring the made-in-America language that the committee has wrapped itself in is saying well, we have this series transition moneys. And that as long as they are there, the Secretary cannot allow this to happen.

Well, folks, they are not there. If one Member of this body who serves on the Committee on Appropriations will stand and say that the money is there, I will sit down and go home. But there is not one, because it is not there.

If there is one member of the administration in the gallery who will say we are going to go to bat for the series transition money, I'will go home. But there is not one.

It is a false hope, and I will not take the money of the hard-working men and women that work in the shipyards of this country and use it to subsidize their competitors.

Mr. FIELDS of Texas. Madam Chairman, if I may reclaim my time, the series transition program is not a 1-year program. It is a multi-year program.

Again, I want to point out that this amendment will, for all intents, kill the U.S. flag fleet; was defeated overwhelmingly in our committee; has a noble purpose, a simplistic approach, and I think it has a dangerous result. Plus, the Shipbuilders Council supports the bill as is without the Taylor amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAYLOR of Mississippi. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 64, noes 362, not voting 12, as follows:

[Roll No. 545]

AYES—64

Andrews (NJ)	Fields (LA)	Kanjorski
Bachus (AL)	Filner	Kasich
Barlow	Foglietta	Kildee
Bevill	Ford (MI)	Lancaster
Boucher	Geren	Leach
Browder	Glickman	Lightfoot
Byrne	Grandy	Margolies-Mezvinsky
Condit	Hall (TX)	Martinez
Costello	Hayes	Mazzoli
Crane	Hefner	McCloskey
Deal	Hoagland	McHale
DeFazio	Holden	McKinney
Dingell	Jacobs	McNulty
Durbin	Johnson (SD)	Montgomery
Nussle	Romero-Barcelo (PR)	Stenholm
Orton	Roth	Stump
Parker	Royce	Stupak
Payne (VA)	Sensenbrenner	Tanner
Penny	Shepherd	Taylor (MS)
Poshard	Slaughter	Traficant
Reed	Snowe	Valentine
		Williams

NOES—362

Abercrombie	Duncan	King
Ackerman	Dunn	Kingston
Allard	Edwards (CA)	Kleczka
Andrews (ME)	Edwards (TX)	Klein
Andrews (TX)	Emerson	Klink
Applegate	Engel	Klug
Archer	English (AZ)	Knollenberg
Armey	English (OK)	Kolbe
Bacchus (FL)	Eshoo	Kreidler
Baker (CA)	Evans	Kyl
Baker (LA)	Everett	LaFalce
Ballenger	Ewing	Lambert
Barca	Faleomavaega (AS)	Lantos
Barcia	Farr	LaRocco
Barrett (NE)	Fawell	Laughlin
Barrett (WI)	Fazio	Lazio
Bartlett	Fields (TX)	Lehman
Barton	Fingerhut	Levin
Bateman	Fish	Levy
Becerra	Fowler	Lewis (CA)
Bentley	Frank (MA)	Lewis (FL)
Bereuter	Franks (CT)	Lewis (GA)
Bilbray	Franks (NJ)	Linder
Bilirakis	Frost	Lipinski
Bishop	Furse	Livingston
Blackwell	Gallegly	Lloyd
Bliley	Gallo	Long
Blute	Gejdenson	Lowey
Boehlert	Gekas	Maloney
Boehner	Gephardt	Mann
Bonilla	Gibbons	Manton
Borski	Gilchrest	Manzullo
Brewster	Gillmor	Markey
Brooks	Gilman	McCandless
Brown (CA)	Gingrich	McCollum
Brown (FL)	Gonzalez	McCrery
Brown (OH)	Goodlatte	McCurdy
Bryant	Goodling	McDade
Bunning	Gordon	McDermott
Burton	Goss	McInnis
Buyer	Grams	McKeon
Callahan	Green	McMillan
Calvert	Greenwood	Meehan
Camp	Gunderson	Meek
Canady	Gutierrez	Menendez
Cantwell	Hall (OH)	Meyers
Cardin	Hamburg	Mfume
Carr	Hamilton	Mica
Castle	Hancock	Michel
Chapman	Hansen	Miller (CA)
Clay	Harman	Miller (FL)
Clayton	Hastert	Mineta
Clement	Hastings	Minge
Clinger	Hefley	Mink
Clyburn	Herger	Moakley
Coble	Hilliard	Molinari
Coleman	Hinchey	Mollohan
Collins (GA)	Hobson	Moorhead
Collins (IL)	Hochbrueckner	Moran
Collins (MI)	Hoekstra	Murphy
Combest	Hoke	Murtha
Conyers	Horn	Myers
Cooper	Houghton	Nadler
Coppersmith	Hoyer	Natcher
Cox	Huffington	Neal (MA)
Coyne	Hughes	Neal (NC)
Cramer	Hunter	Norton (DC)
Crapo	Hutchinson	Oberstar
Cunningham	Hutto	Obey
Danner	Hyde	Olver
Darden	Inglis	Ortiz
de la Garza	Inhofe	Owens
de Lugo (VI)	Inslee	Oxley
DeLauro	Istook	Packard
DeLay	Jefferson	Pallone
Dellums	Johnson (CT)	Pastor
Derrick	Johnson (GA)	Paxon
Deutsch	Johnson, E. B.	Payne (NJ)
Diaz-Balart	Johnson, Sam	Pelosi
Dickey	Johnston	Peterson (FL)
Dicks	Kaptur	Peterson (MN)
Dixon	Kennedy	Petri
Doolittle	Kennelly	Pickett
Dornan	Kim	Pickle
Dreier		Pombo

Pomeroy	Schroeder	Thompson
Porter	Schumer	Thornton
Portman	Scott	Thurman
Price (NC)	Serrano	Torkildsen
Pryce (OH)	Sharp	Torres
Quillen	Shaw	Torricelli
Quinn	Shays	Towns
Rahall	Shuster	Tucker
Ramstad	Sisisky	Underwood (GU)
Rangel	Skaggs	Unsoeld
Ravenel	Skeen	Upton
Regula	Skelton	Velazquez
Reynolds	Slattery	Vento
Richardson	Smith (IA)	Visclosky
Ridge	Smith (MI)	Volkmer
Roberts	Smith (NJ)	Vucanovich
Roemer	Smith (OR)	Walker
Rogers	Smith (TX)	Walsh
Rohrabacher	Solomon	Washington
Ros-Lehtinen	Spence	Waters
Rose	Spratt	Watt
Rostenkowski	Stark	Waxman
Roukema	Stearns	Weldon
Rowland	Stokes	Wheat
Roybal-Allard	Strickland	Whitten
Rush	Studds	Wilson
Sabo	Sundquist	Wise
Sanders	Swett	Wolf
Sangmeister	Swift	Woolsey
Santorum	Synar	Wyden
Sarpalius	Talent	Wynn
Sawyer	Tauzin	Yates
Saxton	Taylor (NC)	Young (AK)
Schaefer	Tejeda	Young (FL)
Schenk	Thomas (CA)	Zeliff
Schiff	Thomas (WY)	Zimmer

NOT VOTING—12

Baesler	Dooley	Machtley
Bellenson	Flake	Matsui
Berman	Ford (TN)	McHugh
Bonior	Kopetski	Morella

□ 1450

Messrs. CRAMER, GENE GREEN of Texas, GEPHARDT, FAWELL, NEAL of Massachusetts, KENNEDY, and MEEHAN changed their vote from "aye" to "no."

Messrs. ROTH, CRANE, KILDEE, MARTINEZ, BEVILL, and STUMP changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ACKERMAN. Madam Chairman, I move to strike the next-to-last word. I will be exceptionally brief. I would like to have a short colloquy with the distinguished chairman of the full committee as well as the distinguished ranking member of the full committee.

Mr. Chairman and Mr. Ranking Member, I was prepared to offer an amendment to H.R. 2151, the Maritime Security and Competitiveness Act, which would have prevented the Secretary of Transportation from limiting the amount of funds available to the U.S. Merchant Marine Academy and from taking action to charge tuition at the Academy. However, it is my present understanding that the Committee on Merchant Marine and Fisheries will be considering this issue within the next 2 weeks in the bill H.R. 3400, legislation that implements the National Performance Review recommendations. I would like to know if my understanding is correct, and if that is so, would each of you be supportive of the perspective of my amendment at that time?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, the gentleman is entirely correct in his observation. That is the intention of the committee.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, first I want to say to the gentleman that I appreciate the way he has conducted himself in regard to this particular amendment in working with the committee. And if I understand the thrust of his amendment, and that is to preserve the Merchant Marine Academy as is, I am very supportive, as are the other Members on our side of the aisle. And I congratulate the gentleman for having an interest in this particular subject matter.

Mr. ACKERMAN. I thank the distinguished ranking Republican member.

Accordingly, Madam Chairman, with that understanding, I will not offer my amendment today.

Mr. FAZIO. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of this act, the Maritime Security Competitiveness Act, H.R. 2151. As the United States continues to enhance its position in the global market, and I am certainly hopeful we will not shrink from that challenge, it is essential to our economic stability and national security that our merchant marine fleet is strengthened. If we intend to expand our international exports in a global economy, we must see to it that our maritime fleet is internationally competitive with those of competing countries.

The maritime fleet is not only an integral component of U.S. trade overseas, but provides valuable assistance to the U.S. military in time of war or conflict.

I urge my colleagues to support this legislation and to vote to strengthen the U.S. merchant marine and ensure our country's continued presence as a leader in world exports.

I want to congratulate the gentleman from Massachusetts [Mr. STUDDS] on resolving the issues related to cargo in the Great Lakes. I think we can now support this bill without amendment, and I urge my colleagues to pass it in its present form.

Mr. SCOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in favor of the bill.

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 2151, the Maritime Security and Competitiveness Act, and in support of the cargo preference language included in this bill.

Mr. Chairman, like the Member who spoke before me, I too, would like to congratulate the chairman for working out the issue with reference to the Great Lakes, which I think was an important objective.

Mr. Chairman, cargo preference is an important tool our Government uses to support the American shipping industry. Few people in this body blink when buy-American amendments are offered to spending bills on this floor. One will be offered to this bill, I understand, by the gentleman from Ohio. I believe strongly that the cargo preference laws are no different. If we are going to use our taxpayers' money to buy American, we should also be using it to ship American.

Let's remember, cargo preference is not a handout. If American-flagged vessels cannot offer a competitive and favorable rate with other foreign flag vessels, then the American-flagged vessel is not used. The cargo preference law is not intended to freeze out all foreign competition, and it is not intended to pad the payroll of American shipping companies.

Cargo preference, like many of our agricultural subsidies, puts American-owned, American-crewed vessels on a level playing ground with unfair foreign competition. Unfortunately, as long as there are flag-of-convenience ships who do not even comply with modest safety, health or environmental standards, the playing field for American ships will never be level.

The cargo preference language in this bill reflects the compromise reached by agricultural and maritime interests in 1985 after lengthy discussions, and it should be preserved.

I will, therefore, oppose an amendment to change that, and want to congratulate the chairman and the ranking member and all of those who participated in bringing this bill to the floor. And I urge strong support of H.R. 2151 and the preservation of its cargo preference provisions.

Mr. UNDERWOOD. Mr. Chairman, I move to strike the last word. Mr. Chairman, I am in basic support of the legislation and want to take this opportunity to engage the chairman of the committee in a colloquy.

Mr. Chairman, the American citizens who live on Guam and other remote offshore domestic ports have a strong interest in the shipping services provided by the American merchant marine fleet. For us, reliable shipping at competitive prices is not a luxury, it is absolutely essential to our economic well-being. The Maritime Security and Competitiveness Act under section 14 requires the Secretary to conduct a study on the Maritime Security Fleet Program. The Secretary is directed to study the impact of this act, issues surrounding the international competitiveness of U.S. documented vessels, whether this act has assisted the U.S. documented vessels in competing with foreign-flag operators, and whether

this act should be continued, modified or discontinued. Mr. Chairman, I am concerned about the effects of this act, or any modifications to this act, on consumers. I understand that it is the intent of the committee that this issue would be addressed, and that the Secretary should study whether changes or modifications in the Maritime Security Fleet Program could result in adverse impact on consumers, especially in remote offshore domestic points such as Guam, which are served by two or fewer operators of U.S. documented vessels.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, that is entirely correct. As the gentleman from Guam has stated, the study is not confined to issues of international competitiveness.

□ 1500

It also includes the concerns the gentleman from Guam has raised about the adverse effects on consumers and the special circumstances of remote domestic ports like Guam and American Samoa.

Mr. UNDERWOOD. I thank the chairman for his comments.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore (Mr. COPPERSMITH). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT:

Page 8, line 17, strike "or".

Page 9, line 2, strike the period and insert "; or".

Page 9, after line 2, insert the following:

"(C) if the vessel carries as cargo any item that—

"(i) is sold or shipped to the United States;

"(ii) is not made in the United States; and

"(iii) the owner or operator of the vessel knows has had fraudulently affixed to it a label bearing a 'Made in America' inscription, or any inscription with the same meaning.

At the end of the bill add the following new sections:

SEC. 17. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 18. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the first amendment amends the section that addresses the removal of vessels from the list by attaching a fraudulent-label clause. As you know, the importation of foreign products falsely bearing the "Made in America" label is continuing to go unreported. As a result, foreign nations are dumping products over quota in American markets, hurting the American worker and our economy.

The illegal and fraudulent use of "Made in America" labels on any products or shipments coming into this country must at least be reported. My amendments would remove from the list of eligible vessels any vessel that carries as cargo any item that is sold or shipped into the United States, is not made in the United States, and the owner/operator of the vessel knows that they have inside their vessels materials and goods that bear a false label. This amendment would strike that from the list.

In addition, it sends a notice to recipients doing business under the bill that Congress encourages then wherever possible to buy American-made goods.

I am glad to have the support of so many people on the bill and would hope it would be passed without prejudice.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT.]

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there other amendments to section 3 of the bill?

If not, the Clerk will designate section 4.

Mr. STUDDS. Mr. Chairman, I ask unanimous consent that section 4 and succeeding sections of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the remainder of the bill, consisting of section 4 through section 16, is as follows:

SEC. 4. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) TERMINATION OF EXISTING CONTRACTS.—Notwithstanding any other provision of this Act, any contract in effect under title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.), on the day before the date of enactment of this Act shall continue in effect under its terms and terminate as set forth in the contract, unless voluntarily terminated on an earlier date by the persons (other than the United States Government) that are parties to the contract.

(b) AGE ACCELERATION OF BULK CARGO ODS VESSELS.—Section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156) is amended—

(1) by inserting "(a)" after "SEC. 506."; and

(2) by adding at the end the following new subsection:

"(b) For purposes of this section, any liquid or dry bulk cargo vessel for which operating-differential subsidy is required to be paid under a contract under title VI that is in force on May 19, 1993, shall, effective upon the termination date of the contract (as set forth in the contract as in effect on May 19, 1993, be deemed to have reached the age of 20 years.".

(c) RESTRICTIONS ON OPERATIONS OF ODS VESSELS.—Title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS ON OPERATIONS.

"(a) Sections 605(c) and 804, this section, and the essential service requirements in section 601(a) and 603(a), do not apply to a contractor if—

"(1) the contractor submits an eligibility decision application to the Secretary under title IV for all of the vessels operated by the contractor under an operating-differential subsidy contract; and

"(2) all of those vessels for which operating agreements are offered by the Secretary under title IV are enrolled in the Maritime Security Fleet.

"(b)(1) With respect to the operations of a contractor receiving operating-differential subsidy for liner vessels on a particular trade route, as defined in that contractor's contract in effect on January 1, 1993, that operator shall not be subject to the restrictions of either section 605(c) or section 804 with respect to operations on that trade route, commencing at such time as—

"(A) that operator transfers 50 percent or more of its vessels that were operating on that trade route as of January 1, 1993, from the operating-differential subsidy program to the Maritime Security Fleet program under title IV; or

"(B) that operator is the only contractor receiving operating-differential subsidy with respect to that trade route, and all other United States-flag liner operators operating a vessel on that trade route are operating on that trade route only vessels for which there are in effect operating agreements under title IV.

"(2) With respect to any contractor receiving operating-differential subsidy for liner vessels on Maritime Administration Essential Trade Route 1, 2, or 8, that operator shall not be subject to the restrictions of either section 605(c) or section 804 with respect to operations on any of those trade routes, commencing at such time as payments begin to accrue on behalf of another United States-flag operator that is a party to an operating agreement under title IV which provides liner service on Maritime Administration Essential Trade Route 2.".

(d) ELIMINATION OF TRADE ROUTE RESTRICTIONS.—Section 809(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1213(a)) is amended by adding at the end the following: "This subsection shall not apply to contracts under title IV or funds for such contracts.".

SEC. 5. ELIMINATION OF CONSTRUCTION DIFFERENTIAL SUBSIDY RESTRICTIONS.

Title V of the Merchant Marine Act, 1936 (46 App. U.S.C. 1151 et seq.), is amended by adding at the end the following:

"SEC. 512. LIMITATION ON RESTRICTIONS.

"Notwithstanding any other provision of law or contract, all restrictions and requirements under sections 503, 506, and 802 applicable to a liner vessel constructed, reconstructed, or reconditioned with the aid of construction-differential subsidy shall terminate upon the expiration of the 25-year period beginning on the date of the original delivery of the vessel from the shipyard.".

SEC. 6. DEFINITIONS APPLICABLE TO MERCHANT MARINE ACT, 1936.

Section 905 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1244), is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Each of the terms 'foreign commerce' and 'foreign trade' mean—

"(1) trade between the United States and a foreign country; or

"(2) trade between foreign ports.";

(2) by striking subsection (c) and inserting the following:

"(c) The term 'citizen of the United States' means a person eligible to own a documented vessel under chapter 121 of title 46, United States Code.", and

(3) by adding at the end the following:

"(h) The term 'foreign subsidized shipyard' means a shipyard that—

"(1) receives or benefits from, directly or indirectly, a shipyard subsidy for the construction of vessels; and

"(2) is located in a foreign country that has not signed a trade agreement with the United States that provides for the elimination of subsidies for that shipyard.

"(i) The term 'subsidy' includes any of the following:

"(1) Officially supported export credits and development assistance.

"(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

"(A) grants;

"(B) loans and loan guarantees other than those available on the commercial market;

"(C) forgiveness of debt;

"(D) equity infusions on terms inconsistent with commercially reasonable investment practices;

"(E) preferential provision of goods and services; and

"(F) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

"(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

"(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

"(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

"(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

"(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

"(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.".

SEC. 7. GOVERNMENT-IMPELLED CARGOES.

(a) VESSELS ELIGIBLE FOR CARGOES.—Section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)) is amended—

(1) in paragraph (1), by striking "For purposes of this section, the term 'privately owned United States-flag commercial vessels'" and all that follows through the end of the paragraph; and

(2) by adding at the end the following new paragraphs:

"(3) In this section and section 901b, the term 'privately owned United States-flag commercial vessel' means a privately owned vessel that is documented under chapter 121 of title 46, United States Code, that—

"(A) was built in the United States;

"(B) was documented under chapter 121 of title 46, United States Code, before May 19, 1993;

"(C) does not transport under section 901b or this section on any voyage more than 12,000 tons of bulk cargo (as defined in section 3 of the Shipping Act of 1984), and—

"(i) was built in a foreign shipyard under a contract entered into on or before May 19, 1993;

"(ii) is built under a contract entered into after that date, in a foreign shipyard that on the date the contract is entered is not a foreign subsidized shipyard; or

"(iii) is subject to an operating agreement under title IV;

"(D)(i) is built under a contract entered into after May 19, 1993, in a foreign shipyard that on the date the contract was entered is not a foreign subsidized shipyard; and

"(ii) has not been documented in a foreign country before it is documented under chapter 121 of title 46, United States Code; or

"(E) has been documented under chapter 121 of title 46, United States Code, for at least 3 consecutive years, did not transport any equipment, materials, or commodities during that period under this section or section 901b, and—

"(i) was built in a foreign shipyard under a contract entered into before May 19, 1993; or

"(ii) is built under a contract entered into after that date, in a foreign shipyard that on the date the contract was entered is not a foreign subsidized shipyard.

"(4) In paragraph (3), the term 'built' includes rebuilt.".

(b) CLERICAL AMENDMENT.—Section 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241f) is amended by adding at the end the following:

"(f) For the definition of the term 'privately owned United States-flag commercial vessel', see section 901(b)(3).".

SEC. 8. VESSEL FINANCING.

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

"(a) A preferred mortgage is a mortgage, whenever made, that—

"(1) includes the whole of the vessel;

"(2) is filed in substantial compliance with section 31321 of this title; and

"(3)(A) covers a documented vessel; or

"(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.".

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking "31328 or" each place it appears.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as amended by this Act, is further amended—

(1) in subsection (c)—

(A) by striking "31328" and inserting "12106(e)"; and

(B) in paragraph (1) by striking "mortgage," each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking "transfer, or mortgage" and inserting "or transfer";

(B) in paragraph (2) by striking "transfers, or mortgages" and inserting "or transfers";

(C) in paragraph (3)(B) by striking "transfers, or mortgages" and inserting "or transfers"; and

(D) in paragraph (4) by striking "transfers, or mortgages" and inserting "or transfers".

(d) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the vessel is otherwise qualified under this section to be employed in the coastwise trade;

"(C) the person that owns the vessel, or any other person that owns or controls the person that owns the vessel, is primarily engaged in leasing or other financing transactions;

"(D) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and

"(E) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) such shorter period as may be prescribed by the Secretary.

"(2) On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.

"(f) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a), a vessel meeting the criteria of subsection (d) or (e) is deemed to be owned exclusively by citizens of the United States.".

SEC. 9. PLACEMENT OF VESSELS UNDER FOREIGN REGISTRY.

(a) IN GENERAL.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as amended by this Act, is further amended by adding at the end the following:

"(e) Notwithstanding subsection (c)(2), the Merchant Marine Act, 1936, or any contract entered into with the Secretary under that Act, a vessel may be placed under a foreign registry, without approval of the Secretary, if—

"(1)(A) the Secretary determines that at least one replacement vessel of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of title 46, United States Code, by the owner of the vessel placed under the foreign registry; and

"(B) the replacement vessel is not more than 10 years of age on the date of that documentation;

"(2)(A) the owner of the vessel has applied for an operating agreement under title IV of the Merchant Marine Act, 1936; and

"(B) the Secretary, due to the unavailability of funds, has not awarded that owner an operating agreement within 60 days after the date of that application; or

"(3)(A) before the expiration of an operating agreement entered into under title IV of the Merchant Marine Act, 1936, the owner has applied for a new operating agreement; and

"(B) the Secretary, due to the unavailability of funds, has not awarded the owner an operating agreement before the later of—

"(i) 60 days after the application for a new operating agreement; or

"(ii) the date of expiration of the operating agreement.

"(f) The Secretary shall give notice and an opportunity for a hearing for all approvals applied for under subsection (c)(2) for oceangoing merchant vessels that are of at least 3,000 gross tons.".

(b) APPLICATION.—The amendment made by subsection (a) applies to vessels that are placed under foreign registry after the date of enactment of this Act and replacement vessels documented in the United States after that date.

(c) COURT SALES OF VESSELS.—Section 31329 of title 46, United States Code, is amended to read as follows:

"§31329. Court sales of documented vessels

"When a documented vessel is sold by order of a district court to a mortgagee not eligible to own a documented vessel—

"(1) that sale is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883); and

"(2) unless the vessel is transferred to a foreign registry, the vessel may be operated only with the approval of the Secretary of Transportation.".

SEC. 10. SERIES CONSTRUCTION ASSISTANCE.

The Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.) is amended by adding at the end the following:

"TITLE XIV—SERIES CONSTRUCTION ASSISTANCE

"SEC. 1401. PAYMENT OF ASSISTANCE AUTHORIZED.

"(a) IN GENERAL.—The Secretary of Transportation (hereinafter in this title referred to as the 'Secretary') may, subject to the availability of appropriations, pay assistance in accordance with this title to the owner of a shipyard that is located in the United States for the construction (including outfitting and equipping) of any commercial vessel that is one of a series of vessels for which payment of assistance under this section to the owner is approved by the Secretary under section 1402.

"(b) AMOUNT OF ASSISTANCE.—The total amount of assistance paid under this section with respect to a vessel shall be equal to the series transition payment determined for the vessel under section 1403(a).

"SEC. 1402. APPROVAL OF ASSISTANCE FOR CONSTRUCTION OF SERIES OF VESSELS.

"(a) APPROVAL OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may approve payment of assistance under section 1401 for construction of a series of vessels in a shipyard if—

"(A) the owner of the shipyard submits an application for that assistance in accordance with section 1405;

"(B) the Secretary makes the determinations described in subsection (b); and

"(C) the Secretary determines that payment of the assistance will contribute to maintaining national vessel construction capabilities that are essential in time of war or national emergency.

"(2) LIMITATION.—The Secretary may not approve assistance under this section for a series of vessels if the series transition payment determined under section 1403(a) for any vessel in the series is greater than 50 percent of the estimate of the cost of constructing the vessel determined by the Secretary under section 1403(b)(2).

"(b) DETERMINATIONS BY SECRETARY.—The Secretary may not approve assistance for construction of a series of vessels in a shipyard unless the Secretary has determined the following:

"(1) VESSEL REQUIREMENTS.—The vessels are—

"(A) commercial vessels of at least 10,000 gross tons; and

"(B) commercially marketable on the international market.

"(2) SHIPYARD REQUIREMENTS.—The shipyard in which the vessels will be constructed—

"(A) is located in the United States; and

"(B) upon completion of construction of the vessels, will be capable of constructing additional vessels of the same type as those in the series for a price that is competitive in the international market.

"(3) APPLICANT REQUIREMENTS.—The applicant for the assistance—

"(A) has the ability, financial resources, and other qualifications necessary for construction of the vessels;

"(B) has entered into a contract for the construction of each of the first 2 vessels to be constructed in the series, which may include a contract for a vessel that will be constructed without assistance under this title; and

"(C) is the owner of the shipyard in which the vessels will be constructed.

"(4) CONTRACT REQUIREMENTS.—Each of the contracts required under paragraph (3)(B) are binding obligations on the applicant and all other parties to the contracts, except that such a contract may be contingent on—

"(A) the approval of assistance under this title for construction of a vessel under the contract; and

"(B) the making of a guarantee or commitment to guarantee obligations under title XI for construction under the contract.

"(5) PURCHASER REQUIREMENTS.—Each person that is a purchaser of a vessel under a contract required under paragraph (3)(B)—

"(A) has the ability, financial resources, and other qualifications necessary to own and operate the vessel in commercial service; and

"(B) is a party to the contract.

"(6) SERIES TRANSITION PAYMENT.—The series transition payment under section 1403 for each vessel in the series.

"(c) PRIORITY FOR CERTAIN SERIES OF VESSELS.—In approving assistance under this title, the Secretary may give priority to a series of vessels—

"(1) if a smaller number of vessels in the series are required to be constructed with assistance before construction of that type of vessel becomes cost effective;

"(2) for which the total of the series transition payments determined under section 1403 for all vessels in the series is less than that total for other series of vessels for which applications are submitted for assistance under this title;

"(3) that will be constructed in a shipyard with respect to which assistance under this title has not been provided; or

"(4) that would contribute to the preservation of a shipyard that would be essential in a time of war or national emergency.

"SEC. 1403. DETERMINATION OF SERIES TRANSITION PAYMENTS.

"(a) IN GENERAL.—The Secretary shall determine the series transition payment for each vessel in a series of vessels for which an application for assistance under this title is received by the Secretary.

"(b) AMOUNT OF SERIES TRANSITION PAYMENT.—The series transition payment for a vessel under subsection (a) is equal to the difference of—

"(1) the estimated cost of completing construction of the vessel, as included in the application for assistance submitted under section 1405; minus

"(2) a reasonable estimate of the cost of constructing the vessel under similar plans and specifications in a foreign shipyard that is considered by the Secretary to be a fair and representative example for purposes of determining the payment.

"SEC. 1404. SERIES CONSTRUCTION AGREEMENT.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary shall, for each series of vessels for which assistance is approved under section 1402, enter into a series construction agreement with the owner of the shipyard in which the series of vessels will be constructed, under which the Secretary is required to pay the owner assistance in accordance with a schedule established under paragraph (2).

"(2) SCHEDULE FOR PAYMENTS.—An agreement under this subsection shall establish a schedule for the payment of assistance under the agreement, that is based on the construction schedule for vessels for which the assistance is paid.

"(3) TERMINATION OF AGREEMENT.—An agreement under this subsection shall authorize the Secretary to terminate the agreement if—

"(A) a contract required under section 1402(b)(3)(B) is terminated by the purchaser of the vessel under the contract, and the owner of the shipyard does not enter into a new contract for construction of the vessel within a period which shall be specified in the agreement; or

"(B) the owner of the shipyard fails to enter into contracts for construction of all vessels in the series of vessels to which the agreement applies, within a period which shall be specified in the agreement.

"(4) CONTINUING EFFECT OF AGREEMENT WITH RESPECT TO VESSELS COVERED BY CONTRACTS.—The termination of a series construction agreement under paragraph (3) shall not affect the effectiveness of the agreement with respect to vessels for which a construction contract is in effect on the date of termination.

"(b) BINDING OBLIGATION OF THE UNITED STATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a requirement that the Secretary make payments under a series construction agreement under subsection (a) shall constitute a binding obligation of the United States.

"(2) TERMINATION OF OBLIGATION.—If the Secretary terminates a series construction agreement pursuant to subsection (a)(3), the obligation of the United States under paragraph (1) to make payments under the agreement shall terminate with respect to vessels for which no construction contract is in effect on the date of termination of the agreement.

"(3) CONTINUING AVAILABILITY OF AMOUNTS.—Amounts to be used to liquidate an obligation under paragraph (1) that terminates under paragraph (2) shall remain available to the Secretary for the payment of assistance under this title.

"SEC. 1405. APPLICATIONS FOR ASSISTANCE.

"(a) SUBMITTAL.—A person desiring assistance under this title shall, in accordance with this section, submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—An application for assistance under this title with respect to a series of vessels shall include the following:

"(1) A detailed description of the type of vessels included in the series, including plans and specifications for the vessels.

"(2) Detailed estimates of the cost of completing construction of each of the vessels in the series, including such estimates from subcontractors for the construction as may be required by the Secretary.

"(3) Copies of the contracts required under section 1402(b)(3)(B).

"(4) Other information required by the Secretary to fulfill the requirements of this title.

"(c) REGULATIONS.—The Secretary shall issue regulations setting forth the procedures for submitting an application for assistance under this title.

"SEC. 1406. RESTRICTION ON VESSEL OPERATIONS.

"A vessel for which assistance is paid under this title—

"(1) may be operated only in foreign trade or domestic trade authorized under a registry endorsement for the vessel issued under section 12105 of title 46, United States Code; and

"(2) may not be operated in the coastwise trade of the United States (including mixed coastwise and foreign trade), except coastwise trade authorized under a registry endorsement for the vessel issued under section 12105 of title 46, United States Code.

"SEC. 1407. VESSEL DESIGN AWARDS.

"The Secretary, subject to the availability of appropriations, may make an award to a United States shipyard on an equal matching basis for the cost of vessel designs and document and bid preparation for vessels described in section 403(b)(4).".

SEC. 11. EFFECTIVE DATE.

The amendments made by this Act are effective on the date which is 120 days after the date of enactment of this Act.

SEC. 12. REGULATIONS.

(a) IN GENERAL.—The Secretary of Transportation shall prescribe regulations as necessary to carry out this Act.

(b) INTERIM REGULATIONS.—The Secretary of Transportation may prescribe interim regulations necessary to carry out this Act and for accepting eligibility decision applications under section 403 of the Merchant Marine Act, 1936, as amended by this Act. For this purpose, the Secretary of Transportation is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire 270 days after the date of enactment of this Act.

SEC. 13. EXPANSION OF STANDING FOR MARITIME UNIONS.

Section 301 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131) is amended by adding at the end the following:

"(c) STANDING FOR MARITIME UNION REPRESENTATIVES.—The duly-elected representative of any organization that is certified by the Secretary of Labor as the proper collective bargaining agency for officers or crew employed on any type of United States documented vessel is an interested party in, and has standing to challenge, any proposed or final order, action, or rule of the Secretary of Transportation under this Act or section 9(c)(2) of the Shipping Act, 1916.".

SEC. 14. STUDY.

(a) IN GENERAL.—After providing public notice and opportunity for comment, the Secretary of Transportation shall conduct a study of—

(1) the impact of this Act on the international competitiveness of United States documented vessels and whether this Act has had a favorable or unfavorable impact on the ability of United States documented vessels to compete successfully with foreign-flag vessels;

(2) whether continuation of the Maritime Security Fleet program established by this Act would assist the international competitiveness of United States documented vessels;

(3) whether the Maritime Security Fleet program should be continued, modified, or discontinued;

(4) alternatives that are or should be available to operators of United States documented vessels if the Maritime Security Fleet program is discontinued; and

(5) any other issues related to promoting the international competitiveness of United States documented vessels that the Secretary considers appropriate.

(b) REPORT.—The Secretary of Transportation shall submit to the Congress a report on the findings and conclusions of the study required by subsection (a) by not later than 4 years after the date of enactment of this Act, which shall include such recommendations as the Secretary considers appropriate.

SEC. 15. CARGO PREFERENCE ADMINISTRATIVE REFORM.

(a) FINDINGS.—The Congress finds and declares that—

(1) the Congress continues to support the cargo preference program as an important element of support for the United States-flag merchant marine because the United States merchant marine is critical to the economic and national security of the United States;

(2) reserving a small portion of Government cargo for United States-flag vessels encourages competition among United States-flag vessels; and

(3) administering the cargo preference program in a centralized, commercially based manner reduces costs of the program.

(b) ADMINISTRATIVE REFORM.—Section 901 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241) is amended by adding at the end the following new subsections:

"(d) A privately owned United States-flag commercial vessel transporting any equipment, materials, or commodities under this section or section 901b shall be engaged under terms no less favorable than the most favorable terms offered to any foreign-flag vessel transporting equipment, materials, or commodities under this section or section 901b.

"(e) A contract for the ocean transportation of any equipment, materials, or commodities under this section or section 901b, to the extent the Secretary of Transportation determines necessary to further the purposes of this section and section 901b, shall be based on contracts used for commercial shipments.

"(f) The Secretary of Transportation shall participate in negotiations relating to agreements with recipient countries for equipment, materials, or commodities subject to this section or section 901b to the extent the Secretary considers to be necessary to ensure agreement provisions relating to or affecting the transportation of such equipment, materials, or commodities permit fair and reasonable transportation services to be provided.

"(g) No later than 180 days after the date of the enactment of the Maritime Security and Competitiveness Act of 1993, the heads of appropriate Federal agencies, or their representatives, shall transmit to the Secretary of Transportation recommendations relating to the methodology used by the Secretary of Transportation to determine whether rates for United States-flag vessels are fair and reasonable in compliance with section 901(b) and will achieve the policy objectives of this Act.".

SEC. 16. WAGES FOR WHICH PREFERRED MARITIME LIEN MAY BE ESTABLISHED.

(a) IN GENERAL.—Section 31301(5)(D) of title 46, United States Code, is amended by inserting before the semicolon the following: "(including any payment described in paragraph (5), (6), (7), (8), or (9) of section 302(c) of the Labor Management Relations Act, 1947 for any individual as a member of the crew of the vessel, that is due from and unpaid by an owner or managing operator of the vessel)".

(b) INCURRING OBLIGATIONS BEFORE EXECUTING PREFERRED MORTGAGES.—Section 31323(b)(2) of title 46, United States Code, is amended by inserting before the semicolon the following: "(including any payment described in paragraph (5), (6), (7), (8), or (9) of section 302(c) of the Labor Management Relations Act, 1947 for any member of the crew of the vessel)".

(c) MASTER'S LIEN FOR WAGES.—Section 11112 of title 46, United States Code, is amended by inserting after "wages" the following: "(including any payment described in paragraph (5), (6), (7), (8), or (9) of section 302(c) of the Labor Management Relations Act, 1947 for an individual as master of the vessel, that is due from and unpaid by an owner or managing operator of the vessel)".

(d) APPLICATION.—The amendments made by subsections (a), (b), and (c) shall apply with respect to payments that first become due on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Are there amendments to the remainder of the bill?

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Amend section 15 of the bill as follows:

On page 68, strike lines 18 through 21 and insert the following: "under terms that provide for rates not to exceed twice the level of competitive world market rates for the transport of equipment, materials, or commodities.

Mr. PENNY. Mr. Chairman, I yield to the chairman of the committee, the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, having consulted with the ranking member and with the coauthors of this amendment, I believe we have a consensus that a time limitation would be in order. In fact, we are all such reasonable people that we almost have a consensus that we will not need as much time as I am about to ask for.

But I would ask unanimous consent that all debate on this amendment and all amendments thereto conclude no later than at the end of 1½ hours.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. GRANDY. Mr. Chairman, reserving the right to object, and I do not intend to object, I just want to clarify this with the Chairman: The time will be equally divided between the proponents and opponents and not four ways, I would hope?

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, it would be my intention that one-half the time would be used by the proponents of the amendment and one-half by the opponents,

and it is my intention to yield one-half of that time to the gentleman from Texas [Mr. FIELDS].

Mr. GRANDY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROBERTS. Mr. Chairman, reserving the right to object, might I ask the distinguished chairman to repeat the time? Is it a half-hour?

Mr. STUDDS. If the gentleman would yield, it would be 90 minutes, 45 minutes on each side.

Mr. ROBERTS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

The CHAIRMAN pro tempore. Pursuant to the unanimous consent request, the gentleman from Minnesota [Mr. PENNY] will be recognized for 45 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

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

Mr. Chairman and Members, the amendment I offer today deals with cargo preference subsidies.

Mr. Chairman, as we all know, our country faces a serious budget challenge. I have tried to work in a bipartisan fashion to address various areas of cost overruns within the Federal Government. For example, several weeks ago the House voted to discontinue the honey, wool, and mohair programs in the agriculture budget because most Members felt that these costs were too high in relationship to the few farmers who benefited from the program. I represent a rural district and serve on the Committee on Agriculture, but I saw the need for and supported those program changes.

We also have made a determination in this Congress that basic farm subsidies should be limited and no farm operation can now receive more than a $50,000 subsidy.

Every year, whether it is agriculture or other programs and services, we make tough decisions in this institution to weed out wasteful spending where it can be identified.

The maritime industry has a huge subsidy in the form of cargo preference. OMB reported in fiscal year 1991 that cargo preference costs to the U.S. Government were nearly $1.1 billion; in fiscal 1992 it cost $548 million; and in fiscal year 1993, $595 million.

At this point in time the cost of our Government for this program is reflective of the fact that U.S.-flag rates are significantly higher than rates for other world shippers.

We are not proposing today that we eliminate cargo preference entirely. That has been debated in the past and may be debated in the future, but it is not the proposition before the House this afternoon.

We are simply saying that this subsidy should be capped at a reasonable level. We have seen United States shipping companies submit bids for Russia which range from 3 to 5 times the world price. Russia is not the only country where we see these excessive freight rates. In 1991 we shipped $447 million of grain to Africa, and the transportation costs went up 5-fold to $468 million, more than the entire cost of the grain involved in that shipment.

One problem is that Congress has never bothered to legislate a definition of "fair and reasonable rates." As most other agencies who struggle under cargo preference will attest, just about anything is "fair and reasonable," if left to the Maritime Administration.

As it stands now, there are few incentives for our U.S.-flag companies and seafarers to become competitors and to become efficient. Congress must insist upon a top-to-bottom audit and analysis of our maritime subsidies. We need to look at a system which provides a right to first refusal.

We can and we should provide prudent, aboveboard, direct subsidies that can be scrutinized year in and year out. But if they do not offer bids that are competitive with world rates, then they should not have any right to carry these cargos.

A direct subsidy could provide a prudent level of income for U.S. seafarers. I am not talking about Third World wages, but there would be nothing wrong with limiting these subsidies to 100 percent above the world market rates. That is a generous level for us to offer, a level that will require, yes, some restraint from current practice but still cargo preference to pay higher rates for U.S.-flag vessels.

Mr. Chairman, I would conclude by simply saying the time for change in this program is long overdue, and I would urge adoption of this amendment.

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

The CHAIRMAN pro tempore. Who seeks recognition?

Mr. PENNY. Mr. Chairman, since the other side in this debate is not ready to use their time, I would yield such time as he may consume to my cosponsor, the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. I thank my friend and colleague for yielding to me.

Mr. Chairman, I rise in strong support for this amendment and would note that it happens at a particularly opportune and perhaps even historic time in this Congress, a time when we have already broken precedent with the past by changing many of the major ways we do business and stopping some of the ongoing funding programs that have caused so much controversy on this floor and in Congress.

□ 1510

What am I talking about? I am talking about the decision of Congress to terminate the honey program, our decision to stop the wool and mohair program, our decision to limit grazing fees, albeit controversial, and of course, the final decision by this House over the objections of the Senate to terminate the super collider.

It is in that sense today that the proponents of the Penny-Grandy amendment are offering a cap, not a cut, but a cap to cargo preference.

We ask this, knowing full well that no less a person than the Vice President of the United States when he was preparing recommendations of his National Performance Review recommended the elimination of cargo preference, recommended the elimination of the Jones Act, recommended the elimination of operating differentials.

Now, this is not in the final draft of the National Performance Review; instead, we fall back and have a Commission report on the determination for future subsidies to the maritime industry; and yet today we extend those subsidies before the Commission has even reported their findings; but we do know that there are reports that are currently being withheld that argue against the continuation of the very generous cargo preference subsidies.

For example, last year the DOD concluded that there was no national security justification for new subsidies. Indeed, the Assistant Secretary of Defense, Colin McMillan said the following:

> The issue of the two major U.S.-flag containership operators disposing of their U.S.-flag fleets is primarily and economic policy issue, rather than a national security issue and should be treated accordingly.

Now, of course, we all know that the threat from the former Soviet Union has diminished. We know that the demands on our merchant marine have changed. Having said all that, we are not asking for the termination of this subsidy, although Representatives from agricultural districts have fought for years to terminate cargo preference.

Today we ask only that we do to cargo and maritime subsidies what we have done consistently with agricultural subsidies in this Congress and before, and that is to cap it at only twice the world rate.

Now, to give you an idea of what these world rates are, after the maritime industry won a high profile battle for the right to carry 75 percent of the food shipments to Russia, only three United States-flagships submitted bids. The Coastal Carrier Corp. submitted bids of $89.95 a ton for 32,000 ton U.S.-flag container barge units to carry

corn from a U.S. Gulf port to a Russian port. That was four times the rates that foreign flag carriers sought. That is the reason that we offer this amendment today.

We are not just talking about humanitarian aid that goes to the former Soviet Union and the new Russian Republics. In September 1990, U.S. News reported that the Pentagon was upset because two U.S. flag carriers charged $70,000 to send war material to the gulf that could have been set for $6,000 at world competitive rates.

Mr. Chairman, the reason we offer this amendment is because we feel that the maritime industry, although perhaps justified in asking for some subsidy, is certainly obligated to operate under the same rules that most of our entitlement programs are now working under, whether they are domestic entitlement programs or foreign entitlement programs, and that is to put some kind of logical cap on it.

Even the buy-American laws which we pass without controversy on this floor regularly, protect American taxpayers from excessive costs by allowing foreign products to be purchased if U.S. bids are 6 percent over the foreign bids.

This caps U.S. taxpayer exposure. That is all we ask to do on cargo preference.

I would ask my colleagues in this enlightened atmosphere of budget cutting and fiscal responsibility to consider seriously this amendment. This is not the old debate between the agricultural industry and the maritime industry over whether cargo preference should be allowed to exist or whether it is fair or whether it is an undue burden on agriculture. We have had all those debates.

I would ask only that in the spirit of budget cutting and the spirit of courageous fiscal responsibility that this Congress has now begun to adapt, that we apply the same rules to cargo preference.

The CHAIRMAN. Does the gentleman from Massachusetts yield time to the gentleman from Texas?

Mr. STUDDS. Madam Chairman, if there is a way procedurally to simplify this, I would like to yield, by unanimous consent one-half of my time to the gentleman from Texas [Mr. FIELDS].

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

There was no objection.

Mr. FIELDS of Texas. Madam Chairman, I yield myself such time as I might consume.

Madam Chairman, I rise in opposition to this amendment.

The Penny/Grandy amendment would cap U.S.-flag cargo preference shipping rates at two times the world rate. On the surface, that sounds like a reasonable idea, but when you look beneath the surface, you realize how bad this amendment really is.

You have to start with a basic question.

Why is it that U.S. shipping rates are higher than rates of our competitors in the cargo preference trade? The answer is that U.S. laws impose requirements on our ships that many other nations do not have. We have Federal and State income tax laws; we protect our workers under such laws as the National Labor Relations Act, the Fair Labor Standards Act, and insurance and liability laws; and, through the U.S. Coast Guard, we require construction and operational safety standards that, frequently, are more restrictive than international rules.

I do not believe it would be appropriate or wise to eliminate all these measures just to save money.

A foreign crew, as an example, of 36 from a Third World country can be hired for $650 per day, including benefits. That works out to about $18 per worker per day. We have it on good information that working conditions aboard many flag-of-convenience vessels are sickening. We hear reports that denial of medical treatment, beatings, and inadequate safety equipment are the disgraceful norm rather than the exception

The authors of this amendment want to compare U.S. shipping rates to these competitors. I cannot accept that nor should this Congress, nor should the American people.

Cargo preference has a long history. In 1904, Congress applied it to military shipments. Following World War II, Congress applied it to food aid and other foreign aid shipments.

Cargo preference has always been somewhat controversial, because U.S.-flag ships must comply with all the things that I mentioned earlier, and certainly that makes everything more expensive than unregulated flags of convenience vessels.

Agribusiness interests, in particular, have lobbied against application of cargo preference to food aid programs that help subsidize our agricultural industry.

At the outset, let me make it clear that H.R. 2151 neither expands nor contracts the scope of the cargo preference laws. USDA's multi-billion-dollar commercial export programs, such as the Export Enhancement Program [EEP], have always been exempt from cargo preference and will continue to be exempt under this bill.

Nor does H.R. 2151 change the way we finance food aid programs. As we agreed in the hard-fought cargo preference compromise that was included in the 1985 farm bill, and was reaffirmed in the 1990 farm bill, USDA pays the differential between U.S. and foreign rates for the first 50 percent of cargoes subject to U.S. shipping requirements and DOT pays the remaining 25 percent. This is not the time to reopen the debate that put to rest cargo preference application and its funding.

H.R. 2151 addresses cargo preference in only one aspect—by placing stricter controls over the transportation costs of this program. I believe that those of us with a strong interest in both agriculture, and I have a strong interest in agriculture, and maritime can agree that H.R. 2151's cargo preference provisions will help both industries.

H.R. 2151's cargo preference provisions are only a first step in addressing these problems. What we are seeking to do is bring the same kind of efficiencies to USDA that Israel is utilizing today. The result will be lower rates—benefiting both American farmers and merchant mariners.

Under this legislation, U.S.-flag vessels carrying preference cargoes must be engaged on the most favorable commercial terms offered to foreign-flag vessels.

Contracts for preference cargoes must be based on commercial contracts to reduce costs.

The Secretary of Transportation must participate in negotiations with recipient countries to ensure that fair and reasonable services are provided.

And heads of appropriate agencies will transmit their recommendations to the Secretary of Transportation to determine whether DOT's fair and reasonable rate regulation promotes the development of a commercially competitive merchant maritime industry.

□ 1520

These reforms are only a first step toward lowering cargo preference costs. What we need is for agriculture, maritime, and the U.S. Government to work together to reduce rates while promoting the long-term health of our U.S. merchant marine. For these reasons, I urge all Members to support the reforms incorporated in H.R. 2151 and to reject the Penny-Grandy amendment to cripple the cargo preference program.

As my colleagues know, the question has been raised: How much does cargo preference actually cost?

Our Government outlays for the cargo preference program totaled only about $600 million in fiscal year 1993. About $150 million of that was paid by USDA and AID for the transportation of food aid. Most of the remainder relates to the transportation of defense cargoes and is paid for by DOD or other agencies.

Now some people would ask the question:

How does the cost of cargo preference compare to agricultural subsidies?

Agricultural subsidies dwarf cargo preference. If we are going to be talking about subsidies, we ought to talk about agricultural subsidies. The U.S. Government spends 8 of every 10 of its export financing dollars to promote the export of agricultural commodities,

which account for only one-tenth of all American exports. The U.S. Government spent about $12.2 billion in domestic and export subsidies for agricultural products in 1992, about 15 times the total amount spent to promote the whole maritime industry and 90 times the amount spent on cargo preference.

And one last point, Madam Chairman, I think is compelling for all Members, whether they are in this Chamber or in their office:

Cargo preference applies to only about 4 percent, 4 percent of all U.S. agricultural exports.

So, when we put this particular debate in its proper perspective, we come to the conclusion very quickly that H.R. 2151 should be supported in the manner that it was passed from the Committee on Merchant Marine and Fisheries, and the Penny-Grandy amendment should be defeated.

Madam Chairman, I reserve the balance of my time.

Mr. STUDDS. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI], chairman of the Subcommittee on Merchant Marine.

Mr. LIPINSKI. Madam Chairman, this amendment will only serve the interests of foreign ship owners and multinational grain houses with flag-of-convenience vessels who comply with minimal and loosely administered tax, safety, labor, health, and environmental standards. The amendment will leverage them the power to drive U.S.-flag carriers out of the market.

Despite their poor track record, flag-of-convenience vessels already dominate the foreign-flag portion of USDA's Food Aid Program. Few, if any, food aid cargoes are carried by vessels owned and crewed by nationals of our developed trade competitors, such as Germany and Japan.

This amendment will also defeat the committee's efforts to utilize the Department of Transportation's expertise in commercial shipping terms and methodology. DOT's involvement in the shipping of preference cargo would greatly enhance the efficiency and reduce the cost of our cargo preference program.

In addition, the Penny amendment will take away DOT's responsibility for determining what are fair and reasonable U.S.-flag freight rates and gives that responsibility to agencies lacking the knowledge to make those determinations.

We are talking about a mere 9 percent of all U.S. Government-promoted agricultural exports. I challenge anyone to name a country that sends its aid on foreign-flag vessels. U.S. aid is funded by U.S. tax dollars and should benefit U.S. industries—including our own merchant marine.

Mr. PENNY. Madam Chairman, I yield 7½ minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman from Minnesota [Mr. PENNY] for yielding this time to me.

Madam Chairman, I rise in strong support of the Penny-Grandy amendment. I would prefer to eliminate the cargo preference requirement in keeping with the Clinton administration's original proposal in regards to reinventing Government. Over the years I have made that point and supported efforts, and I might add, unsuccessful efforts, to do just that. But I think this sends an effective message: Not only do we need reform of the merchant marine to come of assistance to the merchant marine, if you will, but also to reform the way that the merchant marine is doing business.

Several years ago in the heat of the cargo preference debate, and some of them have been rather heated, the point was made that, if we wanted to expand food aid to the starving, we could do so by eliminating cargo preference requirements and ship more commodities to the aid recipient countries. Boy, did that get the attention of the merchant marine lobby and their supporters in the Congress. To this point some in this body at that particular time admonished members of the Committee on Agriculture that, if we are worried about tonnage shipped, then we should buy our commodities from the European Common Market because U.S. farm interests had priced our commodities out of the world market.

Madam Chairman, that shows us, that kind of statement shows us, how contentious, and how parochial and how partisan some of these statements can be and, really, how this issue can be, but the Agriculture Committee took that message to heart. The year was about 1986, and the cost in terms of total subsidies in regards to the Agriculture Committee or the Agriculture Department was about $26 billion. We were going through a farm crisis at that time. We have reduced, as the gentleman from Minnesota has pointed out, the Government's supporters to agriculture and to U.S. farmers. Our farmers have become very competitive in the world marketplace. We have reformed our programs. Now it is time for the merchant marine to step forward in that cold shower and enjoy a very brisk reform.

I would point out that the gentleman from Texas [Mr. FIELDS] has indicated the value of our merchant marine and points out we subsidize agriculture. Let me point out to the gentleman, my good friend, agriculture represents about 20 percent of the gross national product. I do not know what the merchant marine represents, but we are about 20 percent, 1 trillion dollars' 'vorth, 21 million jobs, 17 percent of the work force, food and fiber for the gentleman from Texas, his family and 128 other individuals, and still we take agriculture for granted. The gentleman from Texas and the gentleman from Massachusetts, who undoubtedly enjoys breaded fish for his meals, only spends 10 to 12 cents out of their disposable income dollars for food, freeing up the rest of it to buy all sorts of other things. We are responsible for $43 billion in exports, talk about subsidizing exports—$43 billion worth, about the only segment of our economy that contributes to the trade deficit.

Now, I recognize the problem of the maritime industry. After all, they are regulated. There is not any other industry in the country that is more regulated than agriculture. I would like to help them in regards to the regulatory reform that they so obviously need, but I would point out, as Senator GRASSLEY pointed out in the other body, that the per-month cost of a U.S. flagmaster, in regards to the merchant marine per-month cost, $44,000. Forty-four thousand dollars? A Navy captain only gets $8,422 per month, and the gentleman from Iowa [Mr. GRANDY] has a chart that he is more than willing to show in regards to the pay: $44,000 a month. My goodness, the median household income runs about $30,000, so I think there are some things we could do as well as the regulatory reform.

The Penny-Grandy amendment does not eliminate cargo preference. All it does is say to the merchant marine, "You have to get by on freight rates that are twice the world rate."

Recently, during the Russian aid effort, our United States ships' owners offered to ship our commodities at three and even four times the going rate. We had a good illustration of this effect this year as the Department of Agriculture struggled to deliver on President Clinton's promise to provide food under subsidized credit to Russia and the other republics of the former Soviet Union.

□ 1530

First, only a handful of suitable ships were available. We probably have six or five or four that can actually ship the grain. And in the end, the U.S. merchant marine could not supply enough ships and some of the grain had to be moved under foreign flags, despite our best efforts.

When it came time to pay for the freight, listen to this, when the USDA asked for bids from U.S.-flag carriers, one of the early bids came in at $138 per ton, more than five times the going world rate of $20 to $30 per ton. The Secretary of Agriculture wisely refused to accept a freight bid that was fully one-third higher than the value of the grain to be shipped. But as later bids came in, the USDA was forced to accept rates upward of $90 per ton, three times more than the world rate.

In fact, only once this year has a United States-flag bid to ship grain to Russia come in at less than double the

world rate. The rates were so egregious that Secretary Espy was moved to question the U.S. merchant marine fleet for their assault on the Treasury. Mr. Espy called the timing of the increase in freight rates very suspicious.

Now, as a former marine who just attended the noon ceremony of the 218th birthday of the U.S. Marine Corps, no one is more aware than I that sealift is a vital element in our potential military operations abroad. Recognizing that need, this Congress has year after year continued to provide, yes, needed subsidies for the merchant marine.

But after all this spending, what do we have to show for it? When this Nation moved toward war in the Persian Gulf, of the 460 ships that transported military materials into Saudi ports, the U.S. merchant marine actually contributed six—that is between five and seven—six ships. While some 80 U.S. flagships moved military gear under DOD contract, only 6 actually moved into the war zone. In the face of war, the shipping interests said no thanks.

In other words, when push came to shove, despite 75 years of subsidies, our military forces had to depend on foreign flag vessels to move the beans, bullets, and bandages for our troops in the war zone.

One more example: Under cargo preference, 75 percent of all foreign aid shipments must be carried on U.S.-flag vessels with the costs paid from the funds that are devoted to the aid programs.

Now, in closing, let me simply say this amendment will correct a deficiency in the cargo preference section of the bill. More importantly, we will limit the rates charged under cargo preference to no more than twice the prevailing international rate.

If we all agree the U.S. merchant marine should receive some support from the taxpayer, and I agree with that, surely we can agree that no one should receive more than double the competitive price for the same job.

Madam Chairman, I urge Members of this House to accept the real reform amendment. I thank the gentleman for introducing the amendment and thank the gentleman from Iowa [Mr. GRANDY] for his continued efforts.

Mr. FIELDS of Texas. Madam Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to make a comment about the gentleman from Kansas [Mr. ROBERTS] who just spoke, a fellow marine. I am not going to counter point by point, but I want to make a comment that I thought I heard from the gentleman from Kansas [Mr. ROBERTS] that merchant marine captains make in the order of $44,000 a month. I think that is not a month. It may be $4,000 a month, maybe $44,000 a year, but it is not $44,000 a month.

The gentleman from Iowa [Mr. GRANDY] and the gentleman from Minnesota [Mr. PENNY] have made comments about how we need to become more fiscally responsible and need to cut out subsidies and waste. We have cut out the honey program, the mohair program, the superconducting super collider, and those things. I think all of those are good, positive votes for fiscal sanity in the light of the deficit crisis. But those programs, in my opinion, have no comparison with security for the United States, and I do believe that the merchant marine fleet is important to U.S. security.

Foreign flag vessels routinely refuse to carry military cargo. When you consider the post-cold war situation that we are now in with North Korea, the Middle East, Bosnia, incidents in Latin America, we need to rely on a solid merchant marine fleet to carry military cargo and other cargoes.

Madam Chairman, the cost of shipping goods on American merchant marine fleets, if we compared them with other developed countries like Germany and Japan, the costs are almost exactly the same. But if you compare the cost with shipping from Malta shipping, Liberian shipping, Panamanian shipping, where the average crew member makes $18 a day, and which the Australian Government has called "the ships of shame," then we cannot compare our regulated ships with their ships and say that we need to reduce our costs.

Madam Chairman, if we are going to compete with those different countries, unfortunately, in the light of reality, we need, No. 1, the security of our merchant marine fleet; and, No. 2, there is going to have to be some type of subsidy.

Madam Chairman, I represent a large agricultural producing area, so I recognize what many of the members on the Committee on Agriculture are saying here. But I am sensitive to the need for American products to be transported in the most efficient manner possible; that funds can be spent for purchasing American products and not spent on subsidies.

Agricultural exports, I recognize, represent the largest export of this country. But if we look at the agricultural exports as far as the impact of cargo preference is concerned, only 4 percent of the exports are impacted by cargo preference. Regarding cargo preferences in H.R. 2151, however, I believe there is need to support the shipping industry that is going to carry those cargoes around the world.

Under current cargo preference law, the percentage of cargo that originates within the U.S. Government must be shipped on U.S.-flag vessels. Seventy-five percent of food aid goes on U.S.-flag ships; 100 percent of military cargo and 50 percent of other Government-sponsored cargoes are sent on U.S.-flag vessels. Nothing in H.R. 2151 changes these percentages.

Madam Chairman, I urge Members to support a strong merchant marine fleet. Unfortunately, I urge Members to vote against this amendment.

Mr. PENNY. Madam Chairman, may I inquire how much time remains for each side?

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] has 28 minutes remaining, the gentleman from Massachusetts [Mr. STUDDS] has 20 minutes remaining, and the gentleman from Texas [Mr. FIELDS] has 12 minutes remaining.

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Madam Chairman, I rise as chairman on the Subcommittee on International Security in the strongest possible opposition to the Penny-Grandy amendment. Our merchant marine has been shrunk and shriveled until it is only a tiny vestige of its former self. It is a matter of utmost irresponsibility to put in place legislation that would guarantee the destruction of our merchant marine. As a matter of fact, this notion that we have wage parity with countries from the Third World is absurd and hypocritical. I wonder whether some of my colleagues would like to drive down the wages of our men and women who work in the merchant marine would be prepared to accept salaries that members of parliament in Third World countries receive.

□ 1540

People who work our merchant ships have to pay the same prices for everything that the rest of us do. They do not live in Third World countries. They live in the United States.

They have taken a beating over the years that no American industry has, and it seems to me that at this stage of the game, with the end of the stability of the cold war, with trouble and turbulence from Somalia to Bosnia, with difficulties that we will be experiencing all over the globe for decades to come, to destroy the American merchant marine is one of the most irresponsible and unwise moves that this body could take.

I strongly urge the defeat of the Penny-Grandy amendment.

Mr. PENNY. Madam Chairman, I yield myself 1 minute.

I appreciate the comments of the gentleman from California. And if, in fact, the Penny-Grandy amendment achieved the results that he describes, I do not think that even the gentleman from Iowa and myself would vote for the amendment.

Our amendment does not set cargo preference rates at Third World country standards. We set these rates at

twice the level of the world's standard, which is significantly higher than the rates to which the gentleman from California referred.

Madam Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Madam Chairman, I reserve the balance of my time.

Mr. STUDDS. Madam Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Madam Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of H.R. 2151, as reported by the Committee on Merchant Marine and Fisheries, and I strongly oppose the Penny amendment.

I attended the hearing that we had several months ago, June 1993, of the House Subcommittee on Foreign Agriculture and Hunger. And I asked a question of the president, Steve McCoy, of the North American Export Grain Association as to how many of his members owned or had interest in foreign-flag ships. He did not send me a straight answer to what I asked him in committee, but I have a list of the members of the North American Export Grain Association, and I thinkMembers would probably all be interested to know that A.C. Toepfer International of Minneapolis, Continental Grain of Chicago, Interstate Grain of Corpus Christi, Cargill of Minneapolis, Ferruzzi Trading of New York, Matsui of New York, Richo Grain Limited of Stamford, CT, Archer Daniels of Midland, Louis Dreyfus, and Mitsubishi, all who are members of the North American Export Grain Association, all who support the Penny-Grandy amendment, all have large interests in foreign-flag vessels.

Now, in my opinion, this is an important part of the defense of this country, the security of our homeland. I know that that is where the debate comes in.

I would ask Members to carefully look at who actually takes the risk in the sale of grain overseas. There is no risk on the grain exporters. The U.S. taxpayer pays about $1.25 a bushel on top of what the farmer gets of about $2 a bushel. The grain company gets—for $2 a bushel—the grain, and then can deal with it in foreign markets. But the American taxpayer pays a subsidy to the corn farmers in the districts of some of my friends of at least $1.25 a bushel.

Now, I want to see American farmers growing corn on the high plains of America, but I want to see American bottoms carrying American grain in American bottom ships on the high seas of the world. Why is that too much to ask for?

Richo Grain Co., one of the members of the North American Export Grain Association that opposes this amendment, is owned by a Swiss company owned by Marc Rich. He is in Switzerland. He is wanted for tax evasion, racketeering, and trading with the Ayatollah Khomeini. Among Rich's operations is an oil company and a fleet of 7 foreign-flag tankers.

Can Members wonder why he supports the Penny amendment?

I rise in strong support of H.R. 2151 as reported by the House Committee on Merchant Marine and Fisheries, and I strongly oppose the Penny amendment.

My 21 years with the House Committee on Agriculture have taught me that this debate is less about cost savings to the U.S. Government and more about increasing the profit margins of multinational grain merchants, many of which have financial investments in foreign-flagged ships.

I also represent the congressional district that is home to the Defense Departments shipping terminal for the entire east coast. During Operation Desert Storm, the Sunny Point Terminal and the U.S. merchant marine boldly served us all in a time of danger and need. The huge mobilization should make us all appreciative of and concerned about fostering a strong, U.S. maritime industry.

During cargo preference debates, time and time again I hear Members on this floor say "I support the U.S.-flag merchant marine, but * * *" and that "but" is followed by words and amendments that seek to destroy the U.S.-flag fleet. To further restrict cargo preference serves to harm a U.S. industry, and works in direct conflict with Chairman STUDDS's bill to enhance and rejuvenate our maritime fleet.

For me, there are no ifs, ands, or buts about it. We need a strong U.S.-flag fleet. We all sleep better knowing that there is a U.S. fleet available to us; a U.S.-flag fleet loyal to us, and us only. We must continue to support our country's national security and our U.S.-flag maritime fleet.

Let's give the management review currently underway at the Department of Transportation an opportunity to judiciously and comprehensively reform the program for greater efficiency and cost-savings. I urge my colleagues to stand with me and oppose the Penny amendment.

Mr. FIELDS of Texas. Madam Chairman, I yield myself 1 minute, just to compliment the gentleman for his fine statement and to elaborate just a moment, because the point he is making is a compelling point.

Cargill owned or chartered an ocean-going fleet of 24 foreign-registered vessels in 1985. There are only 30 ships, domestic ships now carrying this particular cargo.

Continental Grain operates foreign ships through a network of subsidiaries and joint ventures.

The Louis Dreyfus Corp. is half owner of Gearbulk, a liner operation based in Norway.

Archer-Daniels-Midland announced that it is seeking a deal with the Soviet Union, trading American grain for Russian-flag ships.

I could go on and on and on, but I think the point the gentleman made just a moment ago is a compelling point. I wanted to elaborate just a moment.

Mr. STUDDS. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Madam Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to the amendment. The amendment is premised on an interesting notion that American cargo freight rates are excessive; they are too high.

Let use examine that. American cargo rates are too high if Members believe that American seamen who work on those ships should not have to pay taxes. But when we take their taxes into account, that amount doubles the rate.

The rates are too high, unless Members think that American seamen do not deserve the protection of American laws, health and safety laws, regulations on the hours they work, regulations that provide minimum wage protections, regulations that provide overtime protection. If my colleagues do not think those things are necessary, then obviously our rates are too high.

Our rates are too high if Members think that our liability laws are wrong, that we ought not have injury protection under the Jones Act for seamen who get injured on the job. Our rates are too high, in fact, if my colleagues think that American workers who work on our ships should not be entitled to the same protection as American workers who work on the land are provided with in this country.

It is not that American rates are too high, my colleagues, it is that foreign rates are much too low. If Abe Lincoln were alive today, he would bewriting an emancipation proclamation for most of the men and women who work on foreign ships.

If we pass this amendment capping cargo preference rates at twice the world rate, we are condemning more and more people to work at those rates and we are guaranteeing that more foreign ships operating with those slave labor rates, without protections of health and safety, minimum wage, overtime and all the other protections we provide for workers in America, we will make sure that more of those foreign ships are carrying more foreign goods sent from America destined to foreign ports, much of it aid to countries to help people who are starving around the world. If we think American foreign aid ought to travel on American ships, crewed with American workers and endowed with the protections that we place on the job sites here in America, then we ought to vote against this amendment.

This amendment kills cargo preference, make no doubt about it. It ensures that most foreign aid will travel on foreign ships, crewed with almost slave labor. We ought to defeat this amendment.

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Madam Chairman, I urge the defeat of this amendment.

To listen to the critics, you would think that cargo preference is responsible for nearly all the ills that afflict us, from foreign export barriers to bad breath. It's just not true.

First, the vast majority of our oceanborne imports and exports aren't even subject to cargo preference laws. Commercial shipments aren't affected in any form or fashion whatsoever.

All of our commercial grain exports—and that's the majority of our grain sales abroad—can and routinely do travel in foreign-flagged ships. Our commercially purchased oil imports aren't subject to cargo preference requirements.

We really need to clarify in this debate that these preference laws apply only to Government-impelled cargoes, cargoes that move in international commerce only because of Federal Government financing.

Not even all Government-generated cargoes must move on U.S.-flagged ships. For instance, as a result of a legislative compromise negotiated between maritime and agricultural interests and enacted in 1985, commodities shipped by the Department of Agriculture under market-oriented efforts such as the Export Enhancement Program are free to move entirely on foreign-flagged ships.

A substantial portion of those Government cargoes subject to the preference laws still move on foreign-flagged ships. For those nondefense Government cargoes subject to the cargo laws, the U.S.-flag carriage requirement is no more than 50 percent or 75 percent depending on the type of cargo. Even these requirements can be set side, if a U.S.-flagged ship is not available or if it fails to offer a fair and reasonable rate.

We have relatively few programs promoting the American merchant marine, and the ones we have are relatively modest in cost. Do we really want to discard or undercut the programs that are in place, regardless of the consequences? If we choose policies that hasten the decline of our merchant fleet, where are we going to get American ships to support our defense and commercial needs? Do we want to watch with indifference as our body of experienced civilian mariners dwindles to numbers approaching insignificance?

During the Persian war, we relied primarily on American sealift to get our unit equipment, ammunition, and supplies to the war theater. Our merchant vessels answered the call. So did our civilian merchant mariners. Not only did they crew the privately-owned U.S.-flag vessels devoted to the sealift effort, they provided the manpower for our military's prepositioned supply ships and our reserve vessels which were called up for service.

If we must respond to a future crisis with military force, the scenario is likely to be similar to the one in the Persian Gulf. There is no alternative: We will have to rely on sealift.

I do not buy the argument that this country does not need its own American ships and crews for defense and commercial purposes.

If there are inefficiencies in the administration of our Government-impelled cargo laws, fine—let us identify them and correct them. But let us reject the temptation to respond emotionally with hasty and poorly-thought-out proposals which were not even circulated to us until minutes ago. Let us vote down the amendment and stand with our American-flag merchant marine.

□ 1550

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Madam Chairman, we all in this institution have the things that make us proud in the Congress, and those moments we feel we could do better. There is nothing that gives me more distress than Members who will come to the floor because of a regional interest or a local economic concern, but fail to rise to what is, in my judgment, an obvious and overriding national need.

This day is an example of that fact, because after 200 years of American ships plying the oceans of the world, delivering our troops, providing supplies, extending our economic reach, we have come to a near certain end unless cargo preference can be maintained and this legislation passed. Barely 40 years ago, 2,000 American ships dominated the trading routes of the globe. Today a bare 350 remain.

The last few American companies have given this Congress and the American people notice. Without assistance, those companies will take down the American flag and change their registry. After two centuries of American dominance of the seas, we will leave the world's oceans. The consequences could not be more profound, and indeed, are aptly illustrated in the Persian Gulf war alone. While American troops waited for the invasion of Iraq and Kuwait, Greek registry ships hesitated at the Persian Gulf, rebelling against entry into a war zone. American reserve ships broke down in the Mediterranean. Ships registered in Malta would not accept American cargoes, and American troops waited, because there were not enough ships of American registry to support our own soldiers in the field.

The CHAIRMAN (Ms. BYRNE). The time of the gentleman from New Jersey [Mr. TORRICELLI] has expired.

(On request of Mr. FIELDS of Texas and by unanimous consent, Mr. TORRICELLI was allowed to proceed for 2 additional minutes.)

Mr. TORRICELLI. Madam Chairman, it leaves the Members of this institution with this question: What if we had not had support from around the world? What if the 1973 war in the Middle East were replayed in America and Israel stood alone? What if our interest was at stake and we had no allies?

The world may be safer, but it is not secure. The fact is we do not have today a merchant fleet that can support those interests. But it will dwindle further.

Nor is it a military issue alone. The issue is also consistency of principle. This Congress is required for valid reasons, environmental protection of the highest standards in our fleet, protection for labor standards for those who would sail on our ships. Oh, we have got the best standards. We have insisted upon them. It is just that some Members do not want to use the ships, and the consequences are seen every day.

The principal environmental problems in New Jersey and Florida and California are foreign ships that dump their garbage and their fuel and their refuse on our beaches. Oh, we are for standards, but we do not want to use the American ships to comply with them, and we want the crews to be safe, but we would not think of using them.

There are issues that will get more attention, there are issues that will create more controversy, but none that I can think of in this Congress that will have a more lasting effect. A great tradition, the power of this country, our economic and military independence, are at issue.

I urge in the strongest sense support for the committee and defeat of the amendment. Believe me, the Members will return to this floor in moments of great national need and ask for the presence and the support of the American merchant marine. On that day they will think of this debate.

Mr. PENNY. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I have listened to the argument here on the floor, and I would agree, we are suffering in both the maritime industry as well as the agricultural industry with overregulation. Obviously, I want to be very sensitive to tough times in the maritime industry, and certainly the tough times that inevitably agriculture is and will face in the future.

However, I would like to remind this body to look back at what happened this spring when the President had announced a Russian aid package. He announced that there would be some $700

million or so available for Russian aid. At that time the shipping rates were comparably or relatively low, and then with time, after that announcement, we saw that the shipping rates started to escalate because of cargo preference. These were on American-flag ships.

The rules and regulations were staying the same, the salaries were basically the same. Nothing had changed except that the President had announced that he was going to provide a Russian aid package that was somewhere around $700 million. As a result of that announcement, we saw that the shipping rates on American-flag vessels began to increase three or four times, in some cases maybe five times what they were previous to that announcement. That tells me that we have a need for this amendment to have a proposed cap on cargo preference of double the world's rate.

□ 1600

I do not think that is unreasonable.

Again, looking back at what happened this spring after that announcement when the cargo prices skyrocketed, there was only one ship that was lower than twice the prevailing world rate. The rest of them were greater than twice the world rate. Now what happens with the increase in shipping rates is that just means there is less grain that is going to be available to be shipped over, because more and more of those dollars that were appropriated to that program go to the shipping and the transportation costs of that grain. It means that there is going to be less grain that is going to be purchased from the agricultural sector, and as a result of that, that means less jobs for the agricultural sector.

After seeing the events of this spring, I am convinced more than ever that we need to have the Penny-Grandy amendment which would see that the American ships would not charge more than two times the world rate.

Mr. STUDDS. Madam Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I thank the gentleman for yielding the time and for his leadership. I also thank the ranking minority member for his part in bringing this legislation to the floor.

Madam Chairman, I rise today in support of H.R. 2151, the Maritime Security and Competitiveness Act, and in strong opposition to the amendment offered by Representatives PENNY and GRANDY.

The Grandy-Penny amendment would mandate that American rates for preference cargoes can be no more than twice the world rate. This is an attempt to impose artificial price controls on American-flag ships in order to cut cargo preference costs. It is important to note that the world rate is set by foreign-flag vessels which are crewed by seamen who earn as little as $18 per day and work under horrendous labor conditions. The most effective way to cut cargo preference costs and promote the U.S. merchant marine is to introduce commercial practices into the program, as H.R. 2151 begins to do.

However, the Grandy-Penny amendment also strikes cargo preference administrative reforms contained in H.R. 2151 by deleting provisions which would base shipping contracts on commercial terms. The use of commercial terms, such as compensating the ship owner when the unloading of a vessel carrying Government cargo is delayed, encourages efficiency and helps to reduce shipping rates.

Madam Chairman, U.S.-flag vessels currently operate at a significant disadvantage to their foreign competitors. Foreign-flag ship shipbuilders and operators are not subject to the strong health, safety, and environmental standards which we have established. They pay lower wages and lower taxes than their U.S. counterparts. They playing field is tilted against vessels which sail under the U.S. flag. We need to take action in order to revive the U.S. merchant marine by passing H.R. 2151 without this amendment. I urge my colleagues to oppose the Grandy-Penny amendment.

Mr. FIELDS of Texas. Madam Chairman, I yield the balance of my time to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Madam Chairman, I want to thank the gentleman from Texas [Mr. FIELD], our ranking member on the Merchant Marine and Fisheries Committee, for granting me this time to wind up this very important discussion of a very important issue to a very basic industry of the United States of America. We have had some very illuminating statements here on the floor today from the gentleman from California [Mr. LANTOS] concerning national security and concerning Third World wages, the gentleman from North Carolina [Mr. ROSE] talking about who owns the foreign-flag ships to which cargo preference they opponents want to divert the cargo and, of course, the gentleman from Massachusetts [Mr. STUDDS] and from the gentleman from Texas [Mr. FIELD], the gentleman from Louisiana [Mr. TAUZIN] on the regulations, and from the gentleman from North Carolina [Mr. LANCASTER]. All of these have been in opposition to the Penny-Grandy amendment, and I go along with them.

I want to point out that the anticargo preference advocates do not represent the U.S. taxpayers, nor do they represent the family farmer. As has been said here today, they represent the agricultural conglomerates and the international grain brokerage houses owned by foreigners. That is important. They are the same companies which stand to benefit from the demise of what is left of the U.S. merchant marine because they and their subsidiaries do own fleets of foreign-flag ships that already carry over 96 percent of all agricultural exports from this country as well as other commodities.

But that is not enough for these merchants of grain who not only fill their foreign bank accounts with billions of U.S. taxpayer subsidy dollars, but billions of dollars from the subsidy programs of other countries.

Madam Chairman, we must keep in mind that U.S. cargo preference requirements affect only 4 percent of all U.S. agricultural exports and about 9 percent of U.S. agricultural exports involving U.S. Government participation.

To obtain control of these small amounts of cargo, anticargo preference advocates cling to our Government's humanitarian program for the former States of the Soviet Union as reasons for eliminating cargo preference. We heard here today that the rates shot up when the President made an announcement. Let us talk about a couple of those rates that have not been quoted here today. One of them concerns one of the bids that was from a foreign-flag ship, a Cypriot ship, $58.50 a ton. The U.S.-flag bid on that was $54.20 a ton, cheaper by $4.60.

But the foreign flag actually was granted favorable discharge terms and the U.S.-flag vessel was not. Let us talk about why United States-flag vessels are not granted favorable terms in Russian ports, because United States operators have to factor in uncertainties which foreign flags do not. The foreign operators are not subject to the Foreign Corrupt Practices Act. They cannot pay off in the Russian ports and other ports around the world, and thus avoid delays in ports. Their risk is far greater. That is one thing that has not been touched on today, what they have to do to get in, to cut down the time of demurrage.

One U.S.-flag vessel carrying American-donated grain was held up more than 28 days while foreign-flag ship after foreign-flag ship that came into port were moved ahead. That cost money. The U.S. shipowner must allow for that.

Now we have another problem with our own AID office and our own Agriculture office. They have a tendency to bunch cargoes into limited time periods which makes U.S. flag ships scarce and makes little use of long-term and consecutive voyage charters that mean predictability, efficiency, stability, and lower cost. They do not want it. I have been around this industry for a number of years, and I know what happens over at Agriculture and at AID as far as the merchant marine is concerned.

The U.S. maritime industry has been trying for years to obtain changes, but they have not been successful. The Congress even noted in the 1985 farm bill that such practices defy common

business sense. But like the well-known battery, they go on and on.

You know, we could have a little better management in our two agricultural agencies, the ones that send our cargoes overseas, and it would help both groups. Perhaps it would cut down on some of the subsidies to the agricultural industry and will help the American merchant marine as well.

Now let me talk about some of the ships that the anticargo preference people want to carry our cargo. Last year in December the Australian Government published this book, "Ships of Shame." That is the cover on it. This is a report from the Australian House of Representatives, Standing Committee on Transportation Communication and Infrastructure, and these are the kinds of ships on which they want our grain to be moved. The committee was told of the operation of unseaworthy ships, the use of poorly trained crews, crews with false qualification papers, or crews unable to communicate with each other or the Australian pilots, ships carrying false information, classification societies providing inaccurate information on certificates, flagships failing to carry out their responsibilities under international maritime convention, careless commercial practices by marine insurers, inadequate, deficient, and poorly maintained safety and rescue equipment, classification societies that readily class ships rejected by more reputable societies, beating of sailors by ships' officers, sexual abuse of young sailors, crews being starved of food, crew members being forced to sign dummy paybooks indicating they had been paid much more than they actually received, sailors being forced to work long overtime hours for which pay was refused, crew members being denied telephone contact with home when family members have died, sailors not being paid for several months, or remittances not being made to their families at home, sailors being denied medical attention, officers regarding crew members as dispensable, and crews being denied basic toilet and laundry materials.

So yes, we could go on and on to tell what they want, these people who are not telling the whole story to this Congress and to the American people. They are not telling about the conditions abroad. They are not telling about what is happening in Russian ports, and they are not telling what it is that causes the higher costs on American ships.

I have heard several Members of Congress here say limit the rate to four times or two times the world rate. I would like that Member of Congress to agree to receive the pay scale of twice the highest foreign-paid member of any legislature.

□ 1610

And if they will do that, then we will go along with them. So here we are: We have ships of shame. We have all of the opponents of cargo preference who want the U.S. Government to use these ships to ship food aid on these kinds of ships. I think it is very disturbing that this is what they have resorted to.

No, our colleagues who are opposed to cargo preference will never ever tell you of the bona fide reasons, no, and these same individuals will never ever tell you that their real constituents are the international agricultural magnates and the foreign ship-owners.

Madam Chairman, I hope my colleagues will vote down the Penn-Grandy amendment because it will certainly weaken this bill and its interests. We need to keep H.R. 2151 moving ahead in a positive channel.

Mr. PENNY. Madam Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Well, Madam Chairman, I guess if we are to believe this debate, the world trade is run not just by crooks but, worse, by foreign crooks and, without cargo preference, we would have lost the gulf war.

That may be true, but rather than dissemble about that, I would just point out that my farmers and Mr. PENNY's farmers and Mr. ALLARD's farmers and, I can guarantee you, Mr. ROBERTS' farmers, probably do not like Cargill or Dreyfuss any better than the gentlewoman does, the gentlewoman from Maryland [Mrs. BENTLEY].

But the fact of the matter is they do pay taxes, unlike many of the foreign ships, and their taxes are going to subsidize a rate of freight that it taking money out of their pockets. And so today we have a continuation of this debate.

But I want to stress again this is not about submerging the American merchant marine or even reducing the cost; it is about every entitlement debate that we have on this floor. It is limiting the growth.

And here is what we intend to limit: This is a chart that shows the monthly U.S.-flag crew costs by billets of cargo preference vessels, 4-A power-rated vessel.

Madam Chairman, the master billet, which I grant you is usually held by more than one individual, is $44,000 a month. Base pay is $8,500 a month. That is more than a Navy captain makes. The overtime, $13,000; benefits, $22,000.

Now, granted this does not represent just one individual. But let us say there are six masters for this billet. They he would make $16,000 a year, which is more than the mean family income of the average family of the United States.

This is a debate about cost containment. This is not about national security. Do not take my word for it: this is what the Department of Defense said. They have already said, as I said earlier in my remarks, that the issue of the two major U.S.-flag container ship operators disposing of their U.S.-flag fleets is primarily an economic policy issue rather than a national security issue, and should be treated accordingly. Hence, we are at this place today.

The Vice President's National Performance Review recommended preliminarily to get rid of the Jones Act, to get rid of cargo preference, to get rid of the antitrust exemption for maritime carrier conferences, which set rates and services, but then they relented and they said, "No, be kinder and gentler, have a commission." Yet we are agreeing to a new level of subsidy without having seen the report, without having had the Maritime Commission making this study public. And yet with all of that, Mr. PENNY and I only ask that we limit the growth of this to twice the world rate, a good deal by any standard.

This poor guy is only going to make $4,000 a month. That is what is at issue today, not whether or not we are going to fall prey to foreign nations whose merchant marines are stronger than ours or that somehow our national security is going to be submerged beneath this veil of subsidies.

I ask the people who have risen today and so strongly defended our military and our defense capability, where are they when we debate defense appropriation bills? Where are they when we are talking about new money for submarines and new money for troops and strategic defense initiative?

This is not about national security; this is about cost containment for Federal programs that have grown too big too fast and we have made a practice in this Congress finally in this session of cutting back on the growth of these programs.

Madam Chairman, I reiterate, agriculture has gone first and led the way; the honey program, the wool and mohair program, grazing fees. And there is more to come. We will no doubt start means testing commodity programs maybe in this session but surely in the next one. People in agriculture are prepared to do that. They have already downsized their burden.

Somebody talked earlier about the relative weight of agricultural subsidies versus merchant marine, when we know we make more than merchant marine, there are more of us. But when I came to the Congress, the average agriculture subsidy annually was about $52 billion a year; $26 billion a year to commodity programs. Now it is somewhere around $12 billion.

The rate of deceleration in agriculture outstrips all other cost-cutting programs in Congress.

Finally, let me just say that my friend from Texas [Mr. FIELDS] made

reference to the agreement on cargo preference that was forged in the 1985 farm bill. And I want to refer to that because this amendment in no way compromises that agreement.

The intent of that agreement in the 1985 farm bill was to establish a fair and equitable arrangement to allow the products to be shipped on the basis of the lowest landed cost by the most efficient means. That is what the Penny-Grandy amendment is trying to enforce.

But the present condition of the merchant marine in the United States is this: $44,000 a month for a sea captain.

Mr. PENNY. Madam Chairman, I yield back the balance of any time.

Mr. STUDDS. Madam Chairman, I yield myself such time as remains.

Madam Chairman, as a quick aside, I do not really believe anyone thinks that a master is paid $44,000 a month. If Members are interested, that number is achieved by taking the total cost of the maritime program and dividing by the number of personnel. By the same logic, you could take the total amount of money spent by the Department of Defense and divide that by the number of personnel and you come up with something like $125,000 for a soldier. Obviously, the arithmetic is faulty.

Madam Chair, his really is a historic moment; the future or whether or not there will be a future of the U.S. merchant marine is at stake. We have a President and we have the bipartisan leadership of this committee and this Congress, and bipartisan membership of this committee and this Congress determined that there will be a U.S.-flag merchant fleet and that there will be the capacity to build vessels for that fleet in this country.

Every maritime nation has a cargo preference law. We have a three-part effort here to try to revive the merchant fleet. One part is our maritime security payments; another part is our shipbuilding program; and the third leg of this is the cargo preference. You pull any of these legs out, and you destroy the program.

Consequently, though it may not be the intent of this amendment, it would indeed destroy the program.

The real question, Madam Chair, is whether or not this Nation is going to have a merchant marine. Is it conceivable that the world's only remaining superpower could find itself without a single vessel carrying its flag in international commerce on the high seas and without the capacity to build a single such vessel?

□ 1620

Madam Chairman, it is not only conceivable, that is predictable, if this Congress, if this President are not together successful in this legislation and its companion legislation in revitalizing the merchant marine.

In that event, Madam Chairman, the world's greatest superpower would be the world's greatest super patsy and it would be unthinkable for us to find ourselves in that position.

Madam Chairman, I yield to the unthinkably distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Madam Chairman, I thank the gentleman for yielding to me. I thank the gentleman for his presentation. The gentleman has said it all.

Madam Chairman, I rise in strong opposition to the amendment. It would destroy this bill that has been worked out and carefully crafted.

The gentleman's leadership has shown the way to I think reestablish the merchant marine fleet of this great United States of ours.

Without the three legs of this stool we have nothing. So I urge my colleagues to vote "no" on this amendment. All I can say, it is time to get on with the show and get this job done.

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Madam Chairman, the gentleman made a point that has not otherwise been put forward in the debate, and that is people think that only the United States has a cargo preference law.

The chairman noted that indeed our economic competitors, the French, the Koreans, the Chinese, the Japanese, all have cargo preference laws, that indeed if the amendment succeeded we would find ourselves not simply at a disadvantage, but disarmed in the competition for having merchant fleets carrying cargoes in the world.

Mr. STUDDS. Madam Chairman, I say to the gentleman, at comparable rates, we can compete with the French and the Germans. We have a little trouble matching the Bangladeshi rates.

Madam Chairman, I salute the bipartisan nature of the support for this bill, and I look forward to being here when we can say some day that the flags are flying both in our shipyards and on our vessels.

Mr. BONIOR. Madam Chairman, the real purpose of the Grandy-Penny amendment is not to cut shipping cuts. The real purpose of this amendment is to drive the American merchant marine out of business.

Mr. Speaker, if you read a history book about how America became the richest nation on Earth, it will tell you three things.

First, it will tell you that we got rich because we were blessed with some of the finest natural resources in the world.

Second, it will say we took those resources and combined them with the best-trained workforce in the world to produce the world's best products.

And third, it will tell you we could ship those products anywhere, because we had the best merchant marine on the planet.

We didn't rely on Panamanian vessels to ship our products. We didn't rely on Chinese tankers to carry our goods.

And we certainly didn't rely on Liberian ships to carry our military into battle.

We weren't at the mercy of foreign countries, foreign flags, or foreign ships.

We had the No. 1 merchant marine in the world. And that's what made us strong.

And if we're going to remain strong and be competitive in the global market, we can't afford to be at the mercy of foreign flags.

We've got to keep our commercial fleet strong.

Mr. Speaker, this amendment takes us in the wrong direction.

Over the past 30 years, we've let our competitive advantage erode. We've slipped from No. 1 in the world to No. 14.

Why? For one reason: Because we can't compete with subsidized foreign interests.

We can't modernize to stay ahead of the game. So we've fallen further behind.

Mr. Speaker, have you ever wondered why foreign flags always come in with such low bids?

The Australian Government wondered why.

Last year, the Australians looked into the shipping industry.

I think the name of the report says it all. It's called "Ships of Shame."

They found that the reason many foreign ships can bid low is because they ignore workers rights and safe working conditions.

Australia found that in the past 4 years, ships were so badly maintained that 44 ships and 342 lives have been lost at sea.

They found case after case where seafarers were abused and exploited by officers.

They found that many ships keep two pay books: one for official records, and one for lower, actual pay.

Mr. Speaker, no wonder many of these low-wage foreign-flag ships are registered under what are known as ships-of-convenience. Because these shipowners aren't complying with inconvenient health, safety, labor, and environmental standards.

Mr. Speaker, our maritime industry is more expensive because they are the safest, best-trained commercial fleet in the world.

That's the price you pay for quality.

Shouldn't we be on the side of safe ships and able crews, rather than selling out to the lowest bidder at any cost?

There are those who ask: Why is it so important to maintain a fleet? Why don't we just rely on the Germans or the Greeks?

I have a two-word answer for that question: *Eagle Nova.*

Two years ago, during the gulf war, we called on a German vessel called the *Eagle Nova* to ship supplies to our troops.

Do you remember what happened? They refused to go. The German ship wouldn't sail into the war zone.

Luckily, we had an American crew to call in. And they got the job done.

Mr. Speaker, that's just one incident.

But if we allow our maritime industry to disappear, there won't be an American ship to call on the next time. What do we do then?

I don't think the American people want to rely on Liberian vessels to carry our tanks and our ammunition into battle.

One of the reasons we need cargo preference laws is to make sure American ships are there when our military needs them.

This isn't just about national pride, Mr. Speaker, it's about national security.

If we don't continue to support our commercial fleet, I think we'll be giving away a vital part of America's security.

Mr. Speaker, for 200 years, America has been a maritime Nation. We became a great and powerful Nation in part because we had a strong merchant marine.

And we can't afford to abandon that great tradition now to save a few dollars in the short term. Because if we do, we're going to hurt this Nation for decades to come.

I urge my colleagues: Save our ships. Oppose this amendment. And support the bill.

Mr. ORTIZ. Madam Chairman, I rise in strong opposition to the Penny-Grandy amendment. I understand the intentions of my colleagues who are offering this amendment, but I do not believe it serves the purposes it intends.

Like most of my colleagues, I too believe that taxpayer-funded foreign aid cargo should be transported on American ships by American crews.

Furthermore, cargo preference provides an essential margin of cargo that allows U.S.-flag vessels to compete internationally, thus preserving and maintaining our merchant fleet and the vital defense and economic purposes that it serves.

The problem is that for our fleet to compete with foreign flags of convenience for the transport of these cargoes, at times, they need protection from our Government.

The American flag industry is the most heavily regulated in the world. Besides the costly health, safety, and environmental regulations that U.S.-flag vessels must comply with, our crews must be paid developed country wages. Federal and State income taxes alone nearly doubles the cost of using American crews.

This makes it very difficult for U.S. operators to compete with foreign flags of convenience that pay crewmembers roughly $18 a day.

Contrary to what my colleagues supporting this amendment are saying, U.S. carriers are not gouging the Government under this program, and placing caps on cargo preference rates will only serve to eliminate the ability of our fleet to continue to carry these cargoes.

The Secretary of Transportation already requires that cargoes and rates be fair and reasonable, otherwise foreign flagships may be used. H.R. 2151 goes on to require the adoption of proven commercial terms that will reduce regulatory burdens and lower the cost of the program.

Caps will only serve to propel foreign flag-of-convenience operators to undercut U.S. rates until U.S.-flag ships can no longer viably carry this cargo.

I urge my colleagues to oppose this amendment and to support this vital piece of legislation without further changes, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRANDY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 309, not voting 20, as follows:

[Roll No. 546]

AYES—109

Allard	Hamilton	Paxon
Archer	Hancock	Payne (VA)
Armey	Hansen	Penny
Bachus (AL)	Hastert	Peterson (MN)
Ballenger	Hilliard	Petri
Barrett (NE)	Hoagland	Porter
Barton	Hoekstra	Portman
Bereuter	Hoke	Poshard
Boehner	Houghton	Ramstad
Bonilla	Hyde	Roberts
Boucher	Istook	Roemer
Burton	Jacobs	Rohrabacher
Buyer	Johnson (SD)	Romero-Barcelo (PR)
Carr	Johnson, Sam	Roth
Castle	Kasich	Royce
Collins (GA)	Klug	Sensenbrenner
Combest	Knollenberg	Sharp
Condit	Kolbe	Shuster
Cooper	Kyl	Skeen
Costello	LaRocco	Skelton
Cox	Leach	Slattery
Crane	Lewis (FL)	Smith (IA)
Danner	Lightfoot	Smith (MI)
de la Garza	Linder	Smith (OR)
Deal	Long	Smith (TX)
DeLay	Manzullo	Stenholm
Durbin	McCandless	Stump
Emerson	McCloskey	Thomas (CA)
English (OK)	McHale	Thomas (WY)
Ewing	Meyers	Upton
Fawell	Minge	Walker
Glickman	Montgomery	Williams
Goodlatte	Myers	Young (FL)
Goodling	Nussle	Zeliff
Grams	Orton	Zimmer
Grandy	Oxley	
Gunderson	Parker	

NOES—309

Abercrombie	Collins (IL)	Gallegly
Ackerman	Collins (MI)	Gallo
Andrews (ME)	Conyers	Gejdenson
Andrews (NJ)	Coppersmith	Gekas
Andrews (TX)	Coyne	Gephardt
Applegate	Cramer	Geren
Bacchus (FL)	Crapo	Gibbons
Baker (CA)	Cunningham	Gilchrest
Baker (LA)	Darden	Gillmor
Barca	de Lugo (VI)	Gilman
Barcia	DeFazio	Gonzalez
Barlow	DeLauro	Gordon
Barrett (WI)	Dellums	Goss
Bartlett	Derrick	Green
Bateman	Deutsch	Greenwood
Becerra	Diaz-Balart	Hall (OH)
Bentley	Dickey	Hall (TX)
Bilbray	Dicks	Hamburg
Bilirakis	Dingell	Harman
Bishop	Dixon	Hastings
Blackwell	Doolittle	Hayes
Bliley	Dornan	Hefley
Blute	Dreier	Hefner
Boehlert	Duncan	Hinchey
Bonior	Dunn	Hobson
Borski	Edwards (CA)	Hochbrueckner
Brewster	Edwards (TX)	Holden
Brooks	Engel	Horn
Browder	English (AZ)	Hoyer
Brown (CA)	Eshoo	Huffington
Brown (FL)	Evans	Hughes
Brown (OH)	Everett	Hunter
Bryant	Farr	Hutchinson
Bunning	Fazio	Hutto
Byrne	Fields (LA)	Inglis
Callahan	Fields (TX)	Inhofe
Calvert	Filner	Inslee
Camp	Fingerhut	Jefferson
Canady	Fish	Johnson (CT)
Cantwell	Foglietta	Johnson (GA)
Cardin	Ford (MI)	Johnson, E. B.
Clay	Ford (TN)	Johnston
Clayton	Fowler	Kanjorski
Clement	Frank (MA)	Kennedy
Clinger	Franks (CT)	Kennelly
Clyburn	Franks (NJ)	Kildee
Coble	Frost	Kim
Coleman	Furse	King
Kingston	Neal (NC)	Slaughter
Kleczka	Norton (DC)	Smith (NJ)
Klein	Oberstar	Snowe
Klink	Obey	Solomon
Kopetski	Olver	Spence
Kreidler	Ortiz	Spratt
LaFalce	Owens	Stark
Lambert	Packard	Stearns
Lancaster	Pallone	Stokes
Lantos	Pastor	Strickland
Lazio	Payne (NJ)	Studds
Lehman	Pelosi	Stupak
Levin	Peterson (FL)	Sundquist
Levy	Pickett	Swett
Lewis (CA)	Pickle	Swift
Lewis (GA)	Pombo	Synar
Lipinski	Pomeroy	Talent
Livingston	Price (NC)	Tanner
Lloyd	Pryce (OH)	Tauzin
Lowey	Quillen	Taylor (MS)
Machtley	Quinn	Taylor (NC)
Maloney	Rahall	Tejeda
Mann	Rangel	Thompson
Manton	Ravenel	Thurman
Margolies-Mezvinsky	Reed	Torkildsen
Markey	Regula	Torres
Martinez	Reynolds	Torricelli
Mazzoli	Richardson	Towns
McCollum	Ridge	Traficant
McCrery	Rogers	Tucker
McDade	Ros-Lehtinen	Underwood (GU)
McDermott	Rose	Unsoeld
McInnis	Rostenkowski	Valentine
McKinney	Roukema	Velazquez
McMillan	Rowland	Vento
McNulty	Roybal-Allard	Visclosky
Meehan	Rush	Volkmer
Meek	Sabo	Vucanovich
Menendez	Sanders	Walsh
Mfume	Sangmeister	Washington
Mica	Santorum	Waters
Miller (CA)	Sarpalius	Watt
Miller (FL)	Sawyer	Waxman
Mineta	Saxton	Weldon
Mink	Schaefer	Wheat
Moakley	Schenk	Whitten
Molinari	Schiff	Wilson
Mollohan	Schroeder	Wise
Moorhead	Schumer	Wolf
Moran	Scott	Woolsey
Murphy	Serrano	Wyden
Murtha	Shaw	Wynn
Nadler	Shays	Yates
Natcher	Shepherd	Young (AK)
Neal (MA)	Sisisky	
	Skaggs	

NOT VOTING—20

Baesler	Flake	McHugh
Bellenson	Gingrich	McKeon
Berman	Gutierrez	Michel
Bevill	Herger	Morella
Chapman	Kaptur	Thornton
Dooley	Laughlin	
Faleomavaega (AS)	Matsui	
	McCurdy	

□ 1642

Mrs. THURMAN and Messrs. KIM, PALLONE, and HOBSON changed their vote from "aye" to "no."

Messrs. COSTELLO, BACHUS of Alabama, HOAGLAND, HILLIARD, GLICKMAN, and CARR of Michigan changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. POMEROY. Madam Chairman, the debate over cargo preference has long been one of the most rancorous and parochial in Congress. However, as the Representative from North Dakota, a State whose economy is dependent upon agriculture, I rise in opposition to the Penny-Grandy amendment to the Maritime Security and Competitiveness Act, H.R. 2151.

As a member of the Agriculture Committee, I am wholeheartedly committed to promoting U.S. agricultural exports. I also believe that it

is in the U.S. national interests to preserve a capable fleet of American-flagged, oceangoing vessels. Today, Members have the opportunity to support both, by voting against the Penny-Grandy amendment and preserving the cargo preference compromise.

Madam Chairman, the current cargo preference law written into the 1985 farm bill and reaffirmed in the 1990 farm bill, represents an important compromise designed to preserve the U.S. maritime shipping industry. The Penny-Grandy amendment would upset this compromise and would effectively eliminate the cargo preference program.

In the 1985 farm bill, the maritime industry agreed to the withdrawal of preference from commercially oriented agriculture promotion programs, such as the Export Enhancement Program, and the agriculture industry agreed to support the expansion of preference applicable to concessional food aid programs from 50 to 75 percent. Since 1985, concessional food aid programs have declined while commercially oriented agricultural promotion programs have increased dramatically. In 1985, the ratio of aid to commercial programs was 3 to 1. In 1992, that ratio jumped to 9 to 1. Further perspective is provided when you consider that only 4 percent of U.S. agricultural exports are transported on U.S.-flagged vessels.

Madam Chairman, despite what proponents of this amendment may tell you, cargo preference is not an either-or proposition—either you support U.S. agricultural exports or you support the U.S. maritime industry. I urge my colleagues to support both by voting against the Penny-Grandy amendment and preserving cargo preference.

Mr. BORSKI. Madam Chairman, I rise today to express my strong support for H.R. 2151, the Maritime Security and Competitiveness Act of 1993. This legislation is needed to reform the U.S. maritime industry, revive the U.S. shipbuilding industry, and preserve and create hundreds of thousands of good American jobs.

Madam Chairman, over the last few decades, our maritime industry has suffered a long, bitter decline. in 1960, the U.S. privately owned oceangoing merchant fleet ranked fourth in the world with over 1,000 ships. Today, the United States fleet consists of only 384 ships and is ranked 16th in the world behind countries like Cyprus, Liberia, Panama, Malta, and China. America also used to be the world's leader in shipbuilding—now we rank 24th in the world.

During this decline, the number of jobs in the maritime and shipbuilding industries dropped significantly. In 1981, our Nation's shipyards employed 186,700 men and women. Ten years later, 50 of these shipyards are no longer operating, and shipyard jobs fell to 129,300. Because of defense downsizing, 180,000 current shipbuilding jobs are at risk if nothing is done to reverse the decline.

Meanwhile, our foreign competitors have continued to engage in unfair trade practices. A September 1993 report issued by the U.S. Maritime Administration illustrates the extent to which other countries subsidize their merchant fleets. Of the 57 maritime countries studied by the report, 38 provide tax benefits, 23 practice cargo preference, 24 provide assistance through customs measures, 20 subsidize commercial vessel construction, and 15 provide export assistance. Without serious reform of our Nation's maritime promotion programs to enable the U.S.-flag fleet to compete successfully against these practices, our merchant marine may face extinction by the end of the decade.

H.R. 2151 gives Congress the opportunity to step forward and reverse the decline in the maritime industry. This legislation would authorize the Maritime Security Fleet Program to help offset the higher operating costs of U.S.-flag merchant vessels needed for the national and economic security of our country. It also authorizes the Series Transition Payments Program to assist the U.S. shipbuilding industry convert from building naval vessels to building commercial vessels.

H.R. 2151 will create and preserve jobs, while at the same time preserving the vital defense capability of this Nation. It will allow workers in the U.S. maritime and shipbuilding industries to compete on a level playing field with their foreign counterparts. On the other hand, failure to enact this measure will result in further decline and loss of jobs in the U.S. maritime and shipbuilding industries.

Madam Chairman, I am proud to be a cosponsor of H.R. 2151, and I commend Chairman STUDDS for his hard work on this effort. This legislation is essential for our country, and I urge my colleagues to support it.

Mr. SMITH of New Jersey. Madam Chairman, as a cosponsor of the Maritime Security and Competitiveness Act of 1993, I rise today to urge my colleagues to strongly support this necessary reform measure.

In 1960, there were over 1,000 privately owned U.S. merchant ships. Today, we are down to 384 U.S. ships. To continue to be an economic and military superpower, we must preserve and rebuild our oceangoing commercial fleet.

Without the swift enactment of this bill, thousands of jobs across the United States could be at-risk. Madam Chairman, the highly skilled and experienced jobs in shipbuilding and the maritime trades could be lost to foreign competitors if the U.S.-flagged merchant fleet ceases to exist. These jobs, and the infrastructure which supports our merchant marine, are vital to the long-term health of our economy. H.R. 2151 must be part of our strategy to preserve our merchant fleet and to protect American jobs.

In times of crisis, American-flagged ships, crewed by American citizens, are the most reliable and capable means of transporting military cargo. We learned these lessons during the gulf war, when foreign carriers refused to enter the Persian Gulf. Our U.S. merchant fleet, however, accepted its orders and moved vital military hardware into harms way without delay. H.R. 2151 can help ensure that our merchant marine remains on call for such emergencies.

Madam Chairman, H.R. 2151 will eliminate many of the burdensome regulations which increase cost for U.S.-flag ships and weaken our ability to compete with foreign carriers. I regret that these competitive disadvantages and certain unfair foreign trade practices will leave U.S. carriers no alternative. Without the added flexibility that is provided by this legislation, they will cease to operate or switch to foreign flags.

Madam Chairman, I hope Members understand that it would not be in the best interest of the United States if all of our imports and exports were carried by foreign ships. Since 95 percent of our trade is already transported by foreign ships, these overseas competitors can easily dictate shipping charges at will and could rapidly weaken our ability to compete in the global economy. At a time in history when international trade is becoming increasingly important, we cannot afford to shoot ourselves in the foot by allowing foreign shippers to handle all of our goods.

This is a bipartisan measure, supported by the entire U.S. merchant marine industry. It deserves your vote. It will help build confidence, and in turn, encourage greater private investment and modernization in the U.S. merchant marine.

Mrs. FOWLER. Madam Chairman, I rise today in support of the Maritime Security and Competitiveness Act of 1993, a bipartisan effort to reform this country's vessel operating subsidy program so that U.S.-flag vessels are able to compete in the international market.

H.R. 2151 would deregulate merchant vessel operations by eliminating many arduous requirements placed on American shipping companies in the mid-1930's.

It is crucial that we pass this legislation to preserve jobs in the maritime industry. Two American companies have already requested permission to reflag their ships to foreign registry in an attempt to become more competitive in the international marketplace. Thousands of American jobs would be lost if these companies reflagged and we would also lose our position as the world's largest maritime trading force.

I urge my colleagues to consider the consequences voting against H.R. 2151 would have on this country. The American shipbuilding industry has a major impact on both the national economy and regional employment. Unless we vote today to preserve our domestic shipbuilding industry, in the next 10 years over 189,000 American jobs could be lost forever.

Again, I urge my colleagues to vote in favor of the Maritime Security and Competitiveness Act of 1993, and saving our American maritime industry.

Mr. BARLOW. Madam Chairman, the Maritime Security and Competitiveness Act of 1993 was introduced by the bipartisan leadership of the Merchant Marine and Fisheries Committee and reported with bipartisan unanimous support on August 5. It is supported by the U.S. maritime industry and should be supported and adopted by the House of Representatives as reported.

H.R. 2151 does not mandate the expenditure of Federal funds. Rather, it puts in place a new statutory and regulatory framework for the U.S. merchant marine which will be implemented only when Congress and the administration agree on a funding level and mechanism. It is critically important to enact H.R. 2151 at this time so that decisions on funding can be made in the context of a new maritime policy.

The new maritime policy contained in H.R. 2151 represents a dramatic departure from business as usual for the U.S.-flag merchant marine. In fact, H.R. 2151:

Significantly increases operating flexibility for U.S. vessels, eliminating numerous unnecessary and outdated Government-imposed rules and regulations which increase costs to the vessel operator;

Significantly reduces the cost to the U.S. Government of supporting the U.S.-flag merchant marine by reducing and limiting the amount of subsidy available for each vessel; and

Significantly improves the efficiency and cost effectiveness of the existing cargo preference program by requiring the Government and the industry to adopt numerous administrative reforms.

H.R. 2151 achieves these and other equally important national economic and security objectives in the following ways:

It authorizes the creation of a maritime security fleet of U.S.-flag, U.S.-crewed vessels to enhance the sealift capability of the United States, to increase the competitiveness of U.S-flag vessel operations, and to preserve and create American maritime jobs.

It authorizes the Secretary of Transportation to enter into 10-year operating agreements with U.S.-flag vessel operators and to provide U.S. Government assistance to help U.S. vessels compete internationally.

It creates a new program for the construction of commercial vessels in U.S. shipyards. To facilitate the transition from military to commercial vessel construction and to respond to foreign shipbuilding subsidies, it authorizes the Secretary to award a series transition payment to American yards to equalize the cost between U.S. and foreign construction. If funds are unavailable, foreign-built vessels could operate under the new program.

It eliminates various regulatory provisions which decrease U.S.-flag vessel competitiveness, including the existing requirements that American vessels operate only on Government-approved trade routes; that vessels brought under the U.S. flag wait 3 years before having eligibility to carry Government cargoes; and that Government approval is necessary to replace one American flag vessel with another.

H.R. 2151 is bipartisan; it is comprehensive; and it is constructive. It will help rebuild our merchant marine and make it more competitive. H.R. 2151 deserves your strong support and the support of everyone concerned about America's maritime capability. It is vital to the future of America's maritime capability.

Mr. WALSH. Madam Chairman, I rise today in support of H.R. 2151. I support the bill because it will give us back some of the valuable shipyard and manufacturing jobs that America has lost over the last decade. About 50 shipyards have closed since 1981, resulting in the loss of 120,000 shipyard and shipyard supplier jobs. If that trend continues, combined with the decrease in U.S. Navy contracts, 180,000 jobs in the U.S. shipbuilding, ship repair, and manufacturing industries will also be lost. H.R. 2151 addresses the need to recapture the American shipbuilding jobs.

It goes without saying that we cannot afford to lose one more merchant mariner in this country. All the ships in the world don't mean anything if you do not have trained and, most important, loyal U.S. merchant mariners to man them. This is an American jobs bill, and I urge my colleagues to stand with me in support of H.R. 2151.

Mr. ENGEL. Madam Speaker, I rise in support of H.R. 2151, the Maritime Security and Competitiveness Act. This legislation is very important to the U.S. maritime industry.

It is very important for us to help maintain a viable U.S. merchant marine fleet. In the past 30 years, the number of U.S.-flagged vessels has gone from 51,000 to 9,150. The maritime industry is very important to the security of the United States and we must work to protect it. H.R. 2151 does this by providing a new vessel operating subsidy program under which operating assistance would be provided to help maintain an active commercial fleet of U.S.-flag ships.

Additionally, I rise in opposition to the Penny-Grandy amendment that would amend our cargo preference requirements. Currently, the Transportation Department can accept any U.S.-flag bid it considers to be fair and reasonable. Elimination of cargo preference will further hurt our shipping industry by making it harder for our ships to compete with foreign competitors. We are already being undercut by competitors who flag their ships in Third World countries and therefore pay extremely cheap labor.

It is important for us to maintain our maritime industry. We cannot afford to lose more maritime ships. I urge my colleagues to defeat the Penny-Grandy amendment and support the Maritime Security and Competitiveness Act.

Mr. TAUZIN. Madam Chairman, I rise in support of H.R. 2151 and urge its passage. Reform of our maritime support programs is vital for the continued maintenance and development of the U.S. merchant marine, the Nation's essential fourth arm of defense.

I also rise to clarify the purpose and effect of an amendment adopted without dissent that I offered during markup, and to put in context a related section of the bill.

Under title V of the Merchant Marine Act, 1936, the Government has provided construction differential subsidy to allow U.S.-built vessels to compete with lower cost foreign-built vessels in the foreign trades. As a condition of receiving that subsidy, section 506 of the 1936 act requires that such vessels operate exclusively in the foreign trades, with certain limited exceptions incidental to foreign service. In enacting this provision, Congress believed it would be a waste of Federal tax dollars as well as fundamentally unfair to allow the subsidized vessels to operate in the domestic trades, which, under the Jones Act, are reserved solely for unsubsidized, U.S.-flag vessels.

Some debate has arisen as to whether the foreign trading obligation expires when a subsidized vessel has reached a specified age or whether it continues for the entire economic life of the vessel. H.R. 2151 does not amend the basic text of section 506. Two provisions of the bill, however, do alter the specific application of the existing section 506 restrictions for two groups of vessels.

The first provision appears in section 4 of the bill, which adds a new subsection (b) to section 506. The ODS contracts on most CDS tankers and dry bulk vessels expire when they reach 20 years of age. For CDS tankers and dry bulk vessels built in series, however, their ODS contracts expire 20 years from the delivery of the first members of the series, with the result that later vessels in the series are left without subsidy although they have not reached the age of 20. As originally drafted, the bill in addressing this problem would have had the unintentional consequence of completely removing the foreign trading obligation from all CDS-built tankers and dry-bulk cargo vessels as soon as their ODS contracts expire. My amendment, adopted without dissent by the committee, places CDS tankers and dry bulk vessels built in a series on a par with other CDS tankers and dry bulk vessels reaching that age are free to leave the foreign trade. As the committee report emphasizes, that issue is to be decided on the basis of the original congressional intent. In short, as adopted my amendment does not alter the original foreign trading restrictions of section 506.

The second provision adds a new section 512 to the 1936 act. The new section would, among other things, eliminate the foreign trading restrictions of section 506 for CDS-built liner vessels when they reach 25 years of age. The committee's report makes clear that this section does not change or otherwise affect the applicability of these restrictions to other vessels, such as tankers, or to liner vessels themselves if this section is not enacted into law. The removal of the foreign trading restrictions for liners was part of a compromise agreed to by the various segments of the liner industry, both subsidized foreign trade operators and unsubsidized domestic trade operators, which places definite offsetting limitations on entry into the noncontiguous domestic trades by operators of vessels enrolled in the new operating subsidy program established under section 3 of the bill. As the committee report emphasizes, section 5 is not intended to otherwise alter the existing scope of the foreign trading restrictions.

Mr. BEREUTER. Madam Chairman, this Member strongly opposes H.R. 2151, the Maritime Security and Competitiveness Act of 1993. This legislation is the continuation of a failed maritime policy, which—to quote a recent op-ed article from the Journal of Commerce—hurts our "economy and punishes consumers, producers, exporters, importers and taxpayers. Present Maritime policy, in fact, is a hodgepodge of subsidies, protectionism, regulation and taxation that makes a mockery of sensible industrial policy."

This legislation unjustifiably claims that Congress supports one aspect of this legislation, the cargo preference program, because it is critical to the economic and national security of the United States and because it encourages competition among U.S.-flag vessels. Mr. Chairman, such a claim could be believed only by a ship of fools.

Madam Chairman, cargo preference does not promote competition; instead, it eliminates competition by guaranteeing the 75 percent of U.S. food assistance be shipped on U.S.-flagged ships. In April, immediately after President Clinton offered $700 million in food assistance to Russia, United States shippers doubled or tripled their normal shipping rates. In many circumstances, U.S. rates exceeded world rates by 300 to 500 percent. This egregious price gouging of the U.S. Government

denied needy Russians essential agricultural commodities and ended up costing the U.S. taxpayer $100 million in hidden subsidies.

Madam Chairman, this spring, the Journal of Commerce reported that United States transportation costs now exceed the value of grain shippedto Africa. It stated that approximately $450 million of grain cost $488 million to transport from the United States to the starving and malnourished people of the African continent. Clearly, these two dramatic examples of food shipments to Russia and Africa reveal that real maritime reform is necessary.

Earlier this year, Vice President GORE's National Performance Review task force recognized the need for real reform and recommended the end to Federal subsidies and the complete deregulation of the maritime industry. Unfortunately, this legislation ignores Vice President GORE's recommendation to achieve real maritime reform. Rather, it only ensures that "America's welfare queen fleet"—a phrase used by a former Maritime Commissioner—will remain at the trough of the Federal Treasury for years to come.

Fortunately, Madam Chairman, my distinguished colleagues from Iowa, Representative GRANDY and Minnesota Representative PENNY have offered today a reasonable and commonsense amendment to this terrible legislation. While this Member believes it does not go far enough, this amendment renders a disastrous policy less harmful. Most importantly, this amendment limits the transportation costs of government mandated cargoes to twice the world competitive rate and it gives the Secretary of Transportation the authority to waive cargo preference requirements if U.S. vessels are not available to service a port. Finally, this amendment would help to ensure that United States taxpayers are not paying for the exorbitant price gouging we witnessed in food aid shipments to Russia.

For these reasons, this Member strongly supports the Penny-Grandy amendment to the Maritime Security and Competitiveness Act of 1993. This Member urges his colleagues to also support this reasonable amendment.

Ms. FURSE. Madam Chairman, I rise today in strong support of H.R. 2151, the Maritime Security and Competitiveness Act. I want to thank all the members and staff of the Merchant Marine and Fisheries Committee for their hard work on this bill, particularly Chairman STUDDS and the chair of the Merchant Marine Subcommittee, Mr. LIPINSKI. I am a proud original cosponsor of H.R. 2151. As a member of the Armed Services Committee as well as having the honor of serving on the Merchant Marine and Fisheries Committee, I know how important it is to our national security to preserve and enhance our sealift force, and maintain an international commercial transportation capability. H.R. 2151 is designed to address two gaping holes in the security of America: one in our defensive structure and one in our economic base.

As a Congresswoman from Oregon, I don't have to tell you how important the maritime industry is to my community. The coastal areas and the Columbia River are a vital cog in the local economy of my district, as well as playing a huge role in the heritage of the region. The people who make their living in the merchant marine have a proud heritage of maritime tradition that dates back to the earlier days of our country. There are thousands of people who have lost their jobs, and thousands more still struggling to make ends meet as a result of the massive decline the maritime industry has suffered since the neglect which began in 1981. To all Members of this House, particularly my freshman colleagues who may be unfamiliar with the importance of this legislation, let me tell you one, crystal clear fact: We must design and put in place a sensible maritime policy, and we must do it soon or there won't be a maritime industry left to salvage. The legislation before us today is a first step in saving one of America's most precious resources—her domestic shipyards and her U.S.-flag merchant marine.

The Maritime Security and Competitiveness Act addresses the challenges facing the maritime industry through a number of means, and will preserve and create jobs for American seafaring and shipbuilding workers. The establishment of the Maritime Security Fleet and implementation of a new, temporary shipbuilding subsidy will make a real difference in this vital industry—one we desperately need to compete in the global marketplace. Frankly, I am astonished at the logic of people who seem to think that international trade can grow, or our national defense will be strong, without the means to transport goods or other supplies overseas.

Other provisions of H.R. 2151 also give U.S.-flag operators more flexibility with respect to trade routes, and does not increase the scope or coverage of existing U.S.-flag shipping cargopreference requirements. H.R. 2151 makes a number of administrative reforms in the cargo preference requirements to increase efficiencies and ultimately reduce costs. These reforms are long overdue.

On a side note, I am happy that the President has sat down with Chairman STUDDS and Senator BREAUX to deal with maritime policy. We need leadership from the White House to face the challenges before all of us, and I am very pleased that the President has agreed to address maritime policy reform and has taken action with their October 1 report.

As a member who serves on both the Merchant Marine and the Armed Services Committees, I can not understate the importance of this legislation to our national economic and defensive security. The jobs of people who have worked in the maritime industry for years, their families, and the communities they live in is at stake, as is the national security of having goods moved on U.S. shipping whether in peace or war time. We must wait no longer.

The Maritime Security and Competitiveness Act is important because it represents a good step toward achieving some type of real progress in this area, progress that can have a real, identifiable impact on people's future. Too often, we spend our time arguing about the past. I'm not interested in arguing about the past; I am interested in solutions. H.R. 2151 is a solution—a real solution. I compliment the committee for their hard work on this important legislation, and I urge my colleagues to support H.R. 2151, the Maritime Security and Competitiveness Act.

Mr. GEPHARDT. Madam Chairman, I rise today in support of H.R. 2151, the Maritime Security and Competitiveness Act of 1993. This legislation will preserve and create jobs for American seafaring and shipbuilding workers and preserve a vital U.S.-based sealift capability. In addition, it will increase the competitiveness of the U.S.-flag commercial fleet in the export and import trades. It will help assure our Nation that commodities and material necessary to our economic and defense security can be carried by American-flag vessels crewed by American citizens.

Inaction will only accelerate the decline of the American maritime industry. The number of U.S. ships in the merchant marine has been reduced over the last two decades from 798 to 385. In 1960, the United States ranked fourth in the world with over 1,000 ships. In 1993, the United States ranks 16th. From 1965 to 1992, the number of jobs on large, privately owned, oceangoing U.S.-flag vessels decreased from about 51,000 to just over 9,150.

This bill represents a constructive departure from business as usual for the U.S. merchant marine. It reduces costs incurred by the Federal Government and establishes a new maritime policy. H.R. 2151 promotes deregulation, efficiency, and competitiveness in the American merchant marine industry.

Since 1936, the Federal Government has provided operating subsidies to the U.S. merchant marine to help maintain a viable U.S.-flag fleet. These payments help offset the higher costs of operating vessels under the U.S. flag compared to foreign flags. Existing contracts under the Operating Differential Subsidy Program begin to expire in 1995.

Just as Federal assistance for construction of ships in U.S. shipyards was terminated in 1981, foreign governments began instituting generous subsidies for their shipyards. As a result, orders for commercial vessels in U.S. shipyards have virtually disappeared. In fact, as of September 1, only one privately owned vessel of over 1,000 gross tons was under construction in a U.S. shipyard. Fifty U.S. shipyards have closed since 1981 and 120,000 shipyard and shipyard supplier jobs have been lost. This bill will help restore American jobs by encouraging companies to build their ships in the United States.

Two new programs for the U.S. maritime industry, the Maritime Security Fleet and the Series Transition Payment Program are included in this legislation to address the problems in the maritime industry. The Maritime Security Fleet provisions are designed to offset the higher operating costs of U.S. vessels needed for national and economic security and eliminate many burdensome and outdated requirements first established in 1936. For example, currently, American shippers must follow specific trade routes without deviation, even if additional ports would make economic sense. This legislation will significantly increase the operating flexibility for U.S. vessels and make their operation more efficient.

The new Maritime Security Fleet program is designed to replace the existing Operating Differential Subsidy program. Like the current Operating Differential Subsidy [ODS] program, vessels receiving assistance would be prohibited from operating in the domestic trades. The bill authorizes the Secretary of Transportation to enter into 10-year operating agreements with U.S.-flag vessel operators and to

provide U.S. Government assistance to help U.S. vessels compete internationally. This program will help promote American shipbuilding and will assist in maintaining our existing shipyards.

The Series Transition Payment Program will assist American shipyards in building world-class commercial vessels and will reduce the cost to the U.S. Government of supporting the U.S.-flag merchant marine by reducing and limiting the amount of subsidy available. Under this program, U.S. shipyards would receive declining Federal payments for the construction of ships that are built and sold as part of a continuing series of a standard design. Studies of shipyard construction practices have shown there is a learning curve which is achieved when a yard builds a number of ships of the same design. The bill establishes a new program for the construction of commercial vessels in U.S. shipyards and facilitates the transition from military to commercial vessel construction.

The American merchant marine industry is critical to our Nation's national security. Foreign-flag ships are not always reliable. During the Vietnam war and the 1973 Arab-Israeli conflict, foreign-flag ships routinely refused to carry American military cargoes. During the Gulf war, a number of foreign-flag vessels refused to enter the Persian Gulf. We need a ready merchant marine to serve in times of national emergency. This bill assures us of a reliable, well-trained and prepared merchant marine.

H.R. 2151 is good for American workers, for the American maritime industry and for the American people. I urge support of this bipartisan bill.

Mrs. CLAYTON. Mr. Speaker, I rise in support of H.R. 2151, the Maritime Security and Competitiveness Act. We all know that the U.S. Merchant Marine is in a serious state of decline in the United States. Because of our strict regulations, laws, and labor standards, U.S.-flag vessels have a difficult time competing with the so-called "flag-ships of convenience." From 1965 to the end of 1992, the number of jobs on large, privately-owned, oceangoing U.S.-flag vessels decreased from about 51,000 to just over 9,150. At the same time, the number of U.S.-flag vessels operating in U.S. foreign trade decreased from 620 to a low of 151 ships.

There are also difficulties which confront our American shipbuilders. Since 1981, nearly 50 U.S. shipyards have been closed amounting to 120,000 shipyard and shipyard supplier jobs. In spite of the economic difficulties we are coping with in this country, we cannot afford to lose additional high skilled jobs. Moreover, U.S. policymakers must attempt to save this dwindling industrial base which is significant to our strategic economic interest.

This legislation is effective at addressing the current problems associated with the Government subsidies program provided to the U.S. ship industry by innovatively planning for the future. At the same time, this legislation has been crafted to take into account other circumstances relating to the health of the industry. By establishing a new vessel operating subsidy program, the Maritime Security Fleet Program, this legislation accounts for the appropriate security needs of our country as well as establishing reasonable criteria.

Despite the critics, it is important for the United States to retain this industry which has left such an indelible mark on our economic and cultural history. Dozens of communities in our Nation are still dependent on a thriving U.S. shipping industry.

Finally, let us keep in mind the years of service of my predecessor, the late Representative Walter Jones, Sr. Chairman Jones worked diligently for the interest of our U.S. merchant marine and the Nation's shipbuilding industry. I believe that he would be proud of this legislation.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore. (Mr. SWIFT) having assumed the chair, Ms. BYRNE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2151) to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet Program, and for other purposes, pursuant to House Resolution 289, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 347, noes 65, not voting 21, as follows:

[Roll No. 547]

AYES—347

Abercrombie	Bentley	Brown (OH)	Clinger	Inslee	Peterson (MN)
Ackerman	Bilbray	Bryant	Clyburn	Istook	Pickett
Andrews (ME)	Bilirakis	Bunning	Coble	Jefferson	Pickle
Andrews (NJ)	Bishop	Buyer	Coleman	Johnson (CT)	Pombo
Andrews (TX)	Blackwell	Byrne	Collins (IL)	Johnson (GA)	Pomeroy
Applegate	Bliley	Callahan	Collins (MI)	Johnson (SD)	Portman
Bacchus (FL)	Blute	Calvert	Conyers	Johnson, E. B.	Poshard
Baker (CA)	Boehlert	Camp	Cooper	Johnston	Price (NC)
Baker (LA)	Boehner	Canady	Coppersmith	Kanjorski	Pryce (OH)
Ballenger	Bonior	Cantwell	Costello	Kasich	Quillen
Barca	Borski	Cardin	Coyne	Kennedy	Quinn
Barcia	Boucher	Carr	Cramer	Kennelly	Rahall
Barlow	Brewster	Castle	Crapo	Kildee	Rangel
Barrett (WI)	Brooks	Chapman	Cunningham	King	Ravenel
Bartlett	Browder	Clay	Danner	Kingston	Reed
Bateman	Brown (CA)	Clayton	Darden	Kleczka	Regula
Becerra	Brown (FL)	Clement	de la Garza	Klein	Reynolds
			Deal	Klink	Richardson
			DeFazio	Kopetski	Ridge
			DeLauro	Kreidler	Roemer
			Dellums	Kyl	Rogers
			Derrick	LaFalce	Ros-Lehtinen
			Deutsch	Lambert	Rose
			Diaz-Balart	Lancaster	Rostenkowski
			Dicks	Lantos	Roukema
			Dingell	LaRocco	Rowland
			Dixon	Lazio	Roybal-Allard
			Doolittle	Lehman	Rush
			Duncan	Levin	Sabo
			Dunn	Levy	Sanders
			Durbin	Lewis (CA)	Sangmeister
			Edwards (CA)	Lewis (FL)	Santorum
			Edwards (TX)	Lewis (GA)	Sarpalius
			Emerson	Linder	Sawyer
			Engel	Lipinski	Saxton
			English (AZ)	Livingston	Schaefer
			English (OK)	Lloyd	Schenk
			Eshoo	Long	Schiff
			Evans	Lowey	Schroeder
			Everett	Machtley	Schumer
			Ewing	Maloney	Scott
			Farr	Mann	Serrano
			Fazio	Manton	Shaw
			Fields (LA)	Margolies-Mezvinsky	Shays
			Fields (TX)		Shepherd
			Filner	Markey	Sisisky
			Fingerhut	Martinez	Skaggs
			Fish	Mazzoli	Skeen
			Foglietta	McCandless	Skelton
			Ford (MI)	McCloskey	Slattery
			Ford (TN)	McCollum	Slaughter
			Fowler	McCrery	Smith (NJ)
			Frank (MA)	McDade	Smith (OR)
			Franks (CT)	McDermott	Snowe
			Franks (NJ)	McHale	Solomon
			Frost	McInnis	Spence
			Furse	McKinney	Spratt
			Gallegly	McMillan	Stark
			Gallo	McNulty	Stearns
			Geidenson	Meehan	Stokes
			Gekas	Meek	Strickland
			Geren	Menendez	Studds
			Gibbons	Meyers	Stupak
			Gilchrest	Mfume	Sundquist
			Gillmor	Mica	Swett
			Gilman	Michel	Swift
			Gingrich	Miller (CA)	Synar
			Glickman	Miller (FL)	Talent
			Gonzalez	Mineta	Tanner
			Gordon	Mink	Tauzin
			Goss	Moakley	Taylor (NC)
			Green	Molinari	Tejeda
			Greenwood	Mollohan	Thomas (CA)
			Gunderson	Montgomery	Thompson
			Hall (OH)	Moran	Thurman
			Hamburg	Murphy	Torkildsen
			Hastings	Murtha	Torres
			Hayes	Myers	Torricelli
			Hefley	Nadler	Traficant
			Hefner	Natcher	Tucker
			Hilliard	Neal (MA)	Unsoeld
			Hinchey	Neal (NC)	Valentine
			Hobson	Oberstar	Velazquez
			Hochbrueckner	Obey	Vento
			Holden	Olver	Visclosky
			Horn	Ortiz	Volkmer
			Houghton	Orton	Vucanovich
			Hoyer	Owens	Walsh
			Huffington	Packard	Washington
			Hughes	Pallone	Waters
			Hunter	Parker	Watt
			Hutchinson	Pastor	Waxman
			Hutto	Payne (NJ)	Weldon
			Hyde	Payne (VA)	Wheat
			Inglis	Pelosi	Whitten
			Inhofe	Peterson (FL)	Williams

Wilson	Woolsey	Young (AK)
Wise	Wynn	Young (FL)
Wolf	Yates	Zeliff

NOES—65

Allard	Hall (TX)	Penny
Archer	Hamilton	Petri
Armey	Hancock	Porter
Bachus (AL)	Hansen	Ramstad
Barrett (NE)	Hastert	Roberts
Barton	Hoagland	Rohrabacher
Bereuter	Hoekstra	Roth
Bonilla	Hoke	Royce
Burton	Jacobs	Sensenbrenner
Collins (GA)	Johnson, Sam	Sharp
Combest	Kim	Shuster
Condit	Klug	Smith (IA)
Cox	Knollenberg	Smith (MI)
Crane	Kolbe	Smith (TX)
DeLay	Leach	Stenholm
Dornan	Lightfoot	Stump
Dreier	Manzullo	Taylor (MS)
Fawell	Minge	Thomas (WY)
Goodlatte	Moorhead	Upton
Goodling	Nussle	Walker
Grams	Oxley	Zimmer
Grandy	Paxon	

NOT VOTING—21

Baesler	Gephardt	McCurdy
Bellenson	Gutierrez	McHugh
Berman	Harman	McKeon
Bevill	Herger	Morella
Dickey	Kaptur	Thornton
Dooley	Laughlin	Towns
Flake	Matsui	Wyden

□ 1703

Mr. ISTOOK changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MORELLA. Mr. Speaker, I was unable to vote on rollcalls 544, 545, 546, and 547 because of a death in the family. Had I been present, I would have voted "nay" on rollcall 544, "nay" on rollcall 545, "nay" on rollcall 546, and "yea" on rollcall 547.

APPOINTMENT OF CONFEREES ON H.R. 2202 BREAST AND CERVICAL CANCER AMENDMENTS OF 1993

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

Mr. Speaker, this request has been cleared by the minority.

The SPEAKER pro tempore (Mr. SWIFT). Is there objection to the request of the gentleman from Michigan?

Mr. BLILEY. Mr. Speaker, reserving the right to object, and I shall not object, I rise to state that we have no objection to this.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. DINGELL, WAXMAN, KREIDLER, MOORHEAD, and BLILEY.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2205, TRAUMA CARE SYSTEMS AMENDMENTS OF 1993

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2205) to amend the Public Health Service Act to revise and extend programs relating to trauma care, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

Mr. Speaker, this request has been cleared by the minority.

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

Mr. BLILEY. Mr. Speaker, reserving the right to object, I shall not object, and I rise to state that we have no problem with this request.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. DINGELL, WAXMAN, SYNAR, MOORHEAD, and BLILEY.

There was no objection.

LIMITING TO A CERTAIN DATE APPLICABILITY OF PROVISIONS OF SECTION 7 OF THE WAR POWERS RESOLUTION TO HOUSE CONCURRENT RESOLUTION 170

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the provisions of section 7 of the War Powers Resolution (50 U.S.C. 1546) shall apply to House Concurrent Resolution 170 only on the legislative day after the legislative day of Monday, November 8, 1993, but on the same terms as would have adhered on November 8, 1993, unless otherwise provided by subsequent order of the House.

Mr. Speaker, this request has been cleared through the minority.

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

Mr. GILMAN. Reserving the right to object, Mr. Speaker, and I do not intend to object, I simply want to indicate that I fully support this request of the chairman because it is designed to protect my rights under the War Powers Act to call up my resolution on Tuesday should the rule not be considered or adopted on Monday.

I am grateful to the chairman for his courtesy and fairness he has shown in ensuring that the Somalia resolution is considered under a procedure that will give the House a clear choice and vote on the two alternative versions of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT, FRIDAY, NOVEMBER 5, 1993, TO FILE REPORT ON HOUSE CONCURRENT RESOLUTION 170

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be authorized to file a report on House Concurrent Resolution 170 at any time before midnight on the evening of Friday, November 5, 1993.

Mr. Speaker, this request has been cleared through the minority.

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

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, and I merely wish to express my support for the chairman's request.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

REREFERRAL OF A CERTAIN COMMUNICATION OF THE PRESIDENT OF THE UNITED STATES FROM THE COMMITTEE ON WAYS AND MEANS TO THE COMMITTEE ON FOREIGN AFFAIRS

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that House Document 103-153, a communication from the President of the United States transmitting notification of the deployment of U.S. Naval Forces to participate in the implementation of the petroleum and arms embargo of Haiti, be rereferred from the Committee on Ways and Means to the Committee on Foreign Affairs.

Mr. Speaker, this request has been cleared by the minority.

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

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, and I merely rise to express support for the request of the gentleman from Indiana [Mr. HAMILTON].

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

UNITED STATES GRAIN STANDARDS ACT AMENDMENTS OF 1993

Mr. DE LE GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1490) to amend Public Law 100-518 and the United States Grain Standards Act to extend the authority of the Federal Grain Inspection Service to collect fees to cover administrative and supervisory costs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. ROBERTS. Mr. Speaker, reserving the right to object, and I do not plan to object, but I would like to engage the distinguished and conservative gentleman from Texas [Mr. DE LA GARZA] in a brief colloquy.

Mr. Speaker, I would ask the gentleman, does this bill address the issue of water as a method of dust suppression?

Mr. DE LA GARZA. Will the gentleman yield, Mr. Speaker?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding to me.

The answer is no, Mr. Speaker, the bill is silent on this issue. The committee plans on asking the Office on Technology Assessment to conduct a study of the issue, and we expect that the USDA would consider their findings in the development of a policy on this issue.

Mr. Speaker, let me briefly explain the intent of our motion and the provisions in the bipartisan substitute we offer to S. 1490.

In late September the House and the Senate passed separate bills to reauthorize the Federal Grain Inspection Service [FGIS] and improve its activities. The House approved H.R. 2689, as amended, under suspension of the rules. The next day the Senate passed S. 1490, as amended, by voice vote. Most of the provisions of the two bills are similar.

There are, however, a handful of substantive differences. The substitute to S. 1490 extends a compromise to the other body with respect to certain provisions.

The substitute authorizes appropriations and extends other expiring provisions of the U.S. Grain Standards Act through fiscal year 2000; in other words, a 7-year reauthorization period. The House bill provided for only a 5-year reauthorization. The Senate bill had a 10-year reauthorization.

The substitute incorporates the Senate bill's provisions requiring the agency to develop and carry out a comprehensive cost containment plan. The purpose of this plan is to streamline and maximize the efficiency of the operations of FGIS to help minimize taxpayer expenditures and user fees.

Mr. Speaker, let me make clear that the substitute does not include provisions of the Senate-passed bill that would authorize FGIS to establish a permit system to allow grain handlers to use water to suppress grain dust.

The question of whether Congress should, by statute, allow or prohibit the use of water to suppress grain dust has been an issue of considerable controversy in the grain industry and during our Agriculture Committee deliberations. After thoroughly reviewing the pros and cons of this practice, alternative grain suppression practices, and the regulatory options available, it was the House Agriculture Committee's determination that the most appropriate course of action for Congress is to allow the agency to exercise its current regulatory authorities to deal with this issue. In other words, Congress should not micromanage in this situation.

That is why the substitute to S. 1490, as was the case with the original House-passed bill, leaves undisturbed the rulemaking process currently underway at the agency. I can assure my colleagues who have heard from farmers and from grain companies in their districts that the Committee on Agriculture and our subcommittees intend to closely monitor the agency's actions on this issue.

Mr. Speaker, we believe the substitute offers a reasonable compromise on the issues outstanding between the two bills while maintaining the House position that Congress should not, at this point, interfere in the agency's rulemaking process with respect to the use of water in grain dust suppression. I urge passage of S. 1490, as amended by the House substitute.

Mr. ROBERTS. I thank the gentleman for this clarification, Mr. Speaker, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1490

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "United States Grain Standards Act Amendments of 1993".

(b) REFERENCES TO UNITED STATES GRAIN STANDARDS ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the United States Grain Standards Act (7 U.S.C. 71 et seq.).

SEC. 2. EXTENSION OF AUTHORITY TO COLLECT FEES TO COVER ADMINISTRATIVE AND SUPERVISORY COSTS.

(a) IN GENERAL.—Section 2 of the United States Grain Standards Act Amendments of 1988 (Public Law 100-518; 7 U.S.C. 79 note) is amended by striking "1993" and inserting "2003".

(b) LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS.—Section 7D (7 U.S.C 79d) is amended—

(1) by striking "inspection and weighing" and inserting "services performed"; and

(2) by striking "1993" and inserting "2003".

(c) REAUTHORIZATION OF APPROPRIATIONS.—Section 19 (7 U.S.C. 87h) is amended by striking "1993" and inserting "2003".

SEC. 3. COMPREHENSIVE COST CONTAINMENT PLAN.

Section 3A (7 U.S.C. 75a) is amended—

(1) by redesignating the first through fourth sentences as subsections (a) through (d), respectively; and

(2) by adding at the end the following new subsection:

"(e)(1) The Administrator shall develop and carry out a comprehensive cost containment plan to streamline and maximize the efficiency of the operations of the Service, including standardization activities, in order to minimize taxpayer expenditures and user fees and encourage the maximum use of official inspection and weighing services at domestic and export locations.

"(2) Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit a report that describes actions taken to carry out paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 4. USE OF INSPECTION AND WEIGHING FEES, AND OFFICIAL INSPECTION AND WEIGHING IN CANADIAN PORTS.

(a) INSPECTION AUTHORITY.—Section 7 (7 U.S.C. 79) is amended—

(1) in subsection (f)(1)(A)(vi), by striking "or other agricultural programs"; and

(2) in the second sentence of subsection (i), by inserting before the period at the end the following: "or as otherwise provided by agreement with the Canadian Government".

(b) WEIGHING AUTHORITY.—Section 7A (7 U.S.C. 79a) is amended—

(1) in the second sentence of subsection (c)(2), by inserting after "shall be deemed to refer to" the following: " 'official weighing' or";

(2) in the second sentence of subsection (d), by inserting before the period at the end the following: "or as otherwise provided by agreement with the Canadian Government"; and

(3) in the first sentence of subsection (i), by inserting before the period at the end the following: "or as otherwise provided in section 7(i) and subsection (d)".

SEC. 5. PILOT PROGRAM FOR PERFORMING INSPECTION AND WEIGHING AT INTERIOR LOCATIONS.

(a) INSPECTION AUTHORITY.—Section 7(f)(2) (7 U.S.C. 79(f)(2)) is amended by inserting before the period at the end the following: ", except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 2".

(b) WEIGHING AUTHORITY.—The second sentence of section 7A(i) (7 U.S.C. 79a(i)) is amended by inserting before the period at the end the following: ", except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 2".

SEC. 6. LICENSING OF INSPECTORS.

Section 8 (7 U.S.C. 84) is amended—

(1) in subsection (a)—

(A) in paragraph (1) of the first sentence, by inserting after "and is employed" the following: ", or is supervised under a contractual arrangement,"; and

(B) in the second sentence, by striking "No person" and inserting "Except as otherwise

provided in sections 7(i) and 7A(d), no person";

(2) in the first proviso of subsection (b), by striking "independently under the terms of a contract for the conduct of any functions involved in official inspection" and inserting "under the terms of a contract for the conduct of any functions"; and

(3) in subsection (d)—

(A) by inserting after "Persons employed" the following: "or supervised under a contractual arrangement"; and

(B) by inserting after "including persons employed" the following: "or supervised under a contractual arrangement".

SEC. 7. PROHIBITED ACTS.

(a) IN GENERAL.—Section 13(a) (7 U.S.C. 87b(a)) is amended by striking paragraph (11) and inserting the following new paragraph:

"(11) violate section 5, 6, 7, 7A, 7B, 8, 11, 12, 16, or 17A;".

(b) ADDING WATER TO GRAIN.—Section 13(d) is amended by adding at the end the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no person shall add water to grain for purposes other than milling, malting, or other processing or pest control operations.

"(B)(i) Subject to clause (ii), the Administrator shall allow, through the issuance of permits, the addition of water to grain to suppress grain dust unless the Administrator determines that the addition of water materially reduces the quality of the grain or impedes the objectives of this Act.

"(ii) The Administrator may charge a reasonable fee to recover the administrative and enforcement costs of carrying out clause (i). Fees collected under this subparagraph shall be deposited into the fund created by section 7(j).".

SEC. 8. CRIMINAL PENALTIES.

Section 14(a) (7 U.S.C. 87c(a)) is amended—

(1) by striking "shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for subsequent offense subject to this subsection, such person"; and

(2) by inserting after "$20,000" the following: "(or, in the case of a violation of section 13(d)(4)(A), $50,000)".

SEC. 9. REPORTS, TESTING OF INSPECTION AND WEIGHING EQUIPMENT, OTHER SERVICES, AND APPROPRIATE COURTESIES TO REPRESENTATIVES OF FOREIGN COUNTRIES.

Section 16 (7 U.S.C. 87e) is amended—

(1) in subsection (b), by striking the third sentence; and

(2) by adding at the end the following new subsections:

"(g)(1) Subject to paragraphs (2) and (3), the Administrator may provide for the testing of weighing equipment used for purposes other than weighing grain in accordance with such regulations as the Administrator may prescribe, at a fee established by regulation or contractual agreement.

"(2) Testing performed under paragraph (1) may not conflict with or impede the objectives of this Act.

"(3) Fees collected under paragraph (1) shall be reasonable and shall cover, as nearly as practicable, the estimated costs of the testing. The fees shall be deposited into the fund created by section 7(j).

"(h)(1) Subject to paragraphs (2) and (3), the Administrator may provide for the testing of grain inspection instruments used for commercial inspections in accordance with such regulations as the Administrator may prescribe, at a fee established by regulation or contractual agreement.

"(2) Testing performed under paragraph (1) may not conflict with or impede with objectives of this Act.

"(3) Fees collected under paragraph (1) shall be reasonable and shall cover, as nearly as practicable, the estimated costs of the testing. The fees shall be deposited into the fund created by section 7(j).

"(i)(1) The Administrator may perform such other services as the Administrator considers appropriate in accordance with such regulations as the Administrator may prescribe.

"(2) In addition to the fees authorized by sections 7, 7A, 7B, and 17A, and this section, the Administrator shall collect reasonable fees to cover the estimated costs of services performed under paragraph (1) other than standardization, compliance, and foreign monitoring activities.

"(3) To the extent practicable, the fees collected under paragraph (2), together with the proceeds from the sale of any samples, shall cover the costs, including administrative and supervisory costs, of services performed under paragraph (1).

"(4) Funds described in paragraph (3) shall be deposited into the fund created by section 7(j).

"(j) The Administrator may extend appropriate courtesies to official representatives of foreign countries in order to establish and maintain relationships to carry out the policy stated in section 2.".

SEC. 10. VIOLATION OF SUBPOENA.

Section 17(e) (7 U.S.C. 87f(e)) is amended by striking "the penalties set forth in subsection (a) of section 14 of this Act" and inserting "imprisonment for not more than 1 year or a fine of not more than $10,000 or both the imprisonment and fine".

SEC. 11. LIMITATION OF APPROPRIATIONS.

Section 19 (7 U.S.C. 87h) is amended by striking "sections 7, 7A, and 17A of this Act" and inserting "sections 7, 7A, 7B, 16, and 17A".

SEC. 12. STANDARDIZING COMMERCIAL INSPECTIONS.

Section 22(a) (7 U.S.C. 87k(a)) is amended by striking "and the National Conference on Weights and Measures" and inserting ", the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations".

SEC. 13. ELIMINATION OF GENDER-BASED REFERENCES.

(a) Section 3 (7 U.S.C. 75) is amended—

(1) in subsection (a), by striking "his delegates" and inserting "delegates of the Secretary"; and

(2) in subsection (z), by striking "his delegates" and inserting "delegates of the Administrator".

(b) Section 4(a)(1) (7 U.S.C. 76(a)(1)) is amended by striking "his judgment" and inserting "the judgment of the Administrator".

(c) Section 5 (7 U.S.C. 77) is amended—

(1) in subsection (a)(1), by striking "his agent" and inserting "the agent of the shipper"; and

(2) in subsection (b), by striking "he" and inserting "the Administrator".

(d) Section 7 (7 U.S.C. 79) is amended—

(1) in subsection (a), by striking "he" and inserting "the Administrator";

(2) in subsection (b)—

(A) by striking "he" and inserting "the Administrator"; and

(B) by striking "his judgment" and inserting "the judgment of the Administrator"; and

(3) in subsection (e)(2)—

(A) by striking "he" and inserting "the Administrator"; and

(B) by striking "his discretion" and inserting "the discretion of the Administrator".

(e) Section 7A(e) (7 U.S.C. 79a(e)) is amended by striking "he" and inserting "the Administrator".

(f) Section 7B(a) (7 U.S.C. 79b(a)) is amended by striking "he" and inserting "the Administrator".

(g) Section 8 (7 U.S.C. 84) is amended—

(1) in subsection (a), by striking "him" and inserting "the Administrator"; and

(2) in subsections (c) and (f), by striking "he" each place it appears and inserting "the Administrator".

(h) Section 9 (7 U.S.C. 85) is amended by striking "him" and inserting "the licensee".

(i) Section 10 (7 U.S.C. 86) is amended—

(1) in subsection (a), by striking "he" each place it appears and inserting "the Administrator"; and

(2) in subsection (b), by striking "he" and inserting "the person".

(j) Section 11 (7 U.S.C. 87) is amended—

(1) in subsection (a), by striking "he" and inserting "the Administrator"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "he" and inserting "the producer"; and

(B) in paragraph (5), by striking "he" each place it appears and inserting "the Administrator".

(k) Section 12 (7 U.S.C. 87a) is amended—

(1) in subsection (b), by striking "his judgment" and inserting "the judgment of the Administrator"; and

(2) in subsection (c), by striking "he" and inserting "the Administrator".

(l) Section 13(a) (7 U.S.C. 87b(a)) is amended—

(1) in paragraph (2), by striking "his representative" and inserting "the representative of the Administrator";

(2) in paragraphs (7) and (8), by striking "his duties" each place it appears and inserting "the duties of the officer, employee, or other person"; and

(3) in paragraph (9), by striking "he" and inserting "the person".

(m) Section 14 (7 U.S.C. 87c) is amended—

(1) in subsection (a), by striking "he" and inserting "the person"; and

(2) in subsection (b), by striking "he" each place it appears and inserting "the Administrator".

(n) Section 15 (7 U.S.C. 87d) is amended by striking "his employment or office" and inserting "the employment or office of the official, agent, or other person".

(o) Section 17(e) (7 U.S.C. 87f(e)) is amended by striking "his power" and inserting "the power of the person".

(p) Section 17A (7 U.S.C. 87f-1) is amended—

(1) in subsection (a)(2), by striking "he" and inserting "the producer"; and

(2) in subsection (c), by striking "he" and inserting "the person".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States Grain Standards Act Amendments of 1993".

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

SEC. 2. LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS.

Section 7D of the United States Grain Standards Act (7 U.S.C. 79d) is amended—

(1) by striking "inspection and weighing" and inserting "services performed"; and

(2) by striking "1993" and inserting "2000".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) REAUTHORIZATION.—Section 19 of the United States Grain Standards Act (7 U.S.C. 87h) is amended by striking "during the period beginning October 1, 1988, and ending September 30, 1993" and inserting "1988 through 2000".

(b) LIMITATION.—Such section is further amended by striking "and 17A of this Act" and inserting "7B, 16, and 17A".

SEC. 4. INSPECTION AND WEIGHING FEES; INSPECTION AND WEIGHING IN CANADIAN PORTS.

(a) INSPECTION AUTHORITY.—Section 7 of the United States Grain Standards Act (7 U.S.C. 79) is amended—

(1) in subsection (f)(1)(A)(vi), by striking "or other agricultural programs operated by" and inserting "of"; and

(2) in the second sentence of subsection (i), by inserting before the period at the end "or as otherwise provided by agreement with the Canadian Government".

(b) WEIGHING AUTHORITY.—Section 7A of such Act (7 U.S.C. 79a) is amended—

(1) in the second sentence of subsection (c)(2), by inserting after "shall be deemed to refer to" the words "'official weighing' or";

(2) in the second sentence of subsection (d), by inserting before the period at the end "or as otherwise provided by agreement with the Canadian Government"; and

(3) in the first sentence of subsection (i), by inserting before the period at the end "or as otherwise provided in section 7(i) and subsection (d)".

SEC. 5. PILOT PROGRAM FOR PERFORMING INSPECTION AND WEIGHING AT INTERIOR LOCATIONS.

(a) INSPECTION AUTHORITY.—Section 7(f)(2) of the United States Grain Standards Act (7 U.S.C. 79(f)(2)) is amended by inserting before the period at the end ", except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 2".

(b) WEIGHING AUTHORITY.—The second sentence of section 7A(i) of such Act (7 U.S.C. 79a(i)) is amended by inserting before the period at the end ", except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 2".

SEC. 6. LICENSING OF INSPECTORS.

Section 8 of the United States Grain Standards Act (7 U.S.C. 84) is amended—

(1) in subsection (a)—

(A) in paragraph (1) of the first sentence, by inserting after "and is employed" the phrase "(or is supervised under a contractual arrangement)"; and

(B) in the second sentence, by striking "No person" and inserting "Except as otherwise provided in sections 7(i) and 7A(d), no person";

(2) in the first proviso of subsection (b), by striking "independently under the terms of a contract for the conduct of any functions involved in official inspection" and inserting "under the terms of a contract for the conduct of any functions"; and

(3) in subsection (d)—

(A) by inserting after "Persons employed" the words "or supervised under a contractual arrangement"; and

(B) by inserting after "including persons employed" the words "or supervised under a contractual arrangement".

SEC. 7. PROHIBITED ACTS.

Paragraph (11) of section 13(a) of the United States Grain Standards Act (7 U.S.C. 87b(a)(11)) is amended to read as follows:

"(11) violate section 5, 6, 7, 7A, 7B, 8, 11, 12, 16, or 17A;".

SEC. 8. CRIMINAL PENALTIES.

Section 14(a) of the United States Grain Standards Act (7 U.S.C. 87c(a)) is amended by striking "shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person".

SEC. 9. EQUIPMENT TESTING AND OTHER SERVICES.

Section 16 of the United States Grain Standards Act (7 U.S.C. 87e) is amended—

(1) in subsection (b), by striking the third sentence; and

(2) by adding at the end the following new subsections:

"(g) TESTING OF CERTAIN WEIGHING EQUIPMENT.—(1) Subject to paragraph (2), the Administrator may provide for the testing of weighing equipment used for purposes other than weighing grain. The testing shall be performed—

"(A) in accordance with such regulations as the Administrator may prescribe; and

"(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

"(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 2.

"(h) TESTING OF GRAIN INSPECTION INSTRUMENTS.—(1) Subject to paragraph (2), the Administrator may provide for the testing of grain inspection instruments used for commercial inspection. The testing shall be performed—

"(A) in accordance with such regulations as the Administrator may prescribe; and

"(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

"(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 2.

"(i) ADDITIONAL FOR FEE SERVICES.—(1) In accordance with such regulations as the Administrator may provide, the Administrator may perform such other services as the Administrator considers to be appropriate.

"(2) In addition to the fees authorized by sections 7, 7A, 7B, 17A, and this section, the Administrator shall collect reasonable fees to cover the estimated costs of services performed under paragraph (1) other than standardization and foreign monitoring activities.

"(3) To the extent practicable, the fees collected under paragraph (2), together with any proceeds from the sale of any samples, shall cover the costs, including administrative and supervisory costs, of services performed under paragraph (1).

"(j) DEPOSIT OF FEES.—Fees collected under subsections (g), (h), and (i) shall be deposited into the fund created under section 7(j).

"(k) OFFICIAL COURTESIES.—The Administrator may extend appropriate courtesies to official representatives of foreign countries in order to establish and maintain relationships to carry out the policy stated in section 2. No gift offered or accepted pursuant to this subsection shall exceed 20 dollars in value.".

SEC. 10. VIOLATION OF SUBPOENA.

Section 17(e) of the United States Grain Standards Act (7 U.S.C. 87f(e)) is amended by striking "the penalties set forth in subsection (a) of section 14 of this Act" and inserting "imprisonment for not more than 1 year or a fine of not more than $10,000 or both the imprisonment and fine".

SEC. 11. STANDARDIZING COMMERCIAL INSPECTIONS.

Section 22(a) of the United States Grain Standards Act (7 U.S.C. 87k(a)) is amended by striking "and the National Conference on Weights and Measures" and inserting ", the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations".

SEC. 12. ELIMINATION OF GENDER-BASED REFERENCES.

(a) Section 3 (7 U.S.C. 75) is amended—

(1) in subsection (a), by striking "his delegates" and inserting "delegates of the Secretary"; and

(2) in subsection (z), by striking "his delegates" and inserting "delegates of the Administrator".

(b) Section 4(a)(1) (7 U.S.C. 76(a)(1)) is amended by striking "his judgment" and inserting "the judgment of the Administrator".

(c) Section 5 (7 U.S.C. 77) is amended—

(1) in subsection (a)(1), by striking "his agent" and inserting "the agent of the shipper"; and

(2) in subsection (b), by striking "he" and inserting "the Administrator".

(d) Section 7 (7 U.S.C. 79) is amended—

(1) in subsection (a), by striking "he" and inserting "the Administator";

(2) in subsection (b)—

(A) by striking "he" and inserting "the Administrator"; and

(B) by striking "his judgment" and inserting "the judgment of the Administrator"; and

(3) in subsection (e)(2)—

(A) by striking "he" and inserting "the Administrator"; and

(B) by striking "his discretion" and inserting "the discretion of the Administrator".

(e) Section 7A(e) (7 U.S.C. 79a(e)) is amended by striking "he" and inserting "the Administrator".

(f) Section 7B(a) (7 U.S.C. 79b(a)) is amended by striking "he" and inserting "the Administrator".

(g) Section 8 (7 U.S.C. 84) is amended—

(1) in subsection (a), by striking "him" and inserting "the Administrator"; and

(2) in subsection (c) and (f), by striking "he" each place it appears and inserting "the Administrator".

(h) Section 9 (7 U.S.C. 85) is amended—

(i) by striking "him" and inserting "the licensee"; and

(ii) by striking "his license" and inserting "the license".

(i) Section 10 (7 U.S.C. 86) is amended—

(1) in subsection (a), by striking "he" each place it appears and inserting "the Administrator"; and

(2) in subsection (b), by striking "he" and inserting "the person". (j) Section 11 (7 U.S.C. 87) is amended—

(1) in subsection (a), by striking "he" and inserting "the Administrator"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "he" and inserting "the producer"; and

(B) in paragraph (5), by striking "he" each place in appears and inserting "the Administrator".

(k) Section 12 (7 U.S.C. 87a) is amended—

(1) in subsection (b), by striking "his judgment" and inserting "the judgment of the Administrator"; and

(2) in subsection (c), by striking "he" and inserting "the Administrator".

(l) Section 13(a) (7 U.S.C. 87b(a)) is amended—

(1) in paragraph (2), by striking "his representative' and inserting "the representative of the Administrator";

(2) in paragraphs (7) and (8), by striking "his duties" each place it appears and inserting "the duties of the officer, employee, or other person"; and

(3) in paragraph (9), by striking "he" and inserting "the person".

(m) Section 14 (7 U.S.C. 87c) is amended—

(1) in subsection (a), by striking "he" and inserting "the person"; and

(2) in subsection (b), by striking "he" each place it appears and inserting "the Administrator".

(n) Section 15 (7 U.S.C. 87d) is amended by striking "his employment or office" and inserting "the employment or office of the official, agent, or other person".

(o) Section 17(e) (7 U.S.C. 87f(e)) is amended by striking "his power" and inserting "the power of the person".

(p) Section 17A (7 U.S.C. 87f-1) is amended—

(1) in subsection (a)(2), by striking "he" and inserting "the producer"; and

(2) in subsection (c), by striking "he" and inserting "the person".

SEC. 13. REPEAL OF TEMPORARY AMENDMENT LANGUAGE; TECHNICAL AMENDMENTS.

(A) REPEAL.—Section 2 of the United States Grain Standards Act Amendments of 1988 (Public Law 100-518; 102 Stat. 2584) is amended, in the matter preceding paragraph (1), by striking "Effective for the period October 1, 1988, through September 30, 1993, inclusive, the" and inserting "The".

(b) TECHNICAL AMENDMENTS.—(1) Section 21(a) of the United States Grain Standards Act (7 U.S.C. 87j(a)) is amended—

(A) by striking "(1)" and

(B) by striking paragraph (2).

(2) Section 22(c) of such Act (7 U.S.C. 87k(c), is amended by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)".

SEC. 14. AUTHORITY TO COLLECT FEES; TERMINATION OF ADVISORY COMMITTEE.

(a) INSPECTION AND SUPERVISORY FEES.—Section 7(j) of the United States Grain Standards Act (7 U.S.C. 79(j)) is amended by adding at the end the following new paragraph:

"(4) The duties imposed by paragraph (2) on designated official agencies and State agencies described in such paragraph and the investment authority provided by paragraph (3) shall expire on September 30, 2000. After that date, the fees established by the Administrator pursuant to paragraph (1) shall not cover administrative and supervisory costs related to the official inspection of grain.".

(b) WEIGHING AND SUPERVISORY FEES.—Section 7A(l) of such Act (7 U.S.C. 79a(l)) is amended by adding at the end the following new paragraph:

"(3) The authority provided to the Administrator by paragraph (1) and the duties imposed by paragraph (2) on agencies and other persons described in such paragraph shall expire on September 30, 2000. After that date, the Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. The fees authorized by this paragraph shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.".

(c) ADVISORY COMMITTEE.—Section 21 of such Act (7 U.S.C. 87j) is amended by adding at the end the following new subsection:

"(e) The authority provided to the Secretary for the establishment and maintenance of an advisory committee under this section shall expire on September 30, 2000.".

SEC. 15. COMPREHENSIVE COST CONTAINMENT PLAN.

Section 3A (7 U.S.C. 75a) is amended—

(1) by striking "There is created" and inserting "(a) Establishment.—There is created"; and

(2) by adding at the end the following new subsection:

"(b) COST CONTAINMENT PLAN.—(1) The Administrator shall develop and carry out a comprehensive cost containment plan to streamline and maximize the efficiency of the operations of the Service, including standardization activities, in order to minimize taxpayer expenditures and user fees and encourage the maximum use of official inspection and weighing services at domestic and export locations.

"(2) Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit a report that describes actions taken to carry out paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 16. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SPECIAL EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by section 2, 3, and 13(a) shall take effect as of September 30, 1993.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the United States Grain Standards Act to extend the authority of the Federal Grain Inspection Service to collect fees to cover administrative and supervisory costs, to extend the authorization of appropriations for such Act, and to improve administration of such Act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

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

There was no objection.

□ 1710

LEGISLATIVE PROGRAM

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

Mr. WALKER. Mr. Speaker, I ask to proceed for the purpose of ascertaining the schedule for the upcoming week. I am happy to yield to the distinguished majority whip to fill us in on what we are going to do next week on the legislative schedule.

Mr. BONIOR. I thank my colleague for yielding.

The schedule for the next week is as follows: The House will meet at noon on Monday and we will consider 13 bills under suspension. Those bills are:

H.R. 2722, Age Discrimination in Employment Amendments of 1993;

H.R. 3161, Older Americans Act Technical Amendments of 1993;

H.R. 3276, Intermodal Surface Transportation Technical Corrections Act;

H.R. 2440, Independent Safety Board Act Amendments of 1993;

H.R. 3179, to designate the Gus Yatron Postal Facility;

H.R. 3285, to designate the George W. Young Post Office;

69-059 O—97 Vol. 139 (Pt. 19) 16

H.R. 3252, West Virginia Rivers Conservation Act of 1993;

S. 983, El Camino Real Los Texas Study Act of 1993;

S. 836, El Camino Real de Tierra Adentro Study Act of 1993;

H.R. 457, to provide for the conveyance of lands to certain individuals in Butte County, CA;

H.R. 1425, American Indian Agriculture Act of 1993;

H.R. 654, to amend the Indian Environmental General Assistance Program Act of 1992 to extend the authorization of appropriation, and

H.R. 2639, Telecommunications Infrastructure and Facilities Assistance Act.

After we are finished with that, we will go to House Concurrent Resolution 170, just the rule on the Somalia issue. We will not do the actual debate until Tuesday.

We expect that we will not have any votes until between 3 and 4 o'clock, and that would be the earliest that we would have votes. I think it will take that amount of time to get through the 13 suspensions as well as the rule on House Concurrent Resolution 170, which is the removal of United States forces from Somalia.

On Tuesday, November 9, and Wednesday, November 10, on Tuesday we will meet at 11 a.m. and we will consider House Concurrent Resolution 170, the removal of United States Armed Forces from Somalia, as amended, to complete consideration. I believe that could be up to 4 hours of debate time on that.

Then we will go to H.R. 2401, the Defense authorization conference report, subject to a rule, and then we will do the Defense appropriation conference report, subject to a rule.

We could go a little bit late on Tuesday, so Members should be aware of that.

On Wednesday we will move to the Brady Handgun Violence Prevention Act, subject to a rule.

Then, if we have time remaining that day, we will do the ERISA bill, subject to a rule. That is H.R. 1036. Also we will do H.R. 322, the Mineral Exploration and Development Act, again subject to a rule; and H.R. 2601, the Department of Environmental Protection Act, again subject to a rule.

I am aware of the need for Members to get back to their districts on Wednesday for the Veterans Day activities that will occur across the country. And I know the Members have traveling plans that they have to put together to make sure that they are back with their constituencies to honor that day, and so I understand that, and we will do the best that we can to accommodate Members.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding. I would like to say to the acting majority leader that 90 percent of the Members of the House I would say do have obligations on Veterans Day. As you know, it is rather hard to get out of here late Wednesday afternoon, and I would certainly hope that at 1, 2, or 3 o'clock in the afternoon Members would be able to leave, if necessary, and that we would start instead of 10 o'clock we could start at 9 o'clock in the morning. But some of us just have to leave, and we hate to miss votes. So I would hope the leadership would consider that.

Mr. BONIOR. We will do the best we can, I might say to my colleague. We have two concerns. First of all, the schedule to come in at 10 o'clock, I suspect we could make a request to come in a little earlier. The other problem is that the CR runs out that day as well, so we have to make sure that that is taken care of.

We also have to be aware of the fact that Members know we are moving toward the end of this legislative session, and we do not have too many days left the following week to finish our business, which is copious. So we have to put in a good 3 days next week.

But having said all of that, we will try to do it to accommodate the concerns of the gentleman from Mississippi.

Mr. MONTGOMERY. If the gentleman will yield further, several weeks ago we sent to every Member's office information on legislation that has been passed this year on veterans' issues, and also what Veterans Day stands for, and I think it would be very helpful if Members would have the opportunity to look at that information that we have sent to each office and probably it would help them in their remarks on Veterans Day. I thank the gentleman.

Mr. WALKER. I thank the gentleman from Mississippi.

If I could just clarify with the gentleman from Michigan for a moment, if I understand correctly, the 13 suspension bills will be debated on Monday. Then we will go to the rule and only after completing the rule will we go to the votes on the suspensions?

Mr. BONIOR. The gentleman is correct.

Mr. WALKER. If I understand the gentleman correctly, we would expect then that those votes would probably fall after 3 o'clock?

Mr. BONIOR. Certainly after 3, and perhaps even later, but after 3, yes.

Mr. WALKER. I thank the gentleman.

Beyond that, I had understood earlier today there might be some problems with both the Defense authorization bill and the Defense appropriation bill that needed to be worked out. If those have not been worked out by Tuesday, is it possible that some of the rest of the items on the schedule would be moved onto the Tuesday schedule?

Mr. BONIOR. We expect them to file those bills Monday, Tuesday at the latest, and we expect to take them up next week. Obviously if there is some reason why they are not ready, we have other things to do, as I indicated on the schedule. But we expect we will get to both Defense bills, the appropriation bill and the authorization bill.

Mr. WALKER. Did I understand the gentleman correctly that Wednesday would be the day that we would deal with the CR, should we have to do that?

Mr. BONIOR. The gentleman is correct.

Mr. WALKER. And also I am told that the unemployment conference has been completed. It sounds to me that because the two Senate amendments were dropped that that might run into some controversy. Does the gentleman have any idea when that might come to the floor?

Mr. BONIOR. I do not know when, but hopefully sooner rather than later. We have waited long enough. We hope to get that to the Members as soon as possible when they come back.

Mr. WALKER. There is some concern on our side also about the Department of Environmental Protection Act, of whether or not some amendments that were anticipated on our side were going to be made in order. Does the gentleman know whether or not that bill is going to be open for germane amendments?

Mr. BONIOR. I do not know. I would have to talk with the gentleman from Massachusetts [Mr. MOAKLEY], the committee chairman, and the gentleman from New York [Mr. SOLOMON], the ranking member. No decision has been made on just exactly what the nature of the rule on that bill will be yet.

Mr. WALKER. I thank the gentleman.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 170, REMOVAL OF UNITED STATES ARMED FORCES FROM SOMALIA

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 103-328) on the resolution (H. Res. 293) providing for consideration of the concurrent resolution (H. Con. Res. 170) directing the President pursuant to section 5(c) of the War Powers Resolution to remove United States Armed Forces from Somalia by January 31, 1994, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT TO MONDAY, NOVEMBER 8, 1993

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the

House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. SWIFT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON TUESDAY, NOVEMBER 9, 1993

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, November 8, 1993, it adjourn to meet at 11 a.m. on Tuesday, November 9, 1993.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

TRANSFERRAL OF SPECIAL ORDER TIME

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from California [Mr. DREIER] and the gentleman from Arizona [Mr. KOLBE] be switched.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1720

REALLOCATION OF SPECIAL ORDER TIME

Mr. MONTGOMERY. I ask unanimous consent that the special order for the gentleman from Michigan [Mr. BONIOR] on November 4, 1993, be allocated to the gentleman from California [Mr. TUCKER].

The SPEAKER pro tempore (Mr. SWIFT). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SPECIAL ORDER PREVIEW

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

Mr. DORNAN. Mr. Speaker, I am signed up for a 1-hour special order tonight, and almost my entire hour will be spent on why I think it is inappropriate to have the Congress confirm Morton Halperin as a brandnew appointed Under Secretary of Defense.

But I spent all day Tuesday with our special ops and special forces, U.S. Army folks at Fort Bragg, and I may mention part of that tonight.

But on Monday I spent the whole day at the United States Army Space and Strategic Defense Command at the Redstone Arsenal at Huntsville, AL. I just want to reiterate what I said on this House floor during the authorization debate for our Armed Services:

Right now, at this very moment, we cannot defend ourselves against one single nuclear warhead launched at our wonderful country. We cannot stop one. Not one. We will not have reaction time as we had with Hurricane Emily; there will be no time for battening down the hatches or for stockpiling food. If one single missile's warhead hits our Nation, citizens will start marching on this Congress, as in a classic work of fiction villagers marched on insane Dr. Victor Frankenstein's castle, to burn us to ashes—and rightly so * * *

NO TO NAFTA

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. LEWIS of Georgia. Mr. Speaker, later this month, the House will vote on the North American Free-Trade Agreement, NAFTA. I, for one, in good conscience cannot support this trade agreement. This agreement betrays the American people, and we as Members of this body must say no to this NAFTA.

Let me be clear—I support free trade. I encourage the development of new markets and the lowering of trade barriers.

However, I do not want "free trade" at the expense of fair trade, at the expense of our workers, our environment and our commitment to human rights.

In the past 10 years, 2.6 million U.S. jobs have moved overseas. There is no doubt that Mexico's weak environmental, health and safety standards, combined with its low wages, will entice many more companies to cross the border. This recent ad campaign which I hold in my hand by the Mexican state of Yucatan proves just this point.

We simply cannot send any more jobs abroad. A North American Free Trade Agreement should protect U.S. workers.

This NAFTA does not.

We can have a better NAFTA. We must!

Mr. Speaker, it doesn't help America to win in Mexico if in the process we lose our jobs, our resources and our soul. We must reject this NAFTA.

Mr. Speaker, I include for the RECORD a copy of the ad campaign from the Mexican State of Yucatan.

"I can't find good loyal workers for a dollar an hour within a thousand miles of here."

We're only 460 miles and 90 minutes by air from the U.S.

Labor costs average under $1 an hour, including benefits. Far lower than in the Far East. And less than CBI, Central America and even less than the rest of Mexico.

The turnover rate is less than 5% a year.

And you could save over $15,000 a year, per worker, if you had an offshore production plant here.

So if you want to see how well you or your plant managers can live here while making your company more competitive, call for a free video tour of the State of Yucatan at 708-295-1793.

When the U.S. is too expensive and the Far East too far, "Yes You Can In Yucatan."

Government of the State of Yucatan Mexico. Department of Industrial and Commercial Development.

H.R. 2151, THE MARITIME SECURITY AND COMPETITIVENESS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. SCOTT] is recognized for 5 minutes.

Mr. SCOTT. Mr. Speaker, earlier today, we passed H.R. 2151, the Maritime Security and Competitiveness Act.

During the 1980's, we have allowed our commercial shipbuilding industry to almost disappear. Between 1984 and 1990, U.S. shipbuilders received no new commercial orders for ships over 1,000 gross tons while during this same period, commercial orders in the international market were steadily increasing. As of September 1 of this year, only one privately owned vessel of over 1,000 gross tons was under construction in a U.S. shipyard.

This loss of commercial shipbuilding has caused tremendous damage to our industrial base. Since 1981, 50 shipyards have been closed and 120,000 shipyard and shipyard supplier jobs have been lost. If this decline continues, we could lose another 180,000 jobs and the ability to maintain our fleet. This Nation can not afford to lose our shipbuilding skills. To do so endangers our economy and weakens our national defense.

Ironically, one of my distinguished predecessors, John Mercer Langston, who was the only other African-American Representative from Virginia, expressed his concern about our shipbuilding industry over 100 years ago. While supporting a shipbuilding bill in 1891, Representative Langston noted that:

When during a residence of five years in a foreign port, where I had the honor to represent this Government, I saw not a single American steam vessel riding into that harbor and anchoring on business, I inquired, "Why is this so?" Here was the great English vessel, here the great German vessel, here the great French vessel, here the Spanish. All these nations were represented there, but not a single steamship from our country. Why was this? We had conceded away to the English Government the freedom of our seas.

That was ever 100 years ago.

Although our foreign competitors may have changed, these words are still true. And now is the time to act. It is estimated that between 1993 and 2001, 7,000 to 10,000 new ships will be built. Even capturing a small percentage of this market would stabilize our shipbuilding industry and boost our economy. For every merchant ship built in the United States, there is on average, a $151 million increase in GNP, the collection of $34 million in local, State, and Federal taxes, and the creation of over 2,400 jobs annually during the 2 year ship construction period.

I believe that H.R. 2151 is a necessary part in stopping our Maritime decline. One portion of this bill establishes aSeries Transition Payment Program. The idea is quite simple. A key problem in becoming competitive in international shipbuilding is the issue of the learning curve costs. When building a series of ships, shipyards become increasingly more efficient and cost effective. In essence, the cost of constructing the fourth or fifth ship, can be up to one-third cheaper than the building of the first ship. Since our international rivals have been building similar designed ships over the last 10 years, they have overcome this learning curve.

The Series Transition Payment Program helps our shipyards to overcome the learning curve by providing construction payments on the first few ships built in a series. This will enable our yards to sell ships in the short term and lower costs over the long term. This commonsense approach will go a long way to rebuilding our yards, maintaining our fleet, and securing our industrial base.

Mr. Speaker, this issue has been with us for over 100 years. Now, with only a little Federal assistance, we can save our maritime industry. For these reasons, I was delighted to join my colleagues in support of this bill.

WHITE HOUSE AGRICULTURAL AGREEMENTS THREATEN VALIDITY OF NAFTA

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Under a previous order of the House, the gentlewoman from Maryland, [Mrs. BENTLEY] is recognized for 5 minutes.

Ms. BENTLEY. Mr. Speaker, the announcement by the White House of new binational negotiations on agriculture—negotiations which change the NAFTA agreement already signed by Canada, and President Bush for the United States and Mexico, bring into question the legality of the agreement.

How valid are these White House promises to the agriculture community when a tripartite agreement, supposedly chiseled in stone by a U.S. President no longer in office, is changed by only two parties to the agreement.

This bilateral action between Mexico and the United States can raise serious questions in the future about the legitimacy of the agreement. If Canada's trading position is threatened by these nonconforming, bilateral agreements on everything from sugar to flat glass products, then these challenges only can be settled by the NAFTA dispute panels where the United States will be out voted three to two.

Mexico's sincerity in these promises is questionable given the statements last week by Mexico's Minister of Trade, Jaime Serra Puche, before the Council on Foreign Relations. According to Congress Daily, "He contended that differences in interpretation should be decided by the dispute resolution panel set up in NAFTA—a group which, in the event of a U.S.-demanded interpretation of the pact, would include three Mexicans and two Americans."

Certainly, Canada is being given grounds to question the interpretation of the whole of the agreement when so many critical portions of the initial agreement already have been changed by only two of the three signators. What a way to break a three party contract.

Minister Serra Pucci's statement seems to have been timed to set a frame around these side-side agreements as interpretations of the initial agreement—especially since one party was left out of the meetings.

Mr. Gordon Richey, chief negotiator for the Canadians in the original NAFTA agreement, stated to a Mexico City newspaper yesterday concerning the newest negotiations that, "The U.S. Congress does not respect a deal. A deal is a deal."

Talking about the White House actions, he continued, "What they are doing now is affecting Canadian interests—not only in the trilateral agreement, but it affects also the bilateral agreement—the Canadian Free Trade."

Remember, the reason environmental and labor issues necessitated side agreements was that the initial agreement could not be changed. When the Congress demanded that labor and the environment be considered, new agreements—Mr. Clinton's agreements had to be drafted.

Now, major changes are being drafted to the initial agreement without authorization or legitimacy since Canada's interests are not even being considered.

Mr. Speaker, all sorts of mischief is going on here and I am gravely concerned that we must go to Mexico City or Ottawa to discover what is going on among our trading partners. American proposals to subject binational panels established under chapter 19 of the NAFTA to review by domestic courts are totally unacceptable to the Canadian business community.

What is this? The issue of sovereignty is not valid? It seems the White House thinks so! However, this NAFTA agreement cannot be changed. As much as I would wish that the decisions of the dispute panels could come back before American courts, legally, it cannot be done. This treaty is as is.

It is interesting that the Reuter's story about Canadian business' objections to changing the structure of the dispute panels' power goes on to report, and I quote from Reuter's: "Canada has won a number of key trade decisions through the binational panel dispute settlement mechanism."

Bless the Canadians! Having rolled us in over two-thirds of the decisions—they do know a deal when they see one.

□ 1730

CHANGE OF TIME ON SPECIAL ORDER

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to vacate my special order of 60 minutes and substitute a 5-minute special order.

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Is there objection to the request of the gentleman from Guam?

There was no objection.

COMMEMORATIVE COIN FOR 50TH ANNIVERSARY OF LIBERATION OF GUAM AND NORTHERN MARIANA ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, last week I introduced H.R. 3372, a bill which authorizes a commemorative coin for Guam and the Northern Mariana Islands in honor of the 50th anniversary of the liberation of these islands from enemy occupation in World War II.

These commemorative coins will be issued next year to coincide with the 50th anniversary Golden Salute commemorations on Guam and Saipan. Over 4,000 veterans of the Marianas campaign are expected to return for this remembrance. The design of the coins will be emblematic of the heroism of the American forces that liberated the Mariana Islands in some of the fiercest fighting of the Pacific war.

While some students of history will note that Alaska's Aleutian Islands were also captured by Japan, the Native Aleutian islanders were evacuated prior by the United States military in anticipation of hostilities. While the Aleutian Islands were also captured, only Guam has the distinction of having its population subjected to an occupation by the enemy.

The distinction of Guam's status was not lost on the occupiers. Guam suffered an especially brutal occupation

due to the loyalty of the people of Guam to America. Executions, beheadings, forced labor, forced marches, and internment in concentration camps marked the 30 months of Guam's occupation. The people of Guam suffered, but remarkably endured those trying times.

The Marianas campaign was a militarily significant battle. In the aftermath of the huge Japanese defeat, Prime Minister Tojo's government resigned. The Marianas gave the Allied forces the ability to reach Japan in bombing raids with long-range bombers. The momentum of the Pacific war changed with the Allied attacks on the Japanese homeland from airfields on Guam, Saipan, and Tinian. And, of course, the atomic bombs that ended the war were delivered from bombers taking off from Tinian in the Northern Mariana Islands.

Guam and the Commonwealth of the Northern Mariana Islands share this distinct history with a sense of the tremendous human toll that brought them freedom. The battle for Saipan was bitter, costing 3,426 American lives. The battle for Guam cost 2,124 American lives. The 50th anniversary commemorations will focus on the deep gratitude that the people of the Marianas still feel for these American sacrifices.

The proceeds of the commemorative coins will be used to construct museums on Guam and Saipan. The Guam Museum will be part of the War in the Pacific National Historical Park, and the Saipan Museum will be at the American Memorial Park.

Mr. Speaker, it is with a sense of history, and a sense of recognition of the American lives lost and the sacrifices of the people of Guam and the Northern Mariana Islands, that I urge my colleagues to support this legislation. Next year is the 50th anniversary of liberation. If there ever was a time to remember, this is it. If there ever was a time to honor, this is it. The veterans may not be there for other celebrations, time will ensure that. The people may not remember as well in later years, memories fade. America may not be moved to do this small gesture in years to come, people tend to forget. But now, for this 50th anniversary commemoration, with the American citizens of Guam and the Northern Marianas, let us remember, let us honor, and let us memorialize the heroes of the Marianas campaign with this special coin.

On a personal note, all families from Guam can point to this experience, the World War II battles and Japanese occupation and tell a heroic saga. My own parents lost three children during the occupation. That generation of liberators, warriors, and people who experienced those battles as civilians is quickly passing. My father died in 1986 and my mother is now 81 years of age. In their name, as well as the others, I urge the Members of this institution to recognize the pain, suffering, heroism, and triumph of the human spirit.

COMMUNICATION FROM OFFICE OF THE DIRECTOR, NON-LEGISLATIVE AND FINANCIAL SERVICES, U.S. HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following communication from Leonard P. Wishart III, Director, Non-Legislative and Financial Services, House of Representatives:

OFFICE OF THE DIRECTOR, NON-LEGISLATIVE AND FINANCIAL SERVICES,
Washington, DC, November 3, 1993.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that the Office Supply Service has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

LEONARD P. WISHART III,
Director.

COMMUNICATION FROM THE HONORABLE JAMES E. CLYBURN, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JAMES E. CLYBURN:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 3, 1993.

Hon. THOMAS S. FOLEY,
House of Representatives,
Longworth HOB, Washington, DC.

DEAR MR. SPEAKER: This is to inform you pursuant to Rule L (50) of the Rules of the House that my office was served with a subpoena for documents issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel I will make the determinations required by the Rule.

With kindest regards, I am

Sincerely,

JAMES E. CLYBURN,
Member of Congress.

IN OPPOSITION TO NAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TUCKER] is recognized for 60 minutes.

Mr. TUCKER. Mr. Speaker, I would like to address the House on a special order related to NAFTA, in an anti-NAFTA position.

Before I address the House, Mr. Speaker, I yield to the distinguished gentlewoman from Illinois, Mrs. CARDISS COLLINS.

□ 1740

Mrs. COLLINS of Illinois. Mr. Speaker, since I became chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, I have probably spent more time on the proposed North American Free-Trade Agreement than any other issue. Our subcommittee has held 12 hearings and briefings and I have traveled to Mexico on three occasions to meet with Mexican officials and to see first-hand the living conditions in the border towns where the maquiladora factories are located. In addition, our subcommittee reported a resolution, which was subsequently passed by the House by a unanimous vote, expressing the view of the House that NAFTA should not threaten any health, safety, or environmental law of the United States.

At our first hearing on NAFTA 2½ years ago, I expressed my view that NAFTA could have some real benefits for all three countries, if properly negotiated. With the potential formation of trading blocs in Europe and in the Pacific rim, there is, at least a superficial logic to joining with our neighbors to enhance our competitiveness in a world economy. But this NAFTA is not what it is cracked up to be.

That is why I have several concerns. First, and most importantly, I believe that a trade agreement ought to improve the standard of living and create jobs in all of the countries. If instead, NAFTA will move jobs out of this country, or bring down wages, it should be defeated.

Second, I have taken a particular interest in the issue of food safety and trade agreements. I became interested in this subject when we reviewed the U.S.-Canada Free-Trade Agreement. We discovered that the former Bush administration had drastically reduced meat inspectors at the border, citing the Canadian Free-Trade Agreement as its authority. Under the so-called streamlined procedures, Canadians were allowed to select the meat that would be subject to inspection by our inspectors. This intolerable situation was eventually reversed, but it taught me an important lesson that trade agreements can be used to reduce consumer safety.

Third, based on my visits to the border, it was clear that considerable environmental damage was being caused by the maquiladora factories in the United States-Mexico border area. NAFTA could provide an opportunity to improve these problems, but it would require specific provisions to provide for funding the cleanup, and Mexican environmental standards and enforcement would have to be raised to levels here in the United States.

Unfortunately, I do not believe that NAFTA, even with the admirable efforts of President Clinton to negotiate environmental and labor side agreements, meet my three concerns.

Let me begin by discussing the impact on jobs and wages. I must say that the single most important factor in my decision was my experience in the border towns visiting workers in the maquiladoras.

The workers were living in terrible conditions. They lived in shacks with no running water or electricity. I saw their pay stubs indicating that they were working long hours for an average of only $1.64 an hour.

I realized then that unless Mexico ceased its policy of constraining wages to attract investment, American workers would be threatened. The failure of the Mexican Government to allow real labor unions to form so that wages could rise with productivity meant that American workers would see their standard of living fall instead of Mexican workers rising.

In my State of Illinois we have seen thousands of good manufacturing jobs leave our State and move to low-wage countries—most of them to Mexico. A study by the Center for Urban Economic Development of the University of Illinois at Chicago, found that since 1980, over 67,000 jobs were lost in Illinois to firms with operations in Mexico. The Chicago metropolitan area accounted for more than 47,000 of these lost jobs.

The loss of these jobs has hurt, not helped, the well-being and happiness of thousands of Illinois families. Further it is not evident that the movement of jobs to Mexico is producing big gains in Mexico's standard of living.

As a side light of my visits to Mexico, I began to question a statement often used by NAFTA supporters that the average Mexican buys $450 of American products every year. I visited a worker at a Zenith plant. He could never hope to buy the television set he assembled, because his wages were so low. I began to question where were these average Mexicans who bought $450 of American goods, and whether claims of a large Mexican market for United States-made products were accurate.

After some research, we found out that the $450 figure was derived by taking all exports to Mexico and dividing by the Mexican population. Included in these exports were parts shipped to the maquiladoras for assembly and then returned to the United States. Also included were capital goods used to build the maquiladora factories. In short, the average Mexican was really a United States corporation.

When I asked how much of exports were consumer goods that were purchased by actual Mexicans, the amount provided by the International Trade Commission was only $2.3 billion. That's $25 per Mexican—a far cry from $450. So long as wages are constrained in Mexico, we should remain skeptical of claims of a growing Mexican consumer market.

In the area of food safety, there was both good news and bad news in NAFTA. The good news is that the implementing legislation includes, at my urging, a provision which makes clear that U.S. food safety laws, as well as other health, safety, and environmental laws, cannot be weakened as a result of NAFTA.

The bad news is that there may be no practical way to ensure that food imported from Mexico may be safe. The Food and Drug Administration [FDA] only has 13 inspectors for the entire United States-Mexico border, and the agency has told me that Mexican produce exported to the United States is about twice as likely to have pesticide residue levels that violate United States standards, as is produce grown here in the United States. In addition, we know that Mexico has approved 15 different pesticides for use on food that the United States has not approved, and only seven of those 15 pesticides are even detectable by the tests that the FDA uses when it inspects fruits and vegetables imported from Mexico.

Finally, despite the efforts of the Clinton administration to negotiate a side agreement on the environment, the environmental problems at the border are likely to get worse, not better. In my view, there are three serious flaws in the side agreement.

First, there is no funding mechanism to ensure that those who benefit under NAFTA, namely the United States corporations that move their factories to Mexico, will be required to pay for the cleanup of the pollution that they have caused. Majority Leader GEPHARDT, for example, suggested that a cross-border transactional fee on their goods would be a good start toward making the polluter pay. Instead, it appears that funding, if any, for cleanup will be paid by the U.S. taxpayer.

Second, the side agreement only addresses problems caused by the failure of a government to enforce its environmental laws. It does not address the disparity in environmental standards.

We have constantly been told by NAFTA supporters that Mexican environmental standards are equivalent to ours, but that is often not true. For example, when we looked at the case of the Carbon I and II plants, which were built on the Mexican border and polluting Big Bend National Park, we found that the standards for power plants were quite different. For example, according to EPA, Mexico's standard for particulate emissions is 10 times weaker than the United States standard, and its standard for sulfur dioxide is 14 times weaker than our own.

Third, the side agreements are not tied to NAFTA. Under the provisions of the side agreements, a country can withdraw at any time, but still be entitled to the benefits of NAFTA. I raised this problem with Ambassador Kantor when he appeared before our Committee in September. He agreed with me that a country that withdraws from a side agreement, which he called critical to NAFTA, should not be entitled to stay within the basic NAFTA agreement. He also said he would welcome a provision in the implementing bill to rectify the problem.

However, in the past month, he reversed himself, and the implementing bill now has no provision to deal with a country that withdraws from a side agreement. The Clinton administration has stated its intention to withdraw from NAFTA if another country withdraws from a side agreement, but other administrations may not. Indeed, it is no secret that many Republicans do not look favorably on those agreements.

So while we will be making a permanent decision on NAFTA, the side agreements may disappear. This certainly raises the question about how seriously the NAFTA proponents see the side agreements.

Let me say in conclusion, that I take no pleasure in voting against this agreement. There is much that is good in the NAFTA, and I hope that the three governments will all return to the negotiating table. I believe we need to take into consideration the recent elections in Canada so that our Canadian partners are comfortable with a new agreement. And by all means we should continue to strengthen our ties with Mexico. The Mexican Government, and President Salinas particularly, have made greater strides toward improving the relationship between our countries than any previous leader. We must make clear that we want that relationship to prosper and that we will continue to discuss ways to enhance the well-being of all of our citizens.

□ 1750

Mr. TUCKER. I thank the gentlewoman from Illinois for those very eloquent and thoughtful comments.

Obviously, Mr. Speaker, there have been many questions about the North American Free-Trade Agreement, that we use the acronym NAFTA to associate. And the American public has not heard all the truth on this agreement. There has been a lot of talk and a lot of deductive reasoning that says that because exports are good for this country, that NAFTA would have to be good for this country.

I would compliment the comments of the gentlewoman from Illinois [Mrs. COLLINS] in saying that she was so right when she mentioned that it is not a question of supporting trade, but it is a question of supporting this particular agreement.

This agreement, as the saying goes, has to stand on its own bottom. This tub has to stand on its own bottom. And this particular NAFTA, as the saying goes, is not the one. It is not this NAFTA.

This agreement, as it has been negotiated, is a very poor agreement. It is a very unsubstantiated agreement in terms of the labor concerns and the environmental concerns of this country.

What I want to do tonight, Mr. Speaker, is go through in some detail about this agreement, some of the concerns, so the American public can better understand this agreement and understand why people like me and others on both sides of the aisle, Republican and Democrat, are saying "no" to this particular NAFTA.

Yes, we would like to see the President do well. We would like to see this country do well. We would like to see job creation. But we do not want the American people to have the wool pulled over their eyes, particularly at a time when this country is hurting like it has never been before. Joblessness is up in unparalleled and unprecedented marks all over the country.

So I think those of us that have been entrusted with the responsibility to do the right thing in the Halls of Congress and in the districts we represent must, indeed, make a conscious and a conscientious choice on NAFTA.

Let us talk a little bit about the arguments on the things that the pro-NAFTA supporters are saying. Well, one of the first and foremost things that you hear is that NAFTA is a job creator, that NAFTA will create jobs. In effect, the terminology that is used is that NAFTA will produce a net job gain. A net job gain.

Now, that is interesting, because we know that word "net" obviously entails something on the downside as it relates to the gross. So the proponents and the prognosticators of a pro-NAFTA movement are in essence saying to us that even they recognize that there is some downside to NAFTA, that there will be some job loss. But what they are saying is in the net sum of things, in the total summation, there will be net job gain. So what they are acknowledging first and foremost in the immediate and initial reaction of NAFTA is there is going to be job loss.

I first pose the question to you: Can this country afford even any more job loss? Can we afford it in California? Can we afford it in Ohio? Can we afford it in New York? Can we afford it in the Deep South? No.

The answer is "no" all over this country. We cannot afford any more job loss. Assuming, of course, we want to take that argument that there is going to be long-term job gains. I would submit to you the light at the end of that tunnel is not the light of hope of NAFTA, but it is a trainready to run us over and destroy the jobs that we presently are holding on to here in this country.

But let us explore that argument a little bit about job gain and what the proponents are saying.

Well, they base the job-gain argument on an argument that talks about jobs per export. It is the jobs per export factor that you hear the proponents talking about, in essence saying that if you look at the trade with the country of Mexico, and we are concentrating on Mexico in this agreement, even though it is a tri-national agreement, the problems come in the wage and the job disparities in Mexico.

If you look at the situation in Mexico, you will find, yes, over the last 10 years exports from the United States to Mexico have been up. That is one of the key figures and statistics that the proponents will use to say, well, if it has gone up in the last 10 years, when we bring down these 10 and 15 and 20 percent tariffs in Mexico, it is going to go up exponentially in the next 10 years and be good for trade and job creation in the United States.

But let us examine those exports. The exports to Mexico over the last 10 years have gone up, but the exports have largely been exports in capital goods and not consumer goods. That is very important, because if they have been exports that have gone up in consumer goods, that would indicate that the Mexican economy and the Mexican market and the Mexican wage earner, the average buyer, their economic power has gone up. And that would seem to substantiate the argument that it would be able to be a good market for our goods as consumers.

But it is not consumer goods, it is capital goods. And the capital goods go right to what? Manufacturing. Machinery and equipment. Which means we are building factories in Mexico for the Mexican worker, with whom we have a wage disparity of 8 to 1, for them to build goods down there.

So it is not so much a question of us trying to export goods to Mexico. We are trying to build factories in Mexico so that the Mexican worker, who works for a cheap wage, a minimum wage of 58 cents an hour, the minimum wage in Mexico, so that they can build goods and in turn sell the goods back to us, because we as Americans are the ones that have the buying power.

Look at the annual median income of the Mexican citizen as opposed to the United States citizen. Do you realize it is a 10 to 1 disparity? The recent statistics out by the Census Bureau show that the median annual income of the U.S. citizen is $30,000. In Mexico, at best, you are talking about $3,000.

You heard the gentlewoman from Illinois [Mrs. COLLINS] speak of this claim that the Mexican worker is going to have a buying power of $450 a year. But with the minimum wage at 58 cents an hour, and maybe the best Mexican worker making about $3,000 a year, I submit to you that they are not going to have the buying power to do even $450 a year. Even that is an extremely, grossly insufficient amount.

So what we have is an agreement that the American people have not understood fully, because it is kind of a three-card molly game. It is a little sleight of hand.

What it says to us is that this agreement is good for us because it is going to empower us to send more exports to Mexico. But what the agreement really is is this agreement is something that is going to be good for the industrial elite who are going to invest into Mexico. Once they invest into Mexico and build new factories and use Mexican workers with cheap labor, they are going to be able to export into the United States, which they can do right now, but not with the labor costs that they are going to be able to do it at.

That is important, because what that means is that their margin of profit is going to be much greater. It is the same old story. The industrial elite and the robber barons are going to make more, they are going to profit more, at the expense of the American worker, who is already suffering.

People say, "Well, is that really true? I mean, why would they want to go down Mexico? We see people like Mercedes Benz and other corporations coming to the United States to build factories."

Yes, they are coming to the United States. But once again they are going to export capital goods down there. They are going to build factories down there in Mexico. And, guess what? They are going to send back up a product back to the United States.

The product we are going to be sending down to Mexico that we have seen statistically is a lot of intermediary goods, too. These intermediary goods are just parts of the overall product. That means we send a part down there to Mexico, cheap labor assembles the rest of the product, and they send it right back on up here to us.

Why is that important? That is important because of import competition. Historically statistics have proven that import competition causes job loss. That is going to mean jobs for us, American workers, in the garment industry, in the electrical industry, and in the car industry. All these industries are going to suffer exponential job loss.

Now, another thing that you have to consider is the fact that NAFTA is an attraction to these industrial elite because it encourages them to circumvent the system that protects workers that we have built up over the years.

What system am I talking about? Well, I am talking about things like laborers' rights, the right to collectively bargain. I am talking about things like workman's comp. Yes, workman's comp in some areas of the country has gotten out of hand. But, god forbid, if you slipped and fell on your job, that you did not have some type of compensation, reasonable compensation.

You think you are going to get that in Mexico? No. You think you are

going to get collective bargaining in Mexico, which has had one political party since the 1920's? And they want to call it a democracy?

No way. You are not going to get any laborers' rights; you are not going to get any collective bargaining; you are not going to get any workman's comp; and you are sure not going to get any health care.

□ 1800

What is on the table here in America? We are trying to pass a national health care plan, a Health Security Act for the first time in this country. But you can best believe that if you are a corporation or an industrial leader and you are concerned about paying the cost of health care here in America, then you are not going to be worrying about paying the cost of health care down in Mexico, and that is where you are going to go to circumvent and to avoid those costs.

Another argument that is given is that NAFTA will only affect low-skilled jobs. There have been recent articles. One was just in the L.A. Times a couple of weeks ago that showed where a Hughes factory went down to Mexico, and the guy who was writing the article had worked for Hughes. He was laboring under that same illusion, that only the low-skilled jobs would be displaced by Mexican low-wage workers. That is not true.

The reason it is not true is because even though the Mexican workers work for low wages, they have high productivity. And it has been demonstrated and it has been evidenced that they have high proficiency. In fact, if you think about this, you will realize why that can be. And the Mexican workers, even though they are going to be paid low wages, they are going to get high training. The reason why they are going to get high proficiency and good training is because of the money that the American corporation will save on wages. They can then put that into training.

In fact, one of the very insidious and pernicious things about NAFTA is that we are eventually going to do for the Mexican worker what we will not do and have not done for the United States worker. We are going to put money into training them and giving them the kind of training programs where right here in the halls of Congress this Congress this year, we had in a stimulus package worker training, worker dislocation, and all of these kinds of things that we have been fighting for here in Congress and we have not gotten.

When I go back to my district, the No. 1 thing people want to know about is jobs. The No. 2 thing people want to know about is jobs. The No. 3 thing people want to know about is jobs. Where are the jobs?

We have gotten dislocated in aerospace. We have gotten put out because we have no domestic policy any more, no industrial policy. People want to know, where is the peace dividend. If we have downsized on the military, then where is the money? Where is it? So we have not put money back into the kind of retraining and economic conversion programs in our own country, but yet we are willing to take that money and take it down to Mexico. And we are willing to train them. Is that the American way?

As I said, it will not just affect low-skilled jobs. It will affect all jobs.

The other thing that NAFTA will do, if it passes, and God forbid, is that it will not only displace jobs, it will affect and it will pare down wages, meaning that what we should be trying to do with the North American Free-Trade Agreement is bring up to good wage standards the Mexican economy and the Mexican wages of the average worker, instead of allowing that market to dictate our wages and to bring our wages down.

The way that the agreement is presently constituted and structured, that is what is going to happen. Because with the wages, with no guarantee in the agreement to boost up their minimum wage, their minimum wage, again, 58 cents an hour, with nothing in the agreement that holds their feet to the fire to boost up the minimum wage, when the cheap labor is flowing down there and the unions up here say, "We want to make sure that we are paid union wages," the American corporations, the U.S. corporations are going to say to those American workers, "Go take a hike, because we can do better. We can go down to Mexico or we can put this product together for minimum wage. We do not have to compete with you any more. We do not have to adhere to you any more. We can take our business elsewhere."

And that is the danger, that it is going to bring down the wage level of American workers.

There are so many things about this NAFTA agreement that are important for you to know. Another thing is that $1,000 per U.S. worker in the lower 70 percent of the labor force will bear the brunt of the cost of NAFTA. So who is going to end up paying for this NAFTA? It is the little guy, once again. It is the low-wage worker who is going to end up paying for NAFTA.

There is an argument that says that NAFTA is great because NAFTA is going to curb and solve the illegal-immigration problem. That could not be any further from the truth. We did not see that happen in the maquiladora program a few years ago, and it is not going to happen now.

What is going to happen is the dislocation of Mexican farmers, when we go down there and exploit the Mexican terrain. Those farmers are gong to move closer to the border, and they are going to still be living in squalor. They are still going to have an environmental problem which, by the way, the NAFTA agreement does not speak to. There is nothing in NAFTA that has any teeth in it in terms of holding the Mexican Government accountable for the work that needs to be done on the infrastructure and the environmental cleanup down there on the borders.

There is nothing but a lot of pipe dreams and promises, just like there is nothing but a lot of pipe dreams and promises about net job gain down the road, in the by and by. That is what we are hearing, but there is nothing in writing. It is the same old used car salesman scam that says, "If you do this, we will promise you this, we will promise you that." But there is nothing in writing.

Another argument about NAFTA is that either we do this NAFTA agreement or lose jobs to Mexico or lose jobs to Asia. One thing is this, in Asia, particularly one of our big competitors, Japan, the Japanese wages are higher than the Mexican wages so that is one thing you have to understand.

But the other thing is this, by not doing NAFTA, do not listen to all the scare tactics that say that the Japanese are going to come in and they are going to do the NAFTA agreement. They are going to get one up on us. Those are just the protestations and scare tactics of people who want us to accept and to subsume this NAFTA agreement, which is not right.

The Japanese are smart. They are not going to go for the NAFTA deal like we are going hook, line, and sinker for the NAFTA deal, because they are a closed-market, protectionist type of society. That is why we have the problems we have already.

But, of course, the proponents of NAFTA would say, "Wait a minute, you got it all wrong. What does that have to do with NAFTA? NAFTA is not trying to move into the Japanese market. It would be inviting the Japanese to move into their market."

Once again, that is the sleight of hand, and that is the veneer, the lie that is being perpetrated by the NAFTA proponents. NAFTA is not so much about our exports into their market. It really is about allowing and empowering the Mexican economy and the Mexican marketplace to export effectively into us.

Oh, sure, we will go down there and we will export more to Mexico, but once again, we are going to be exporting to build factories down there. We are going to be exporting our jobs down there more than anything else. And even if you assume for the moment that we are going to be exporting some consumer goods, guess what? Because NAFTA does not cure illegal immigration, just like we see in California, what we are going to have is more and more illegal immigrants working in places like the border States of Arizona, California, and Texas. And even

then workers will be dislocated and displaced, because the average worker who is in a union, who deserves decent wages, they will be undercut.

They will be undermined by those who are not in the unions, by those who are illegal immigrants. Even the exports that we send to them will not be reflective of job retention for U.S. citizens.

People talk about free trade is a good thing, because free trade is mutually beneficial. But I mean, even that very term in and of itself belies the truth, which is this: somebody is going to come out on top on NAFTA. You cannot have a trade arrangement or relationship and both sides have a surplus. There is going to be a surplus for one trading partner and not the other, or there will be one for this trading partner and not that one.

What that means is that the United States feels that it is going to be the trading partner who is going to come out smelling like a rose on this. But do not think for one moment—I have been down to Mexico. I talked with Salinas, and I talked with their trade minister. Do not think for one moment that the Mexican Government and the Mexicans do not think that NAFTA is the cure-all for their economy.

It is their boon. They are hocked up to the hilt. Their economy is hocked up to the hilt. They have a $20 million deficit, based on foreign investment. That is the only way that they have been able to stay afloat. They want this NAFTA agreement to go through because it is going to bail them out. They want this NAFTA agreement to go through because they believe it is going to put them in a position where they have a trade surplus. How? Based on the exports of products that have been made by cheap labor.

Believe you me, they are going to be selling back to us everything that they make down there. Even if it originates here, by the time it gets there and it is put together, they will be doing what is called a U-turn export, which comes back to us as an import, but it is an export on their books. And they will end up with the trade surplus and not us.

Those of us who still have a job will be able to afford the things that they sell us, because they will be reasonably priced products. But the half a million to a million of us who are out of a job, we will not be able to afford anything. That is NAFTA.

The proponents of NAFTA have said, "We need to do this agreement and we need to support Salinas because Salinas is the first President in the history of Mexico who has been a reformist. He is progressive."

□ 1810

He has totally reformed the country. We need to support him.

President Salinas is just more of the same in Mexico. He just carries a better cloak and a better veneer. There is a party in Mexico, the PRI. That party has been in power since the 1920's. What does that tell us? When they want to tell us it is a democracy, that is a great democracy. No other party has ever gotten in power.

Thank God, whether you are Republican, Democrat, or united we stand in this country, thank God there is some choice. There is no choice in Mexico. in fact, over the last couple of years, since 1988, there have been over 100, over 100 election-related deaths in Mexico, because if you speak out against the predominant party, if you even talk about or think about some other alternative to the PRI and to Salinas and what they are trying to do, you can forget it. You will probably end up joining Jimmy Hoffa on some highway down south of the border. You will never be found again.

There is no democracy in Mexico. We cannot believe for one moment that all the promises about doing the right thing, putting money into environmental cleanup, having labor rights, collective bargaining, they say they have unions in Mexico. With the kind of democracy they have in Mexico, that can tell us right away what kind of unions they have in Mexico.

People say that we should be helping democracy in Mexico by supporting the NAFTA agreement. The only way we can help democracy in Mexico is by denouncing the North American Free Trade Agreement, because by corroborating and by supporting the North American Free Trade Agreement, it is only rewarding a nondemocratic and autocratic society.

What we must do is, we must stand against it. We must take a stance. We must let the Mexican Government know that the only way that we are going to deal with them is that they get their act together. That is what happened in Europe. The European Common Market said, in essence, to Spain, Portugal, and Greece: We would love to have a common market with you. We would love to have this common trade entity, but the only way we are going to do it is that you get your act together, meaning that you are going to have to commit money to cleaning up your environment, you are going to have to commit not only money but you are going to have to commit yourselves democratically, so that your society and your democracy is where it should be. You are going to have to bring your wages up so that you will be a partner, and not just somebody we are carrying.

That is what they did in Europe and it worked. However, the wage disparity between the United States and Mexico is such that we would be subordinating ourselves to low wages. That is something that we should not do and must not do. That is why we must vote against NAFTA.

Finally, the side agreements as they have been laid out are totally insufficient. Once again, they do not address permanent financing for an infrastructure to better our environment. They do not commit moneys to worker dislocation or worker retraining or border patrol.

I heard last week that the President was making some representations about $98 million for worker retraining. My goodness, what a great offer. You can figure it out yourself. We have 50 States. At $100 million, it would be like $2 million per State; $2 million will not even help one city in my district. We have got to have some real financial commitments if there is going to be worker displacement, which there ain't no "if" about it, we know there is. and we have to have some money to address that.

We have to have some money to address the environmental problems down there, which are just horrendous, horrendous.

Last, when we look at the problems in NAFTA, the regulations and the system for redressing that is set up, this trinational commission procedurally that is set up to address any problems that happen down the road, the ones that are going to happen, it is a joke. It is a joke, because there is a $20 million sanctions cap. It is also ajoke because if any two countries out of the trinational relationship do not agree to it or want to say that there is no problem, then it is overruled.

The process is very convoluted. By the time you get to any type of redress, you are about 5 or 10 years down the line. NAFTA just brings and codifies more of the same. It does not bring Mexico up into the economic and environmental standards it should be at. Until we have that kind of agreement, the summary point on NAFTA is that we must not just swallow this elephant whole. Let us take it one bite at a time.

Mr. Speaker, let us go back to the table, let us encourage Mexico to become more democratized. Let us encourage Mexico to be more environmentally sound. Let us go back and let us get the best possible deal we can get for the American public, because when I hear my cohorts and colleagues talk about the fact that "Well, it is an all or nothing situation, we have to take this NAFTA now," and if we do not take it, our country is going down the tubes, Mexico is going down the tubes, no, Mexico is not going down the tubes because we are going to vote down NAFTA.

Mexico might go down the tubes anyway because they are hocked up to the hilt on foreign investments and they have a $20 million deficit. However, if they go down the tubes and we do not support NAFTA, then only a few industrialists will go down the tubes with them. However, if they go down the

tubes and we have supported NAFTA and we have poured all of our investments into NAFTA, then guess what, you, the American taxpayer, are going to be left with the tab and we will go down the tubes with Mexico. That is what we have to remember.

So no, it is not that we are against free trade. It is not that we are against a North American Free-Trade Agreement. It is that we are against this one. It is poorly crafted. It was poorly negotiated. It does not support the concerns for American workers, American jobs, American wages, and the environment, which will affect the United States and Mexico on both sides of the border.

Until we get realistic and responsible and go back to the bargaining table and to all the people that say, "Well, this is it," no, this is not the final say-so. It is not the final chapter. NAFTA will be defeated. NAFTA will come back again, and we will ensure that NAFTA is negotiated with our best interests at heart and the best interests of the United States and the U.S. workers at heart. Then we will have a North American Free-Trade Agreement that we can support.

Ms. KAPTUR. Will the gentleman yield, Mr. Speaker?

Mr. TURNER. I yield to the distinguished gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman from California [Mr. TUCKER]. I was working in my office and I heard the gentleman speaking on the floor. I saw the gentlewoman from Illinois [Mrs. COLLINS], the chairwoman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce, before which I have testified.

I just had to rush over here on the floor and say, first of all, that I am so glad that the people ofCalifornia elected you and sent you here to the Congress of the United States last year, and to see your service in your early terms here and what a contribution you are making to the people of your own State and the people of our Nation.

I would say to the gentleman that he does not have to be here tonight. The gentleman could be out at dinner or somewhere else, and yet he is here late, in the closing hours, on the floor speaking out on behalf of our people. It just goes to prove the elections do make a difference.

Mr. TUCKER. I thank the gentlewoman so much for those kind words. We certainly laud you for your leadership, not only on this issue, but on issues, of conscience that have come up on the House floor time and time again. I just want to encourage you to stay steadfast.

We certainly appreciate your thoughtfulness and your leadership.

Ms. KAPTUR. If the gentleman will continue to yield, I would say that we will be partners in this together.

I just want to submit for the RECORD this evening, and spend a little time, if I might, just a couple of minutes, describing a report we presented to the gentlewoman from Illinois [Mrs. COLLINS] before her subcommittee today, a report called "The Human Face of Trade."

There was a bipartisan delegation of eight women Members of Congress that went to Mexico back in May to really follow what companies that had left our country and had moved down to Mexico, and then to compare what had happened to the workers here and what was happening to the workers in Mexico.

Mr. Speaker, we even have in this report the pay stubs of the workers in Mexico, how much they are earning for the work they are doing. What was interesting about that trip was that the gentlewoman from Illinois [Mrs. COLLINS] represents a district where Zenith Corp. had moved out of, South Chicago, IL.

We were in Reynosa, Mexico, where 12,000 citizens of Mexico are employed in that particular company. All the workers in Illinois have lost their jobs, all the workers in Missouri have lost their jobs.

We got the pay stub of a woman who had worked at the Zenith plant for 10 years. She takes home, after a 48-hour work week, $17.35 a week.

This report is called "The Human Face of Trade."

I would like to submit it for the RECORD this evening. Of course, if people who are listening would like a copy of that, they can certainly call Congresswoman MARCY KAPTUR's office here in Washington and we can send it along.

When I knew the gentleman was down here on the floor, from California, I wanted to bring this chart down to the floor. This is one of the companies that was lost in the gentleman's home State of California, Green Giant. In Mexico, of course, they rename it Gigante Verde. We all know the symbol of the jolly green giant. In Watsonville, CA, Green Giant used to employ 800 more people. Those jobs were lost.

The workers in Mexico were hired. There were 1,000 workers hired in Mexico at this plant, and they are being paid $4 a day, a day. The workers in California were paid $7.61 an hour.

□ 1820

And one of the issues I wanted to bring out tonight was this tremendous wage disparity between California and Mexico. And also that the people, you talked about job retraining and what are we going to do with the people who are put out of work, the people who worked in the Green Giant plant in Watsonville, CA, were largely women, minority women, and they worked for many years to achieve a salary of $7.61 an hour, plus benefits. Many of those women have not found jobs. For many of them, this was their first good job, and many of them are single mothers supporting their own families, working very, very hard.

And then what is tragic about this whole situation is once Green Giant grows broccoli down there, packages it, and sends it back here to the United States, the people in Mexico do not eat the broccoli, we do. And the prices do not go down in the grocery case.

So I wanted to come down here to the floor particularly tonight to present this information and commend you, Congressman TUCKER, for your fine, fine work on this. As the American people know more about this, and they understand what this agreement is really about, and that is giving a Good Housekeeping stamp of approval to this type of corporate relocation where workers in this country are hurt, and workers in Mexico do not earn a living wage, then the American people, and we here in the House, are going to defeat this particular NAFTA agreement.

So I thank you so much for doing this special order this evening.

Mr. TUCKER. Thank you, Representative KAPTUR. We certainly appreciate your contribution. That information is very devastating indeed. When we think about, as you indicted, the wage disparity, plus the lack of benefits that they will receive down south of the border, it shows that there is exploitation on both sides of the border, and that the Mexican worker is certainly going to be exploited, and those who had a job in California have been exploited and tossed aside.

The thing is in California there are no new jobs that are being created. So it is not like you were saying that well, 800 jobs were lost but some other jobs came along to make up for them. There are no new jobs out there for those 800 workers who were displaced. And there is no money out there to retrain them or relocate them. So it is devastating, and particularly as you indicated that these were women, many of whom were the heads of their own households. And not only is it devastating to them, but it is devastating to their entire household, exactly as you have pointed out, and that is what the American people need to understand. They hear all of the glitter and the glitz about trade, trade, trade. As a basic principle that may be true. But as many of our colleagues on the other side of the aisle quip all of the time, the devil is in the details. And this is one time that we are going to expose the devil and let the details be seen for what they are.

Ms. KAPTUR. And you know, when we looked at the paychecks of the women that work in a number of those companies in Mexico, it was interesting. Not only did they take home about $17 or $18 a week, but if you look at the deductions that the companies take out of their checks, there was one deduction that I did not understand. It is

called INFONA. It is for housing. And I asked one of the women workers, I said that is quite a bit out of your paycheck, and it was in fact about a third of what she earned in pesos that week. I said what do you get for your housing, do they help you buy a house. And she laughed, because they lived in a very little shack up on a dirt road in this shanty town. And she said, "I don't know where the money goes."

Our own Embassy told us that the Government of Mexico collects over $62.5 million, and we were told the companies pay this money, but it is coming out of the workers' checks. That money goes down to Mexico City.

I include for the RECORD the typical female worker's paycheck and typical male worker's paycheck in United States-owned maquiladora industrial plant in Mexico.

Typical female worker's paycheck in United States-owned maquiladora industrial plant in Reynosa, MX

Regular, 47 hours	122.20
Overtime, 1.1 hours	20.00
Gross pesos less deductions	142.20
Deductions:	
ISPT	0.15
IMSS	9.00
Infona housing	31.00
(A housing allowance is paid by the worker but the worker receives no benefit.)	
Street Cleaning	2.50
Washer Loan	30.00
(Cost of company loan to buy a washer. The worker paid $200 in January and the washer will cost $40 by December.)	
Despi Komida	
Savings	11.00
Union Dues	6.50
pesos	90.15
Net=52.05 pesos or $17.35 per week U.S. dollars.	

Typical male worker's paycheck in United States-owned maquiladora industrial plant in Nogales, MX

Regular, 48 hours	71.400
7th day	11.90
Attendance bonus	16.000
Gross pay, less deductions	99.300
Deductions:	
Cafeteria	800
ISPT	97
Government union dues	100
	997
Net pay=98.303 pesos per week or $32.76 week U.S. dollars for 7 days work.	

I heard what you said about democracy building in Mexico. That money does not come back to help the very woman whose check that it is taken out of. This same woman has a battery in the back of her little home, and she uses the battery to run a washer. There is a huge family that lives in this little building. And in January she had to get a loan from the company. Tell me what this sounds like to you. She bought a $200 washing machine in January that by December will cost $400, but the company made her the loan. So out of her check she is paying exorbitant interest on a washing machine that she should have been able to buy, and of course she does not have any electricity in her home. It has to be run off of a battery.

So this is really interesting to me. That is why we called this report the "Human Face of Trade." And I am very proud to say that every single woman Member who went with us, each of their names is on the report, including Congresswoman COLLINS who spoke earlier this evening and who was the senior woman Member on our trip. We are very proud of the time she spent with us.

Mr. TUCKER. That is excellent. It is very enlightening information indeed, and I like the title. You are right. We have to put a real human face and provide information that shows the human side of this agreement. We hear so much political posturing about how this is great for trade, this is great for the economy, but when we really see the impact on the average worker on both sides of the border, then in all good conscience, there is no way that we could support this agreement. I think that each and every Member of this House has a responsibility to vote against this agreement. If they are voting for decency, if they have any morality at all, they would not vote for this. So I am certainly going to encourage all my colleagues, as I have been, to vote against this agreement, and to force not only the pro-NAFTA, the proponents and supporters here to come back to the table, but as you indicated, to force a democratization in Mexico, because only by standing against that kind of exploitation will it get better. It will not get better by us condoning it, but only by standing up against that wrong will it get better. And that is what we have to do now.

I certainly appreciate those comments.

Ms. KAPTUR. You and I both represent major agricultural States, and there is a lot at stake for agriculture in this agreement. What I found very interesting is when these processing workers lost their jobs at the cannery in California, the farmers who grew the broccoli and the cauliflower also lost their market when that Green Giant stopped buying from them, and they moved their production down to Mexico. What was interesting is when you go down to Mexico you find that what happens is Green Giant then has its own fields, or they rent fields from certain farmers. The farmers down there are not wealthy enough to own large farmsteads as we do here.

Mr. TUCKER. They are small, poor farmers, yes.

Ms. KAPTUR. That is right. And they hire workers at 40 cents and 50 cents an hour to pick the crops in the field. And if I compare, for example, a tomato grower in Ohio—a tomato grower in Ohio has to pay about $250 to rent acreage to grow tomatoes. And under our law, they pay their farm workers in this country about $5.15 an hour, plus benefits. In Mexico it costs about $40 an acre to rent the ground, and the workers there earn about 40 or 50 cents an hour.

So the pressure to move processing down there is great. And I went to the grocery store when I came home, I went back to Toledo, OH, and I went to find all of the Green Giant products. I hope all of the shoppers in America are listening tonight, and I encourage you to go into the shopping cases, take out the Green Giant products, and then turn it over, try to figure out where it was grown, and where it was processed. You will find the most interesting set of labels. You have to have really good eyes because the print is so small you practically have to squint to see it. But it is very interesting to ask yourself where was the food grown, how was it grown, how was it processed, and who really benefited from this international movement of production that ultimately ends up back here in the United States. The people in Mexico cannot afford to buy freezers. That stuff all comes back here.

Mr. TUCKER. That is the point. Thank you for your contributions this evening. I would like to see a copy of that report also.

Ms. KAPTUR. And thank you, Congressman, for your leadership.

Mr. TUCKER. Mr. Speaker, I yield back the balance of my time.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

U.S. MILITARY OPERATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I borrowed some time from another colleague's 1-hour special order last Thursday before we adjourned, and I was very rushed because we were trying to get in three subjects at one time. Two of them are not life endangering, but very important domestic issues. But to go over the color photography that I took over the skies of Mogadishu 2 weeks ago, and to go through some very important pictures in 30 minutes was a strain on me, and I think a strain on the audience. They wanted to study the pictures a little bit closer, and for the audience of 1,200,000-plus that watches these important special orders, that are still part of what we do here in the Congress, the

gavel has not come down, Mr. Speaker, you are still in the chair.

□ 1830

The House of Representatives is still in session. Yes, the legislative business is finished; yes, we are still stuck with this policy that was supposed to end in January of this year, which was put into effect three Speakers ago, where we planned the cameras on an empty Chamber to give the impression nobody is listening when over 1 million Americans as far away as Hawaii, Alaska, the territory of the Virgin Islands, Puerto Rico, 1¼ million people are listening. I did not mean to be rough on our excellent communications crew which is one floor down about "Please come in close on these pictures." I understand they did a superb job. I was not making it easy for them, because the photographs were all loose and I worked out a system to keep them all in the original Kodak box and to leave them steady so I do not put a light flash on them. I think this will help our excellent men and women downstairs benefit me and my special order by showing these pictures more carefully.

After my special order last week, I went back to the hospital at Walter Reed, the U.S. Army Hospital, met Commanding General Blank—a more perfect assignment has never been made in the history of our Army. Our young wounded Rangers and Special Forces troopers in that hospital told me that General Blank, a major general, comes by every single day at least once to ask how they are doing and to get any comments on their medical care.

I saw some of the young soldiers that I had seen on a prior visit plus I did get a chance to see a young trooper who gave his right arm and right leg in attempting to reach a burning downed helicopter to retrieve the remains of our American heroes, three of them who died on that night in the wee hours of the morning of September 25. More about him later.

His name is Christopher Reid.

Young Sergeant Reid up there in Walter Reed Hospital is a young American of African descent who suffered bad burns on his left side. He is right-handed, he lost his right arm and leg. His spirits are up.

I understand that when Clinton saw him the weekend before last, that it brought the Commander in Chief to tears, and well it would, because his spirits were so upbeat. He had hoped to make the Army a career, and he gave just one step this side of what Lincoln called the ultimate sacrifice, giving your life that others may live, and in this case just so that the parents might have the solace of a funeral.

Young Christopher Reid I think is going to be an inspiration to all Americans of any age as he shows his spirit, works his way through life, using prosthetic devices that he is already training to use. He was training to use them within 2½ weeks of his serious traumatic nightmare with this explosion as he was reaching this downed burning helicopter at about 4 o'clock in the morning on September 25.

Then Monday of this week I went down to meet with tremendous Army and civilian personnel at he Redstone Arsenal at Huntsville, AL, to learn where we have let our Nation down on strategic defense.

The Army now is the lead service in defending our homeland from nuclear missile attack; even from one or a handful of nuclear warheads coming at this country that are accidentally launched or deliberately launched by some crazed warlord somewhere, 1 or 2 is not 30,000 but it can completely destroy an entire city like New York, Los Angeles, or the District of Columbia.

As I said today in a 1-minute speech, the Americans that survive will certainly want to burn down this Congress for not providing us the defense to stop even one missile.

So down there at the U.S. Army Space and Strategic Missile Command, I received an all-day education in not only what the Army is trying to do to defend the United States but where we have helped them in Congress and where we have let them down.

Then I climbed in this little Army C–12 Beech King Air and flew up to Fort Bragg. Fort Bragg is what one of the general officers there called the Valhalla for the best trained soldiers in the world. He said that our 75th Ranger Regiment is the best infantry in the world. What can you do to a Ranger to make him better? Well, maybe to make him a paramedic, to train him in underwater infiltration, to train him in high-altitude parachute infiltration at high or high-altitude low-opening, high-altitude low-opening, teach him two or three languages, train him in civic action, make him an accomplished electrician, carpenter, plumber.

The Special Forces men that serve us in the United States, every one of them has been through Ranger school and then all of these other survival schools and craft schools and language schools. I never saw better sergeants in my life than those who stood for me in front of their equipment and explained to me what they do in the average A-team that we became familiar with in the early days of the Vietnam war.

There are five Special Forces groups around the United States, backed up by two in the National Guard, two in the Reserve. Each one has a geographical responsibility for our five regional combat commands: Pacific Command; European Command; Central Command, which is the command that has authority over the Horn of Africa and all of the Desert Storm operational areas; Southern Command, which is the Central America and South America. Which one am I leaving out? The Atlantic Command, which has just been renamed the A Command instead of just LANTCOM.

These young soldiers down there, there officers and warrant officers at every level, just made me proud to be an American and to serve them in any way I can here in the U.S. Congress.

When I visited in the morning with the deputy commander, who wears two hats, he is over the U.S. Army Special Operations Command, that is both the Rangers and the Special Forces, and some very secret operations, and the psychological operation, the civil action operations, and is also, with another hat, the deputy commander of just the Special Forces. Gen. Richard Potter had had on his wall something that caught my eye. I asked him if I could please have a copy of it. So one of his staffers typed it up for me. I think it tells you a lot about what our highly trained men feel when they serve around the world, particularly in secret situations where there is never any glory, there decorations are given in private, known only to their families. And I think this, by the French author of a trilogy of books, the most famous being "The Centurions," about Vietnam. Then he wrote other books about the conflict in Algiers.

Here is what Jean Larteguy says:

> I would like France to have two armies, one for display with lovely guns, tanks, little soldiers, fanfares, staff, distinguished and doddering generals and deal little regimental officers who would be deeply concerned over their general's bowel movements or their colonel's piles; an army that would be shown for modest fee on every fairground in the country.
>
> The other army would be the real one, composed entirely of young enthusiasts in camouflage battle dress who would not be put on display but from whom impossible efforts would be demanded and to whom all sorts of tricks would be taught. That is the army in which I would like fight.

Some of our unsung heroes in Somalia certainly fit into that category of the battle-dressed, camouflaged heroes known only to their comrades-in-arms.

Mr. Speaker, since I was last on the floor, I continue trying to understand why our great Rangers and Special Forces men and the 160th Special Operations Aviation Regiment supporting them and why the young heroes of the 10th Mountain Division Light Infantry trying to get to them in the rescue operation, why they would be engaged in a 15-hour firefight and why civilians in our command structure back here would have denied them the armor or armored cars or the armored personnel carriers to effect a true rescue.

□ 1840

I showed this on this floor and I will show it again in a minute, a picture of T–72 tanks. Those were the main battle tanks of the Communist forces

throughout the world. In many quarrels with the United States, the Government of India decided to buy their equipment from Russia.

I photographed it all. I will show those people who are interested in following these proceedings of our Congress, Mr. Speaker, five T-72 Russian designed, either built or bought from Russia or one of the East bloc countries or built under license in India. But the nation of India, part of the 2½ dozen nations that are part of the U.N. operation in Somalia, I now find out that the nation of India—I did not know this last week—has 14 T-72 main battle tanks that were just 15 or 20 minutes away from the action and sat unused during that whole 15-hour firefight.

As our terrific commanding general of the Quick Reaction Force there, Tom Montgomery, told me, he called, asked if they would help. They said they had to call Delhi, the equivalent of our Pentagon in their capital city.

I have since found out that Italy has 12 M-60, United States-made M-60, battle tanks. That was our No. 1 tank facing off the Soviet Union and East bloc forces for almost a 15-year span. That M-60 replaced the great M-48 Patton that was our main tank after the Korean war up until into the sixties when all during the sixties and early seventies it was the M-60 tank, and then throughout all the rest of the seventies and the early part of the eighties, it was a mix of M-60's and the brand new M-1 Abrams coming online.

So Italy had 12 M-60 tanks. They also have one of the world's best armored vehicles, the Centauro. They had about 15 of those, still have them there.

Turkey has a dozen M-48 tanks, the venerable Patton tank that served us so well under General Patton's, for example, 11th Armored Regiment in the 3rd Corps area of Vietnam, M-48 Patton tanks.

The final model of that tank, the A-5, Pakistan has an unknown number of those. Turkey has 12 of them.

Pakistan also has 60-five dozen M-113 armored personnel carriers. That was our main APC throughout the entire Vietnam war.

The Bradley has only come online in the last part of the 1980's, the M-2 Bradley.

France has one of the world's finest armored vehicles. They make them themselves, the VAB. They have 20 of them.

Where were these armored cars with hardened tires that can take many, many rifle rounds and can still get around on two or three tires with several shot out?

Malaysia has the American-made V-150, called the Commando, built by Cadillac-Gauge. They seem to have a dozen of those. I am still waiting for their attaché to find out how many.

In addition to India's 14 T-72 tanks, they have something called a TRAWL. I do not know what that acronym means, but it is a mine-clearing tank, and they have four of them. Imagine how they could break through some of these barricades on the October 21 Highway and how easily they could have gotten, in spite of autodetonated landmines, to our people under siege for 15 hours.

So I will continue working on this part of the story, Mr. Speaker, and try to get an accurate accounting of all the armor available on the ground in Somalia.

My colleague, who himself was a member of the 75th Rangers in Vietnam after his original unit, the 173rd Airborne Brigade came home, the gentleman from California [Mr. HUNTER], glad to have the gentleman join me, and I yield to the gentleman from California.

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

As a guy who did absolutely nothing special with the Rangers, but who showed up in Vietnam, as the gentleman from Orange County did, it is a pleasure to be here.

I just want to say, and I think I can speak for all the members of the committee on this point, that of all the members of the Armed Services Committee who have many pressing duties at this time of year, who are putting together the conference agreement on defense and we are trying to see to it that our men and women in the armed services are well-equipped, and all the jobs that we have, being back home with our constituents and sharing some time with our families, there is one Member who has undertaken since the tragedy in Somalia the task of really working on this project and trying to develop all the facts which the administration has been very reluctant to assist in putting forth, there is one Member who has really given a great deal of his time and his personal comfort.

He flew for 40 hours straight going to Somalia and back shortly after this tragedy and he has continued to work this issue, and that is the gentleman from California [Mr. DORNAN], the gentleman who just yielded to me.

I say to the gentleman from California [Mr. DORNAN], BOB is one of my best friends and a very fine Member of this body. I think that all of us on the Armed Services Committee and everyone in the House and the American people owe the gentleman a debt of gratitude for his persistence, for all the time that he has spent on this and for the service that he is doing with the families of those who have fallen, because at least through the gentleman they are understanding what happened.

I know that is a very important thing to these people. I know we have some folks here who are watching tonight, who are members of the families of some of the fallen Americans, and the job and what the gentleman has done has been very, very important to them.

So as a member of the Armed Services Committee on the Republican side, but this is totally bipartisan, I think the whole committee owes the gentleman a debt of gratitude. We want to thank the gentleman for what he has done.

I just want to ask the gentleman, what outstanding issues does the gentleman think we have here that need to be pursued in the coming weeks?

Mr. DORNAN. Well, I thank the gentleman from California [Mr. HUNTER] for his kind words.

As a certain legendary radio personality says, "Megadittoes" to everything the gentleman said about me, and it goes for the gentleman from California [Mr. HUNTER].

The gentleman and I had lunch yesterday with the wife of the first American killed in the latest round of intensified hostilities. We had four Americans killed singly, a sniper fight, a landmine accident with a civilian, 51 years of age, his family was informed Christmas Eve last year, Larry Freeman.

I saw the mother and saw a letter that I am going to put in the RECORD of the first marine killed in a firefight near the international airport.

Another marine was killed by a land mine.

We have had four others, two in truck accidents, two in deaths off duty.

There were eight, two under President Bush and six under President Clinton in this vague UNISOM mission after Restore Hope was declared mission accomplished on the South Lawn of the White House on the 5th, and it stayed at eight for several months, and then came August 8 of this summer when for the first time more than one American died. Four died together in a Humvee.

The wife wrote a letter, a letter to all of us. I read parts of it the other night.

The sister came with the wife of Sgt. Keith D. Pierson to visit with us. While we were having lunch with them, they both handed me this letter, and with their permission, I would like to read it into the RECORD.

Sgt. Keith D. Pierson's sister, Laura, has served in the U.S. Coast Guard for 8 years. There are two brothers and two sisters in that family, in the Pierson clan, and 50 percent of them served their country.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield further, I might say that I have met, pursuant to the gentleman's introduction, I have met the sister of Mr. Pierson. She is a wonderful example of service to the United States in her position in the Coast Guard.

Mr. DORNAN. You know, we have a rule that we are not allowed to refer to the gallery here. I saw that rule broken once, with the only living five-star general officer on active duty. There were

seven during the war and only one after World War II, and among those seven were great names like King and Leahy and Eisenhower and MacArthur and Arnold, and forgive me for leaving out two naval officers, Nimitz, seven of them, and then they added Omar Bradley, Patton's commander during World War II. He was sitting up in the gallery once in uniform with his lovely wife. And somebody asked permission, if we could refer to him, so that the whole House would know. He died within the year, so it was a real honor to have a five-star general, played so beautifully by Carl Malden in the movie "Patton."

□ 1850

Mr. HUNTER. Mr. Speaker, if the gentleman would yield, I met him on inauguration day at Ronald Reagan's inaugural speech.

Mr. DORNAN. I think it was that week because we get sworn in 3 weeks before the President in any January of a new President's inauguration, and that is when he was in the gallery, and, Mr. Speaker, I would like to ask that I point out that in the gallery tonight are Laura Pierson and the wife, Mrs. Keith Pierson, and with their permission I read this letter.

The SPEAKER pro tempore (Mr. BARRETT] of Wisconsin. The Chair cannot entertain that request, and allusions to the gallery are not permitted.

Mr. DORNAN. All right. Thank you, Mr. Speaker.

"Somalia: How many more soldiers have to die?"

This was in the Boston Globe just 2 days after that firefight, 3 days after, on October 7.

My brother, Sgt. Keith D. Pierson, was killed in Somalia on August 8 after an explosive device went off under his Humvee. The four soldiers who died that day made the ultimate sacrifice for their country, proud and strong to the end. I, myself, have proudly served in the U.S. Coast Guard for 8½ years and can understand how my brother felt serving his country. It is something you learn growing up, to have a sense of pride along with a personal investment.

There are some who will say that a military career is one entered into with a known risk to one's self and possible loss of one's life. However that is not the question today. Today we have men and women all over the world on missions to, quote, restore peace, unquote. Is this really possible in a world so diverse?

Prior to the incident there was not much news on our mission in Somalia, only that we were involved in a humanitarian mission to help the starving people of that country. Keith was a proud soldier and believed in serving his country for the greater cause, never questioning why, or why me, and for that I find a certain solace in that he died doing just that.

We obviously did not learn the lesson that the rules had changed and that we were not and are not wanted in Somalia. More soldiers have died and been captured. I can only begin to imagine the pain of the families that witnessed their sons, husbands, brothers, fathers, being dragged through the streets by dancing Somalis who just want us to leave.

I can remember, as if it were yesterday, when I got the call that Keith had died.

Actually that call came from his wife, Jodie.

It is difficult to accept when the incident is so far away, and, no matter how many times you see it on television, it just does not seem real. How could this have happened? He was just there to assist in delivering food to starving people. When did this turn into such a bloodbath for American soldiers? How can we, as Americans, stand idly by and watch this inhumane treatment of our troops who are merely following orders?

Enough is enough. I, for one, will not stand quietly by while more families suffer in this way. When will this administration take a firm stand, get our POWs, and get out?

Well, since then we have had our one POW. All the rest, it turned out, were captured, or killed, or beaten to death, and the five missing turned out to all be killed in action, but we do have Durant back, and, DUNCAN, I would like to tell everybody who is visiting with us tonight or across the Nation that Larry King is at Fort Campbell. I am flying there tomorrow myself, but tonight he is going to have on, and he was released to home yesterday, CWO Michael Durant, who is truly a miracle man, who was stripped naked, beaten unconscious by the crowd. I do not think he ever quite lost consciousness, face caved in, back broken, pelvis broken, bruises all over his body, and I have got an exciting story to tell about him. Just let me finish Laura's letter:

"Is it worth the price we have already paid? How many more soldiers will have to die."—Laura D. Pierson, Quincy, MA.

Now I am going to show Laura and Jodie tonight today's Washington Post. It says that our men are coming out of their fortified encampments, Hunter base named after the gentleman, I guess, sword base, and they are going to start patrolling the streets again. They are going to scrape clean the October 21 road where there was a big firefight between the clans last weekend, we're coming out of our armed fortified garrisons, DUNCAN, and we are going into the streets again.

The biggest gulp I got out of Admiral Howe, distinguished naval career, worked many years on the Joint Chiefs of Staff, important jobs at NSA and other top secret agencies; he is our U.N. commander over there, carefully picked by the Secretary General of the United Nations, Boutros Boutros-Ghali, to make sure we had an American taking the heat over there. He gulped when I said, "What are you going to do, Admiral Howe, when the very next American soldier, God forbid that happens, gets killed?"

An excellent two-star major general, Tom Montgomery, said the same thing. I had in front of that at that moment that full page that the gentleman has seen me show people from the Washington Times with the pictures of most people who were killed during all of the combat leading up to, but not including, the mortar deaths of Matt Rearson, another great Special Forces guy from Fort Bragg.

By the way, let me put something to rest here on that tank story. The M-60 tank is not out of our inventory. I just got this 10 minutes before I started speaking from the Army. Although the Army currently has, and I am pleased with this figure, 4,520 M-1 Abrams tanks, we still have the M-60, A-3 model, tank. We still have 4,821. Two thousand thirty-four are in reserve units all over the United States for our Army reserves who do have over 1,200 M-1 tanks in the reserve, the lucky units. Most of our reserve units have over 2,000 M-60 tanks, and I say that because of this inability to shake loose the Italian M-60 tanks that they bought from the United States to crank into that rescue operation.

There is something else that I want the gentleman from California [Mr. HUNTER] to join me in—well, there are three things. I am glad the gentleman came to the floor.

No. 1, Mr. Speaker, I say to the gentleman, I want you to sit down with me in my office or yours and sign the certificates for about 100 flags that I'm going to haveflown over this Capitol as the sign of appreciation for our wounded and to the families of the 26 men who have died in combat there. Well, we might as well make it all 30 that have died under hostile conditions.

Mr. HUNTER. Mr. Speaker, if the gentleman would yield, I would be proud to do that, and I think we should include our colleague, the gentleman from Texas [Mr. SAM JOHNSON].

Mr. DORNAN. And reassembling Tiger Flight——

Mr. HUNTER. And DUKE CUNNINGHAM.

Mr. DORNAN. Tiger Flight from last September and October, and the Commander in Chief remembers this well because he was not yet President, but, if the four of us would take the time to sit down, the four of us, Tiger Flight reassembled, that is, SAM JOHNSON of Texas' call sign from Korea when he was just a young rascal, and then he was a Thunderbird pilot, and then he went back as a commander to Vietnam, 7-years POW, 4 years in solitary confinement. Families will know he suffered, and his signature will mean something on those flags.

We will fly 100 of them. One of my staffers is going to come in and help do this on Thanksgiving Day. Remember my daughter Theresa, Terry's, idea to thank them, and I think this will solve the problem of inundating homes all across America with the letters of thousands, if not tens of thousands, of loving school children.

However, for the troops up at Walter Reed, cannot help the guys yet at Fort Campbell and the son of a Congressman who is an Army major, doctor. He was a Special Forces doctor there, Robbie Marsh. I am going to try and call him

tonight after this special order. I should have called him. He wanted to be informed so he could watch, but here is the guys over at Walter Reed, and, if the hometown rings a bell, write them. Here is the address at Walter Reed:

After I give their name, simply put Walter Reed; that is R-e-e-d, Army Medical Center, Washington, DC, 20307.

Now some of these fellows have gone home. Here are the ones that are still there:

If you are from Pennsylvania, write S. Sgt. John Burns. I got to meet his mom and dad up there on Saturday. He is from Glen Holden. PA, 25, 75th Rangers, gunshot wound to his left shoulder and leg. The President was so impressed with John's esprit de corps and his good humor that he mentioned him in a speech later and said, "If everyone has the spirit of Sgt. John Burns, this country is well served," and he is a spirited young ranger telling me that they are still the world's best light infantry, and his general, Potter, says the same thing. We know it is true.

□ 1900

Sgt. Paul Leonard. He was a crew chief for one of the hero warrant officer pilots there, Cliff Wolcott. He served him for 10 years and talked his way into a very special assignment with Special Forces.

Paul Leonard is from Franklin, MA. His birthday is the 4th of July, 1960. If you are a young student, or a mother that has a grade school or a high school student from Massachusetts, write to Paul Leonard at that Walter Reed address and thank him for serving the country. He has a badly broken leg from another AK–47 gunshot wound.

Then there is Pfc. Peter Neathery. He was already out of the hospital the second time I came around with his girlfriend. He is from Grandbury, TX. If you are from Texas, write to Peter. His arm is way up in the air. He was shot through the right shoulder. He is another 75th Ranger, 20 years of age.

By the way, Paul Leonard is 33. I said 1960. Write to him.

Scott Galentine was firing with his M–16 rifle, and a bullet went through the side of the gun, destroyed the barrel, and pretty much blew the palm off his hand. So his hand is grafted to his stomach. He is still in a lot of pain.

The commander in chief took a Polaroid picture with him. It is up on his wall.

Sgt. Scott Galentine, 22, Xenia, OH. One of his other mates from Xenia was also wounded slightly and is already back home. He is shot in that left hand, as I said. His friend was Spc. Richard Strauss, also from Xenia. He is home OK.

Then down in the Fort Bragg Hospital, I don't have the address there, just put Fort Bragg, NC, it will get to him, is M. Sgt. Brad Holling. I mentioned him last week. He was on the rescue chopper that we may have two Medal of Honor winners from. He is Special Forces, a very exclusive group of people with a special mission. Brad Holling was on the helicopter and saw Gary Gordon and Randy Schucker reach Durant. I hope Durant mentions him on the air tonight on the Larry King show. From what I understand, Durant is the warrant officer and the highest ranking officer on scene and will be putting these two guys in for the Medal of Honor. I will bet you Holling ends up with the Distinguished Service Cross or a Silver Star. He lost his leg. He is already home, already working to get a prosthetic device on. But you can reach him through the Fort Bragg Hospital.

Then, of course, the young Sgt. Christopher Reid, 10th Infantry, the first of the 14th Regiment. Just put 10th Mountain Division. And he is also at Walter Reed Hospital.

Then two gentlemen that I missed, and I am going to go back and see them. I heard that they were as close as any two people in the Army could be with a third man who had serious head injuries from fast roping from the helicopter. He is already home.

But the two Rodriguez men, one with a gunshot wound to the thigh and the knee, and another one in both legs. Spc. Adalberto Rodrigquez. He is from Naranjito. I do not even know what State that is. It has to be Texas, New Mexico, California, or somewhere. You are writing to him at Walter Reed.

Then his buddy through all of his Ranger training, Adalberto is 20. His friend is also in the hospital. He lives out with his mom. He is from San Diego, your neck ofthe woods, DUNCAN, and he is 21 years of age.

I want to make sure I did not leave anybody out. Here is one that the President spent a good deal of time with, 1st Lt. James Lechner. That is the one that Senator D'AMATO met with and talked about on Larry King. He is 27. He has got another one of these vicious gunshot wounds to his right leg, which tore out a piece of bone. The wounds are open in the sense there are huge pins in his legs, as there are in Burns' legs and as there are in Leonard's legs.

And with all that pain and medication, these guys are in there just full of energy, talking about how proud they are to be Rangers or Special Forces, and looking forward to getting back on active duty, jumping out of airplanes, high altitude opening, low altitude, night work. And as they said to me over and over, we own the night. We own the night.

That was a daylight raid. It was important that we go in at daytime. We had the intelligence. They had all the pictures of these bad guys up in their quarters, the hangar.

One of them, Paul Leonard, was the guy that said, "Hey, that is Osmond. That is Osmond Otto. We got him. Aren't you Osmond Otto?"

He would not talk. Finally he admitted, "Yes, yes, I am." And they would sit there and stick their chests out, hands—they gave me a new word for these plastic cuffs, fast cuffs or something. And I could go on and on about these guys. To tell you the truth, I just like hanging out with them. They are the salt of the Earth.

Mr. HUNTER. If the gentleman will yield for just a second, BOB, you mentioned the wounds that our people have and the fact that a lot of them are shot up pretty badly, but that they have medical procedures being undertaken.

I just wanted to reflect on the fact that we are very fortunate in the sense that we have tremendous medical capability in the U.S. Armed Forces, and we have the ability literally to heal up wounds that years ago could not be healed. And in terms of legs, it always meant amputations.

I was in a Civil War relic shop not too long ago in Middleburg, VA, and I saw some of the contraptions that they used in those days when you had so many people that had literally field surgery and amputations. And let me tell you, the peg legs that they issued, almost one size fits all. I mean, the Clinton health care plan would have loved these. They were very crude, and you could tell they were very painful and very difficult to work with.

Looking at the progress we have made since those days when we had very, very coarse field conditions, to today, when you can Medivac a Ranger or a Special Forces personnel or a line troop to an excellent surgeon in a very short period of time, and the way our military takes care of our people who are wounded in battle, we really have a great Medical Corps that we can be proud of in the U.S. armed services.

Let me just comment one time on something else that you mentioned. You mentioned the fact that our people are going to out working the streets now, at least that appears to be the case.

Mr. DORNAN. Sometime this week they go out again in harm's way.

Mr. HUNTER. I understand that. And I think that what the American people are concerned about is this: I think they are concerned that the President and his people do notperceive the difference between being peacekeepers, having our troops in position as peacekeepers, or being in a position of being a trip wire, if you will, where you put soft bodies between warring factions that are firing real bullets and you end up inevitably with casualties.

I think that distinction and the ability to know when you do not put your people in harm's way, when it is a losing proposition, is something that requires tremendous judgment on the part of the Secretary of Defense and your direct field commanders, and, of

course, the President of the United States, the Commander in Chief.

I think that is the part of this new MOS, military occupational specialty for our armed services, and that they are now going to take on this new dimension as peacekeepers, although we have had them do such things in the past, sometimes with disastrous consequences, like the position we held in Beirut that was tactically and strategically a terrible position to take, being down there on the beach where they were receiving military fire and ultimately having the suicide driver destroy a number of marines.

But this new dimension that our military is going to take on of being peacekeepers is perhaps not one that is well thought out, because it does not serve our military people well, nor the families that volunteer them. And all of our people are volunteers for the military.

It does not serve them well when we put them in positions where they are more in essence trip wires than peacekeepers. And unless we have a clear mission, a military mission, unless we decide that we somehow are going to segregate these clans in Somalia and totally put a barrier of Americans between the clans, which could be very costly in a military sense and in a human life sense, it might not be wise to resume patrols in Somalia. It might not be wise to put our people in a position where if a cease-fire is broken and automatic weapons and all of the other modern weaponry that exists in abundance in Somalia is used, then we are going to have more tragedies, we are going to have more American deaths, without necessarily accomplishing a valid foreign policy goal. I think that is a concern.

Mr. DORNAN. I think this is a good point in the RECORD to put an article by Barton Gellman from the Washington Post from last Sunday which actually gives the exact phrases of some of the words in these very controversial memos to the civilian forces in the United Nations.

□ 1910

I hope you will stay around so you could ask for 60 minutes in your own name so tonight I get a chance, since we are out for 4 days, to cover the whole Morton Halperin story. But here is the headline of Gellman's story on Sunday, Halloween, October 31, "The Words Behind a Deadly Decision, Secret Cables Reveal Maneuvering Over Request for Armor in Somalia." And I just do not have time tonight to put in all the great analysis in this article, but it pretty much comes out and in the end it says, "Other officers and senior civilians said it is hard to imagine that Aspin would have resisted if Powell had told him firmly that lives were at stake."

However, in General Montgomery's cable, mentioned here, he does not talk about anything except lives in danger and breaking through barriers, road barriers on a rescue mission.

And the last paragraph says, "On October 6, when the first reports surfaced that Aspin had refused to send armor, Clinton picked up the phone and called Les to find out what the hell was going on."

That is a quote from a senior administration official, that the President "picked up the phone and called Les to find out what the hell was going on."

Mr. HUNTER. He called the Secretary of Defense because the President was upset because the field commander had asked for——

Mr. DORNAN. He did not know what was going on. At that point they were saying 12 dead, unknown small numbers missing. Then the 13 died in the hospital at Landstuhl, and then pretty soon we find out there are 5 missing, all of Durant's crew and the two Medal of Honor quality Rangers who went after him, Special Forces, they did and it went up to 18. Then 3 nights later the former Secretary of the Army, a former Member of this Congress from Virginia, whose son I talked about on the floor receiving heavy shrapnel from a mortar wound right at their headquarters, exposed there, it turns out he was the Special Forces doctor, a major. And he is home recovering. He was touch and go for a while. He is already recovering well. Those Special Forces guys are tough.

Here is the last paragraph, though, "Two days later Clinton said Aspin told him there had been 'no consensus among the Joint Chiefs' to send the armor."

I saw that on CNN myself.

Investigative reporter Barton Gellman says, "In fact, neither Aspin nor Powell consulted the Chiefs. Administration officials speculated that Clinton misunderstood Aspin's reference to the mixed signals he thought he was getting from Hoar. Reluctant to contradict the President, they never corrected him."

Mr. HUNTER. I think what bothers a lot of us is this, why does the administration and why did the President and why did the Secretary Aspin torture themselves over a simple requirement for a field commander for the equipment he needed to carry out his job safely and expeditiously? Asking for a tank, if you are an infantry commander, is not necessarily the biggest demand in the world. He did not ask for a battalion of tanks. He asked for a couple of them.

Mr. DORNAN. Nobody in the media would have ever noticed.

Mr. HUNTER. The idea that this produced a great deal of consternation between the Commander in Chief and the Secretary of Defense is, I think, evidence of their naivete and their lack of experience and their lack of having quality people around them. I hate to say this, but I think if a General Scowcroft or Dick Cheney had had a request from a field commander for a piece of military equipment, not talking about a nuclear weapon, talking about a tank, they have been around for about 100 years, they would have sent it to him.

Mr. DORNAN. This is a great way to trap you here, because I have a "Dear Colleague" letter going out. The gentleman from California [Mr. DOOLITTLE], my colleague from northern California, and myself, I would like to add you, asking a bill, saying that U.S. forces in combat cannot be placed under any foreign commanders, because we are not always going to get excellent trained NATO style commanders. Our units are integrated wholly as one unit, when that was to take place under the NATO command to hold off the Soviet Union and East bloc Communist forces, that no American commands can ever be put under foreign commanders without the specific permission of the U.S. Congress whose obligation it is to recruit, to pay, to feed, to fund and to raise these armies and navies and, by evolution, the Marine Corps.

The Marine Corp's 218th birthday is this week. We cut that cake in the big conference room in the Cannon Building. Commandant Mundy said, "As much as any service here, you own us in the Congress. You created us by an act of Congress, Continental Congress, May 10, 1775, a year before the Declaration of Independence,almost a year, and you fund us. We are under your orders, and we protect you from the Marine Barracks against the Brits coming over here and burning this place down, as they did in 1814."

And he said, "So we serve at your pleasure."

Of course, what his words meant was that every man or woman in uniform serves under the direct control of the U.S. Congress, the Senate and the House, but that it needs a Commander in Chief. And constitutionally, that sacred and honored power has gone to whoever sits in the Oval Office. So if you will join me on that bill, is that an affirmative?

Mr. HUNTER. I would be happy to join the gentleman.

Mr. DORNAN. Will you join me on a Dear Colleague that is going out tomorrow? I do not want to go through it again here tonight, in the interest of cramming as much as I can into my hour and whatever piece of an hour we use for your hour, but we simply have to have hearings under the gentleman from Virginia [Mr. SISISKY], a good Democrat from the Navy, U.S.A., down there in Newport News and all of that great shipbuilding area. NORMAN SISISKY is the head, and I serve on it, of the Oversight Committee on Investigations, subcommittee of the Committee on Armed Services. He should have

hearings over this whole mess, particularly the armor aspect and the U.S. armor that was available and not sent to rescue our guys under the most ferocious enemy automatic weapons fire since World War II. Maybe no concentrated fire like this in the whole bloody decade of your war in Vietnam.

Also, why do we not have major committee hearings under the gentleman from California [Mr. DELLUMS]? He was honored as a private first class in the Marine Corps in his youth today, one of the 19 ex-marines, and some of them current marines, in the Reserves, serving in this Chamber. What about the Senate doing the same, having investigatory hearings over there to get to the truth of this?

That Dear Colleague letter goes out tomorrow. I have got one staffer on the bridge over in the Rayburn. Can he affix the distinguished name of DUNCAN HUNTER?

Mr. HUNTER. I will be happy to cosign that.

Mr. DORNAN. You have to come over here. I get to nail you down in front of 1,300,000 people.

Two pieces of business to clarify.

Mr. HUNTER. The gentleman spent 40 hours in the air going back and forth to Somalia, and he has earned the partnership and cooperation of every member of the Committee on Armed Services, with his work.

Mr. DORNAN. Here is something else you will never forget. Adalberto Rodriguez, Naranjito, I tried to claim it for the Southwestern United States. No, it is the Territory of Puerto Rico, soon to be our 51st State, I hope.

And you know we have our own combat-trained top police officer in our Cloakroom, the mother hen who shepherds all of our brilliant young pages, ex great D.C. and Capitol Hill cop, Peggy Samson came down here with a note. Those handcuffs are called flex cuffs. So we do not know everything here, but Peggy comes down, our own Special Forces officer that helps run that Cloakroom for us.

Now, here is the point, I think with two wonderful American ladies who have lost someone they love desperately, to get a good look at these slides, which I will show them after the special order is over and ask to put in the CONGRESSIONAL RECORD an article from a couple of days ago, November 1, in the Washington Times, Joyce Price and some of the people called me about the two from the September 25 crash whose remains were never returned. And it has a little box here on Somalia, just these two, their remains have not returned. From the Persian Gulf, there are no missing. There is no missing from Somalia either, because we know what happened to these remains in the 5,000-degree-Fahrenheit aluminum and magnesium fire in the back of that Black Hawk H–60.

□ 1920

From Vietnam, we still have 2,248 missing. There were some cases. I have to correct myself, because I did not, I was not thinking of lost at sea.

There was a fine young Irish American lieutenant that was lost on the way back to the *Kennedy*. His remains were never recovered. Some of the bodies from an AC–130 gunship that was shot down in the daylight hours of the first day of the land war, some of those bodies were not recovered.

Of course, there are always naval accidents at sea with our fine young fighter pilots and navigator bombardiers, some of our attack pilots and supporting AWACS cruisers, helicopter pilots who are lost at sea, and no remains go home.

However, I meant in the land war, on the ground, in the whole Desert Storm war, out of 148 killed, except for those sea accidents, all remains were returned home.

To show how tough past wars were, Korea, 8,177 missing, many of them still buried in unidentified graves that we could still identify the remains if they were given to us in the areas that North Korea overran before our first stalemate war in the history of our Nation.

World War II, and this figure always just absolutely tears me up, in World War II, missing, not just no remains home, missing, 78,750. Most of those were also lost at sea in some of those great naval engagements.

Mr. Speaker, I include an article from November 1, 1993, which lists the number of those missing in action:

[From the Washington Times, November 1, 1993]

TWO WHO NEVER RETURNED: REMAINS UNAVAILABLE FROM CRASH IN SOMALIA

(By Joyce Price)

Eugene Williams grew up in a tough neighborhood on Chicago's West Side but steered clear of the gang life and violence that snared childhood chums.

"He had an opportunity to see what the negative side of life was, and he chose the positive," said the Rev. Thomas Jackson Jr., pastor of Chicago's New Original Church of God in Christ, which the young man attended.

"His one goal was to be a soldier," Mr. Jackson recalled. "All his life, that was what he wanted to be. He was always enamored of a uniform."

Army Sgt. Eugene Williams was living out his goal as a soldier in Somalia when on Sept. 25 the Black Hawk helicopter in which he was flying was struck by a rocket-propelled grenade in Mogadishu during a search for forces of warlord Mohamed Farrah Aidid. Sgt. Williams, 26, and two others, Army Pfc. Matthew K. Anderson, 21, and Sgt. Ferdinan Richardson, 27, were killed.

There were memorial services—but no graveside services—for Sgt. Williams and Pfc. Anderson, of Lucas, Iowa. Their families are the only ones who've not received remains of loved ones killed in military action in Somalia.

Maj. Ed Gribbins, spokesman at Fort Campbell, Ky., where Sgt. Williams and Pfc. Anderson were based, said the pilot of the helicopter landed on a street during the attack. After determining that his co-pilot was the only other crewman to survive the fire and explosion, the pilot helped his co-pilot escape, Maj. Gribbins said.

The remains of Sgt. Richardson of the 25th Aviation Regiment at Fort Drum, N.Y., have been returned. But those of Sgt. Williams and Pfc. Anderson, both of the 9th Battalion 101st Aviation Regiment at Fort Campbell, have not.

"We were given a couple of explanations about his remains, one of which bothered his family," Mr. Jackson said from Chicago.

"We were at first told they had the remains [of all three victims of the Sept. 25 helicopter crash] and were trying to identify them. But as we drew closer to the planning time for the [funeral] service, they [Army officials] responded again and said they didn't have his remains because they had not been recovered from the helicopter."

Mr. Jackson said he talked with one of Sgt. Williams' commanders and was told that U.N. troops trying to get close to the burning helicopter in the aftermath of the crash had come under heavy fire.

Because of the firepower, "a rescue team that was sent in was driven off" after pulling only one of three bodies from the wreckage, the pastor said.

"The helicopter burned for three hours," he said, adding that it's not clear to him whether the bodies were destroyed by the conflagration or were too badly burned to permit identification.

"But the family says that if and when they get any remains, they would be interested in getting them back, whatever they are. His mother [Georgia Williams] is particularly hurt that all this is still up in the air. And she has told me specifically that's what she wants."

Pfc. Anderson's father, Keith, said he and his wife, Joyce, were told the helicopter was "fully loaded with fuel," was carrying highly flammable chemicals, including magnesium and titanium, and was "completely incinerated" by the blast and fire.

"I believe them," he said in a telephone review.

Asked if he believes any of his son's remains will ever be returned to the family, Mr. Anderson replied, "Probably not, the way the situation is."

But he acknowledged that his family is "sometimes" haunted by the idea that it may never receive Matthew's remains for burial.

Lt. Col. Mark Martens of the U.S. Central Command in Tampa, Fla., said of the families' concerns, "We believe we have recovered everything left after that catastrophic explosion."

But he said the remains recovered have not been identified. Col. Martens was unable to characterize the nature of the remains recovered. But he said they were turned over to the Army once they left Somalia.

Pfc. Anderson graduated from Chariton High School in Lucas in 1990. His father said Matthew wanted to be a writer. "He did a lot of comedy stuff and cartoons, but I think he wanted to get into adventure-type, outdoorsy writing," Mr. Anderson said.

Mr. Anderson said his son enjoyed spelunking and mountain climbing. He recalled that his son had climbed the mountains in the Huecc Tanks Historical Park in El Paso, Texas, during a spring break at Iowa State University, where he enrolled after finishing high school.

But Matthew dropped out of college two weeks before completing his sophomore year and joined the Army.

"I don't know why he did that," his father said. "Perhaps he could adapt to the freedom of college to think he felt he needed something more regimented."

Pfc. Anderson joined the 10th Aviation Regiment in October 1992.

"We went down to visit him at Fort Campbell in early August before he left for Somalia," Mr. Anderson said. "His mother asked him about getting out because of the danger. But he said no . . . he wanted to stay in."

As a boy, Sgt. Williams belonged to an Explorer Scout troop run by a local police precinct. He graduated from Crane High School in Chicago where he was on the football team and played saxophone in the high school band.

"He was taught Christian ethics all through life, and, basically, he was a very quiet person and very sincere about his goal," Mr. Jackson said.

Eugene Williams joined the Army in 1985 as a helicopter mechanic crewman.

He did a tour in Germany [where he met his wife, Deanne] and South Korea and also Desert Storm," Jackson said.

Johnnie Williams, the sergeant's father, told the Chicago Sun-Times he lost sleep during his son's seven month tour of duty in the Persian Gulf war: "He flew with helicopters all the time. . . . It bothered me all the time," he said, adding:

But his son made it home safe. In September 1992, he was assigned to the 101st Aviation Regiment according to Lee Elder, another Campbell spokesman.

Sgt. Williams could have left the Army at the end of last year but enlisted instead, Mr. Jackson said.

"He came to me to talk about it and told me he wanted to re-enlist. We talked about the dangers of skirmishes and that he might not come out alive. But he said that's a risk every solder takes."

Mr. DORNAN. I want to put in another article, Mr. Speaker.

Mr. HUNTER. If the gentleman will yield, that is what has been called by one of our great military analysts and leaders "the fog of war," and I think it is something that Americans do not realize, is that many people are unaccounted for in these great massive combats that have happened regularly in our country's history.

Mr. DORNAN. Let me put a few more articles in. Then we will get to these big color blowups of my Nikon pictures over Mogadishu that I rushed through last Thursday.

Mr. HUNTER. If the gentleman will yield, are these the pictures the gentleman took personally?

Mr. DORNAN. They are.

In today's paper, the "House Panel Rejects Early Somalia Withdrawal, Clinton Promised March 31 Deadline Is Left Standing After Failed GOP Effort."

That was in the Committee on Foreign Affairs, but it only failed by one vote, 22 to 21, and we heard the majority whip, the gentleman from Michigan [Mr. BONIOR], say tonight that on Monday there will be a fulsome debate on Somalia: the January 31 date, the March 31 date.

That is why it is important that this "Dear Colleague," now yours and mine and that of the gentleman from California [Mr. DOOLITTLE], goes around and gets our colleagues to ask our leadership here to have hearings on this whole Somalia situation.

Mr. Speaker, I include for the RECORD this article from the Washington Post from today, November 4, 1993:

HOUSE PANEL REJECTS EARLY SOMALIA WITHDRAWAL

(By Daniel Williams)

A House panel narrowly rejected a Republican-led bid yesterday to force an early withdrawal of U.S. troops from Somalia. Opponents argued that such a move would embarrass President Clinton.

Rep. Benjamin A. Gilman (N.Y.), ranking Republican on the House Foreign Relations Committee, had called for withdrawal by Jan. 31 rather than the March 31 deadline set by Clinton last month. Committee Chairman Lee H. Hamilton (D-Ind.) countered with an amendment supporting Clinton's date.

Hamilton's blocking action won by a 22 to 21 vote after House Speaker Thomas S. Foley (D-Wash.) made phone calls to wavering Democrats.

The vote complemented action last month by the Senate, which concurred with Clinton's deadline.

Administration officials testifying before yesterday's vote emphasized logistical reasons for staying in Somalia.

One said an early pullout would be "extremely difficult." Others said it would hamper efforts to recruit international replacements under the United Nations banner.

"It would be extremely difficult to withdraw in total by January 31," said Pentagon representative Tom Longstreth.

State Department delegate Wendy Sherman said early withdrawal would "absolutely" harm thechances of getting other countries to send troops.

Clinton's handling of the conflicts in Somalia, Bosnia-Herzegovina and Haiti have reawakened congressional urgings for a direct hand in foreign affairs. Democrats have rallied around Clinton to protect his authority if not his policies. Gilman invoked the 1973 War Powers Act, once anathema to most Republicans, to get a vote in the committee.

The exchanges yesterday were sometimes heated and sarcastic. Hamilton accused the republicans of trying to damage "the credibility of the president in conducting foreign policy."

Gilman asserted that the only reason for prolonging the American stay in Mogadishu was to obscure failure. I am prepared to state with total conviction that it is not worth one American life to help the authors of a failed policy save face, he said.

About 7,400 U.S. troops are on shore in Somalia, with another 13,600 offshore. Congressional nervousness has increased since early October, when 18 Americans died in a firefight with Somalia militiamen.

Clinton sent special envoy Robert Oakley to Somalia to encourage militia leaders to begin peace talks, in hopes that the American exit will not spark renewed civil war. Oakley visited with representatives of 15 clan militias this week and tried to talk them into disarming.

Mr. Speaker, here is an article from yesterday, November 3:

"Pakistani senior officer brigadier General Ikram ul-Hasan, after 6 months of commanding the U.N. unit that suffered the first and heaviest casualties," we have lost 30, but they lost 24 in one engagement, and then three killed later, both of them in ambushes.The first ambush, I flew right over the intersection, was on Highway October 21 at a food distribution center. Their arms were, you know, on the ground, at order arms, just standing there watching the food distribution, and they were slaughtered from ambush.

I just found out the other day, and that is where my older daughter, Robin, always gets uptight with me, the bodies were disemboweled, beheaded, arms and legs cut off. It was something that got the whole U.N. command fired up. Women and children were used as shields in the fight. Thatslaughter of the Pakistanis is what got us into this chase.

By the way, and this is something I feel like calling long distance to Jonathan Howe, do you know what Jonathan Howe offered for the head of Aideed, alive? $25,000. Do you know what our Governor in California offered for the arsonist that caused at least the loss of one person, they don't think the man will survive, who lived across the street from where the two arsonists started the fire, and he has been in serious pain from burns? He offered $125,000, five times what Admiral Howe, in the name of the United Nations, has offered for the killer of 30 Americans, 5 times.

What gets me is, and I was reflecting on the 10th anniversary of Beirut, we offered $500,000, and they have never been brought to justice, for the direct killers who sent that smiling killer in the van to murder 220 marines, 17 sailors, and 4 Army soldiers on October 23, 10 years ago.

I do not know why that was not a $5 million reward, and I do not know why it is not $5 million or $1 million for Aideed's capture.

Mr. HUNTER. If the gentleman will yield, I have sent a letter to the United Nations asking that the reward be increased to $1 million. I would ask, in a little reciprocity, if the gentleman would sign on with that.

Mr. DORNAN. Done.

Anyway, the Pakistani brigadier general says, "We missed several chances," and I do not know whether he is correct or not, and he laments the looming of the United States pullout. He is probably agreeing with what Admiral Howe told me, it will cause a stampede out of there.

This helicopter is important. I did not realize until I was selecting it tonight. This is the helicopter that landed, at great risk to the crew and to the existence of the helicopter, this Black Hawk landed within a few feet of the destruction of our Humvee with four MP's in it: Keith Pierson, 25 years of age, Tavares, FL, 977th MP Company at Fort Riley. He was the only one who was alive.

The door gunner, who I will show you his hand here in a second, actually

pointing at the spot where Keith was injured, he died 2 hours later in the hospital, probably. For all I know, Dr. Rob Marsh was taking care of him.

The other three who were killed on the site were Sgt. Christopher K. Hilgert, 27, Bloomington, IN, also an MP from Fort Riley.

There was Spic Mark E. Gutting, 25, Grand Rapids, MI, another MP from Fort Riley.

Then there was an MP from Fort Leonard Wood, MO, who was riding with them, Sgt. Ronald N. Richerson, 24, from Portage, IN.

They were all killed in the line of duty when that command-detonated, auto-detonated mine went off. This helicopter was the first air on the scene, landing within a few feet at this intersection that I will show you in a moment.

There again is that big Russian Mi-26 helicopter. It sits there. Everybody at the airport looks at it. It is the world's biggest helicopter, but I do not know that it has ever been used in any way to support our guys. That would have made a hell of a scene, coming down, landing on one of the rooftops to support our guys in that firefight.

There is my picture, Mr. Speaker, of what I know find out is 14 T-72 Indian tanks that were not available through a 15-hour firefight to help rescue, at least, say, the last 9 of the 18 Rangers that were killed.

Here is what I am going to discuss on this floor on Monday. This is Old Port. Look at this one quay, an old sunk freighter that has been there for years, and four tiny docks we could not even use.

REPORT ON SOMALIA

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 60 minutes.

Mr. HUNTER. Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. We will be discussing this Monday. I may bring back one or two of these pictures on Monday. There are at least 14 ports up and down the coast as big as this Old Port, or even as big as New Port. I don't show the whole enlarged, more modernized quay here in this picture. I had taken this because that is where the third helicopter crashed with M.Sgt. Brad Holding on board.

Here is another picture of New Port. That is not a very big port. It takes tiny little freighters. Why are we in the Mogadishu port when Aideed's clan is so bloodthirsty and rules the city, when we could be down at Kismayu, which is nearer to where the majority of the 350,000 people starve?

Why are we holed up in fortified garrisons and are going to put our men back out onto those scorpion-ridden angry streets where, when they kill you, they tear your body apart?

□ 1930

I say let us look for another facility if we decide to stay through March 31. This is why maybe January 31 is a rough date.

Look at the tons of equipment we have there, but we could not put four tanks in there, or work it out with all of our allied nations to use their tanks to support our guys in any type of a rescue mission.

Here is the Olympic Hotel. That is as close as I could get. As I said last Thursday, God has kind of helped me with this dark cloud coverage, and the break in the clouds pinpointing and lighting up this whole area.

By the way, former retired Ambassador Oakley had the guts to go to the Conoco House last week right in the middle of this war, and it is named after Conoco Oil, and he moved right into Aideed's area to talk to his remaining lieutenant we captured thanks to the guys up at Walter Reed, about 25 of his lieutenants, but whoever it is is the No. 2 right now, Oakley had the courage to meet him. I am really impressed with Bob Oakley, as I was during the hostage crisis when I got to meet him 7 years ago.

That is a closeup on the Olympic Hotel, the large one across the street, and in this area over here and up here two U.S. Black Hawk broken helicopters have become schoolyard equipment for the people who murdered Durant's three crew members, and the two Rangers that went to rescue him.

There is the university that has now been turned into one big U.N. military compound. What dreams have been destroyed in Somalia. That is where young Somalis got their degrees to engage in world traffic and trade, free traffic and free trade.

Here is that downtown shot of where the Catholic church is nothing but gutted ruins, looks like something you would see in England that Henry VIII destroyed.

Here again is that Black Hawk helicopter that was the first on the ground. And I will close on this and yield for important words from my distinguished colleague from Arizona.

Here is the helicopter crash site, snipers from every roof. Right here is where Chris Reid lost his arm and leg, and down this alleyway here is where the two crewmen who are now in the burn center at Brooks Army Medical Center in Texas, here is where they held out with only one of them being able to fire his Beretta 9 millimeter pistol until he heard in the night, "American boys, American boys," and they were rescued.

And here is the remains of Keith Pierson's humvee from another shot. And I will close on this: this is the hand of the young door gunner, I never got his name, pointing to the humvee, showing where, he is telling me where he landed in the intersection in front of these five old rusted and gutted-out trucks. He landed there, and he and the other door gunner ran over to the helicopters and pulled the badly injured Keith Pierson out. And that hulk still sits in the center of that street as a sort of an evil memorial to the gunmen of Aideed and to the courage and sacrifice of those four MP's who started this round of tragic death of 26 Americans to add to the 4 that died before that in this mixed-up foreign policy we call Somalia.

There is the gunships that they should have had. I will set this aside and turn the special order back to you, DUNCAN, so the gentleman from Arizona can have his hour.

Mr. HUNTER. I just want to thank the gentleman once again on behalf of the other members of the Armed Services Committee for spending so much time on this issue and putting so much of his personal energy, which is tremendous, into this very, very important project. And I want to thank him. I know that the members of the committee and of the House of Representatives and the American people know more about what happened in Somalia because of what the gentleman has done, and we want to thank him very much.

Mr. Speaker, I yield back the balance of my time.

NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 1 hour.

Mr. KOLBE. Mr. Speaker, I take this time this evening to talk about a subject which I have been on the floor on many different occasions during debates that we have had, during the course of 1-minute presentations in the morning, during the course of other special orders. In fact, I have participated with both of my colleagues that are here on the floor this evening in some of these special orders. That subject, of course, is the North American Free-Trade Agreement.

We are going to cast a vote in less than 2 weeks time which I believe is truly one of the most historic and significant votes that we will cast certainly in this Congress, perhaps in the entire tenure of most of us in the Congress of the United States, I believe even in the decade of the 1990's.

Why do I say that? Why do I believe that this vote has such historic significance? Why do I believe that the people of the United States need to take the time during the course of these next 13 days to listen to the debate, to listen

to the arguments that are being made and to understand what this is about?

In its very simplistic terms, NAFTA, the North American Free-Trade Agreement, is tax reduction. It is a reduction by Mexico of taxes on United States products which come into the United States. You cannot say it any more simply than that. It is a tax reduction.

Common sense will tell you that when you reduce the tax, that is the tariff on the products that come into the United States, we will gain from that by being able to sell more of our products to the country that is receiving those products. So yes, our tariff is reduced on the products coming in, but the tariff on the products that we sell to Mexico is reduced even more.

The fact of the matter is that we have a disparity in the tariff rates between Mexico and the United States. In fact, the United States is one of the most open traders in the world and has a tariff rate of about 4 percent on average. And Mexico, while it has made tremendous reductions in bringing down its tariffs, still continues to have a tariff rate of 10 percent on average. So you do not have to be a math genius to figure out that if both sides in this equation bring their tariffs down to zero that we have just gained a 2½ times greater advantage in penetrating the market in Mexico and selling our goods in Mexico than they have in selling their goods here in the United States. And that is exactly what NAFTA is all about.

You only have to look at the historic precedent. You do not even have to look at other countries. You can just look at what has happened with Mexico since it has joined the General Agreement on Tariffs and Trade, that is the GATT in 1986 and brought its top tariff rate down from as high as 120 percent to a top rate of 20 percent, and its average down from over 50 percent before 1986 down to an average, as I said a moment ago, of 10 percent.

In the last 5 years, from 1987 through 1992, our trade with Mexico, the sales that is, the exports to Mexico have gone from $13 billion to over $41 billion. We have more than tripled the amount of goods that we sell to Mexico. And similarly, when you put the aggregate there against what we have sold and what we have bought, in 1987 we had a deficit with Mexico, a deficit in our trade of almost $6 billion. That is, we bought from Mexico almost $6 billion more than we sold to Mexico. Today, this last year, we sold $5.6 billion more than we bought from Mexico.

Yes, Mexican goods, their sales to the United States have increased. But our sales to Mexico have increased even faster, because they have brought their tariff rates down dramatically, and it has opened up markets.

Think of the possibilities to us as we open our markets further, as we make greater reductions in the tariff rates, as we make it possible for United States manufacturers, United States service providers, insurers, doctors, lawyers, all kinds of people to do business in Mexico, think of the opportunities that will be open to them that have not been open in the past, and the amount of additional sales that we can make from that.

□ 1940

I think that we can look at some very clear evidence of how this is working in practice. Let me just share with those of my colleagues and those who are listening a few anecdotes, stores, illustrations about how trade really works in practice.

Not long ago I visited a Safeway store in a community on the border of Mexico and Arizona. It is a small community, the town of Douglas, about 10,000 people. And yet it has the largest Safeway store in the State of Arizona. The largest Safeway store is not in Phoenix, a metropolitan area of 1.8 million people; the largest Safeway store is in this town of 10,000 people. Why? Because it is doing 80 percent of its business with the Mexicans who come across the line from Agua Frieta, a community of over 100,000, where there are virtually no supermarkets.

They come across in order to buy the products in the Safeway store.

I went to the back of that store, to the meat department, which, as I think most people listening would have to agree, is at the high end of any supermarket or retail grocery business. When I say the high end, that is really the expensive part of the grocery store where you spend a lot of your big dollars. In most Safeways, in the average Safeway store, 14 percent of the dollar volume is from the meat department. In this Safeway it is 24 percent, 24 percent of the dollar volume is from the meat department.

Now, Safeway is a unionized store. Its butchers back there are all union employees. I saw nine of them back there. They were sawing, they were chopping, they were cutting, they were grinding, they were wrapping, they were packing and shoving that meat into the coolers, and as fast as they could get it out there it was being picked up as fast as it was being pushed out there by Mexicans who come across the line from Mexico to buy that product.

Why? Because it was cheaper and it was better quality.

So I say to those Americans, and there are some, I am sorry to say, some of them in this body who have stood on this floor day after day to argue that we cannot compete with Mexico, we cannot compete with lower wages in Mexico. Well, I am here to say, "Don't have such a lack of confidence in the American people; have more confidence in our workers. Have more confidence in the industries, the businesses of the United States, to believe that we can compete," because we are competing.

Another story I would share with my colleagues: Just a few days ago I had the privilege of taking a group of Members of Congress down to Mexico City in order to see some of the dramatic changes that have taken place there, to meet with Government leaders. We had an opportunity to go to the first Wal-Mart store to be opened in Mexico City. It also happens to be the largest Wal-Mart store in the world. It is 225,000 square feet, I think it is, under one roof. Now, that is, what, 5½ acres under one roof?

They are doing, in the first week of business there, they did over $2 million and expect to exceed $100 million in the first year that they are in business.

But it is not just the fact that it is a Wal-Mart store. The story behind this is that 62 percent of the goods that are being sold in that store are being made in the United States; not just products that bear a name familiar to you and I, like Kellogg's which has its own factory in Mexico. But I am talking about goods made here in the United States and shipped to Mexico, 62 percent in one store.

Now, translate that, multiply 62 percent times the $100 million that I am talking about during the course of a year in one store in Mexico City and think of how many jobs here in the United States are going to depend on creating those products that are being sold down there in just that one store. And we did not even go next door to Sam's Club. And there is a Price Club now, and there is one in Guadalajara and a Price Club in Monterey. I will come to some of the other retail business that is going on down there in Mexico.

I went up and down the aisles of that Wal-Mart, and I looked. In Mexico you have to have a tag on it if it is made outside of Mexico. I looked at the products. There were Fisher Price toys there, there were auto parts from Indiana in another location, there were shirts and apparel made in the United States, the New Balance products made in Massachusetts. There are all kinds of consumer food products, canned food products, packaged food products, Tony's Frozen Pizza. Orange juice, now orange juice from Florida; one of the issues we have been hearing about is how devastated the Florida orange industry and the citrus industry is going to be if we pass NAFTA. Here was an entire cooler shelf filled with juice from Florida. All these products were being bought by Mexicans.

Of course, we are told over and over again by those who would oppose NAFTA and who do oppose NAFTA that Mexicans cannot buy U.S. products, they are too poor to buy U.S. products, to which I would say, "What are all these products doing in that store?" And I would ask, "What is all

that $43 billion of goods that are being sold in Mexico if Mexicans cannot buy U.S. products?"

The truth is they can and they do.

Of course, they have an income significantly lower than we have in the United States. And yet despite the fact that they have an income that is much lower, a seventh or even less than the per capita income of a Japanese citizen or of a citizen of Germany or the other European Community countries; despite that, they buy more products from the United States thar. either Japan or Germany does on a per capita basis. Yes, that is true.

The average Mexican each year buys $430 of products from the United States. The average Japanese buys $385. The average European Community country, France, Germany, buys about $310.

So they buy even though they have an income only a fraction of those other countries, they actually buy more goods from the United States. And we are just talking about capital goods.

I want to address that for just a second. One of the other arguments frequently made here on the floor, "Uh-huh, well, the only thing they are selling to Mexico, the only thing that the United States could sell to Mexico is capital goods," as though somehow capital goods were bad, as though somehow capital goods were something that we ought not to be selling.

I ask you: Tell the worker in Decatur, IL, in the Caterpillar factory that he should not be making capital goods that are being sold in Mexico, that his job is bad; tell the worker in Erie, PA, the General Electric plant that is making $600 million of diesel engines for shipment to Mexico; tell them that these capital goods are not good and their job somehow is not a good job for the United States to have.

Of course that is not true. Capital goods are goods in hard manufacturing at very high wages.

So I dismiss the argument that somehow—and I think the American people should dismiss the argument that somehow selling capital goods to Mexico does not count.

□ 1950

But even if you want to accept that argument, even if you want to believe it, it still is not true, because Mexico actually buys a smaller percentage of capital goods than does Japan.

In other words, we are selling more consumer goods to Mexico, which is what the other side seems to think is the only thing that really should be counted. So we are selling a lot of consumer goods, and as that $430 figure that I mentioned as a per capital purchase from the United States should suggest, the United States has an opportunity with NAFTA, with taking that tariff barrier down to zero, we have an opportunity to do a lot more.

Now, what is happening in Mexico today is nothing short of a retail boom that is occurring down there.

The Mexico retail market has traditionally been an extraordinarily closed system, one that has not been open to competition, one in which foreign investment has not been permitted and in which foreign products are either prohibited or so expensive that for all practical purposes they are prohibited from entering the Mexican market.

This administration, or actually beginning in the previous administration of President de la Madrid began to change that. That has accelerated under the administration of President Carlos Salinas de Gortari, accelerated in a very dramatic way. The result is that Mexicans now have opportunities to buy more foreign goods than they have before at prices that are within their reach, and as their economy grows andtheir per capita income grows they will have more disposable dollars to spend on those products.

The Mexican economy spends 70 cents of every dollar that it does spend outside of Mexico is spent in the United States. It is spent on U.S. goods and services. That is extraordinary. Only Canada, only one country in the world buys a greater proportion of its imports from the United States.

So Mexico has a tremendous proclivity and a tremendous desire to buy United States—made products. That will continue during the course of the next several years. We will see that accelerate as those tariffs come down.

This summer I was in Mexico for 3 weeks in order to live in the country, to understand the people better, to get a better understanding and a better grasp of my Spanish, which still is not terribly good, I might add; but during that time in the course of living with this family, one morning at breakfast the lady of the house pointed to her grandchild who was sitting across the breakfast room table. He was eating animal crackers.

She said, "Commercio libro es muy bueno," free trade is very good.

She went on to say that now today she could buy those animal crackers that before were not on the shelf or were so expensive that the store would not bother to put them on the shelf because nobody could buy them, because the tariff was so high.

So she went on to say, "I now have more choices in food products than I ever had before. My children, my grandchildren, have more choices. That means I am better off. If I only have to spend half as much money on the food as I did before, I am wealthier, even though my pension"—she was a widow—"has not increased."

I cannot think of a way to describe more succinctly, more honestly and more correctly, what free trade is all about.

We can increase our wealth in one of two ways. We can increase our wealth by getting more income, and we do that through greater productivity which allows us to get a greater wage for the work that we are doing, or we can do it by having prices fall. It is the same thing. If prices fall, we have more disposable income to spend on other goods and services. That is the reality of free trade.

Consumers benefit by having more choices, by having cheaper prices.

In Mexico City today you only have to drive around the city to see how great the surge of retailing and franchising that has come about as a result of Mexico's reduction of its tariffs. There is an absolutely explosive growth. There has been a quintupling in 3 years, a quintupling of franchises in the last 3 years. There are more than 200 franchises, more than half of them U.S.-based franchises that run everything in the gamut from fast food through the service sector to clothing, to computers.

Example: Arby's. Their sale at their Mexico City unit topped $2½ million in 1991.

There is Church's Fried Chicken.

There is Domino's Pizza.

There is Fuddruckers.

The Hard Rock Cafe just opened 3 weeks ago in Mexico City.

There is TGI Friday's, and yes, believe it or not, there is Taco Bell, one of the most popular of the fast food places in Mexico today.

There is Burger Boy, El Payo Loco. El Payo Loco is a Mexican group that is also in the United States today. It goes both ways.

There is McDonald's. McDonald's plans to have 350 units in Mexico by the end of this decade.

Then the franchising extends to services as well. In real estate, there is ERA, Century 21 real estate.

There is Embassy Suites.

There is Blockbuster Video. I saw those all over the place down there.

There is Video Central.

There is Holiday Inn. Thrifty Car Rental, and shoes and clothing. There is Florsheim Shoes. There is Athlete's Foot.

There are computers. There is Computerland, and Dell Computers.

In the past, United States companies that wanted to participate down there had to build a plant in Mexico. That was the only way they could do business down there because either the quotas or the tariffs made it impossible for them to bring their products down into Mexico. So you had to build a plant down there.

Today we see many very well-established companies doing business in Mexico. Kimberly Clark, Procter & Gamble, Kellogg's that I mentioned before, Black & Decker, IBM, General Motors, Ford, Chrysler, all the big three automakers.

They did it because that was the only way they could get in to the marketplace down there.

With NAFTA, that is no longer a requirement. With NAFTA, you will be able to produce a product here in the United States and take it to Mexico, not forced to go to Mexico in order to produce that.

That is why the opposition of the auto unions is the most astonishing opposition of all, a knee-jerk reaction that is based not on any kind of logical common sense, because let me tell you how the auto pact as it is called in Mexico has worked all these years and now that is going to change under NAFTA.

You want to see a car in Mexico? Well, first of all, you have to produce it in Mexico. You have to produce it in Mexico and you have to produce two cars to be exported to the United States before you can sell one in Mexico. So there was a requirement—there is, I should say before we have NAFTA: it is still on the books today—there is a requirement that in order for Chrysler or General Motors to sell an automobile in Mexico, they have to purchase there and they have to produce two others and ship them to the United States.

How in the world can that be a benefit to have that kind of limitation? How can that possibly be a benefit to the workers of the United States and the workers in our big three auto manufacturers?

Under NAFTA, that will change. Under NAFTA, it will be possible for the United States to rationalize its production, to produce the light trucks here in the United States and ship them down to Mexico, to produce one model of sedan in Mexico and ship it up to the United States; but overall, we will be able to sell into a growing Mexican auto market.

The Mexican consumer auto market last year reached 700,000 units. Now, you say that is not very much. That is one-tenth, less than one-tenth of what we are selling here in the United States each year.

□ 2000

It has doubled what they sold 3 years ago in Mexico, doubled in the last 3 years in Mexico, the auto markets. So, we have, when we take these prices down, we have an opportunity, and take these tariffs down, we have an opportunity, to sell more of our products in Mexico. The big three auto makers estimate that in the very first year of NAFTA, and the auto part does not go in effect, does not become fully implemented, for 10 years, but the auto makers estimate that in the very first year they will sell 60,000 units in Mexico.

One might say, "Well, that's 1 month's production or 1 year's production out of one plant."

I ask my colleagues, you know how many we sold in Mexico last year, how many cars and trucks made in the United States went down to Mexico? Less than 1,000 because you can't sell a car in Mexico. It has to be made in the United States.

So, the opportunities for us are immediate, and over the course of the next 10 years, as we phase out all those restrictions on automobiles, we will have an agreement that will truly open this market and make it a real marketplace for all of us.

There is something that is also going on down in Mexico that I think is extraordinary when we talk about—and before I leave the retail issue altogether—and it is called, and it has been called in articles down there, the malling of meso-America. We have heard about the malling of the United States, building supermalls here. But the granddaddy supermall of them all is under construction now on the outskirts of Mexico City. It is called Santa Fe. It extends over several square miles, includes hotels, office buildings, commercial centers, all kinds of auto malls, all kinds of retail stores, boutique stores, large department stores. It sprawls for mile after mile. It will be years in development, but it is more than a billion dollar development. It will be the largest mall in the world when it is completed.

In May 1992, Mr. Speaker, Melvin Simon & Associates, the largest retail property developers in the United States, announced plans to build five regional malls in Mexico. Each of them is going to be anchored by a U.S. store. Dillard's will anchor some of them: Penny's will anchor some of the others. They will be wholly owned subsidiaries of their U.S. operations, and, like Wal-Mart, they will bring the same products that are on the shelf here in a Dillard's and in a J.C. Penny's—will be found on the shelves down there. Yes, there will be some products that are made in Korea, and in Taiwan, and in Japan, and in China, and, yes, some that are made in Mexico. But there will be a very high preponderance of those products that will be made in the United States because the Mexicans do like the quality of United States products. They know them, they trust them, they have been coming to the United States across the border for decades, visiting their families, shopping, coming here in order to buy those products.

Mr. Speaker, I invite any one of my colleagues to come with me to Arizona on any weekend of the year, come and spend just an hour with me in a Price Club or a Sam's Club and watch who is coming in to that store and who is buying what.

Now I think, if my memory serves me correctly, the average ticket price in a Price Club is about $160. That is a lot of money that people come in and in 1 day's shopping they are spending $160. But the average amount that is spent by the family that comes from Mexico, because they come up in many cases all the way from Sinaloa, drive 5 to 8 hours to get there, and they spend the weekend in Tucson. They come up, and they spend $500, $600, $700, $800, $1,000, $2,000, $3,000 at a single time. I do not know what the average ticket is for the person coming from Mexico, but I can tell my colleagues it is many times higher than what we are spending. A very large proportion of theretail market along the border has been Mexicans coming across the line.

What that means for NAFTA is that Mexicans will continue to buy U.S. products. In many cases they will continue to come into the United States to do that. In other cases they will have those available to them in Mexico through their own distribution system down there. So, there is a tremendous opportunity for U.S. retail business down there.

I want to take some time this evening, a few minutes, to just talk about some of the different groups that have come out in support of the North American Free-Trade Agreement and the statements that they have made on its behalf. I think this is important because these organizations represent a tremendously broad cross-section, not only of American industry and of American trade associations, but of the fiber of America itself, of those who are the working men and women who produce the goods, and the services, and the wealth of this country. Let me share with my colleagues some of these comments from some of the agricultural associations.

The National Grain Sorghum Producers, headquartered in Abernathy, TX: It is strongly in favor of NAFTA. It has said the following, and I quote,

When NAFTA passes, tariffs will be removed, allowing U.S. sorghum to be exported to Mexico year-round. U.S. sorghum growers will benefit by selling more grain sorghum at a higher price. The NAFTA is a win/win situation for the U.S. sorghum industry.

The American Oil Seed Coalition, and it represents the American Soybean Association, the National Cotton Seed Products Association, the National Oil Seed Processors Association, the National Sunflower Association, and I know sometimes it is hard to imagine that we have an association for all of these things, and, yes, the U.S. Canola Association—it also strongly supports NAFTA. It has said, and I quote,

In order for U.S. oil seed producers, processors, exporters to realize the potential demand in Mexico for protein meal and vegetable oil it is critical that the Congress approve NAFTA. Without NAFTA Mexican demand for protein meal and vegetable oil is certain to grow at a slower rate.

We have similar statements from the National Cotton Seed Products Association. We have a similar statement from the National Cotton Council of America. It is the central organization in this country for the entire cotton industry. Its members include producers, ginners, oil seed crushers, merchants,

cooperatives, warehouse men, and textile manufacturers. A majority of the industry is concentrated in 17 cotton producing States ranging from California to the Carolinas. But it also includes downstream manufacturers of cotton apparel and home furnishings, and it has said the following, and I quote,

When the board of directors viewed NAFTA as a whole, it determined that the agreement on balance met the requirements of the NCCA resolution on the subject, namely that the agreement gives the U.S. cotton industry the best opportunity for supplying apparel and other end-use manufacturing industries with U.S.-produced cotton and its products.

We have a similar statement from the National Association of State Departments of Agriculture. That is all the public officials representing agriculture in each of our 50 States, and they strongly support the North American Free-Trade Agreement because they understand it is the opportunity for U.S. agriculture to expand its exports.

We have a very strong statement from the National Cattlemen's Association, an organization that I have worked very closely with because I represent a large part of the cattle industry in Arizona, and it has said that it believes that it will see a tremendous increase at a rate of almost $50 million per year in exports of live cattle to Mexico, and that, of course, means more business for the United States cattle growers.

□ 2010

We have a strong statement from the National Food Processors Association. We have support for NAFTA from the Sweetener Users Association. The Grocery Manufacturers of America, as you might imagine from what I was telling you about earlier retailing in Mexico, is strongly supportive. GMA, the Grocery Manufacturers of America, is the national trade organization for 130 companies which manufacture 85 percent of the food and grocery products which are sold in retail outlets. They have said,

We believe that by eliminating high tariffs on food and grocery products, the NAFTA will markedly increase opportunities for grocery manufacturers to export to the rapidly growing Mexico market of over 90 millions consumers and create new jobs for American workers.

But, of course, it is not limited just to agriculture. We have similar kinds of statements that have been made from other organizations as well. Let me just quickly run through a few of these.

We have the Association for Manufacturing Technology, which is a trade association, whose membership includes 300 machine tool building firms with locations throughout the United States. And it is strongly in favor of NAFTA because we have a tremendous opportunity to sell machine tools to this growing economy in Mexico that is now closed to us because of the tariffs and the quotas that exist on those machine tools.

The National Association of Manufacturers, which is the gigantic umbrella organization for all manufacturing in the United States, is strongly in support of NAFTA. They have said, "U.S. consumer goods manufacturers are among the most aggressive supporters of the NAFTA."

We have a very strong statement of support from the U.S. Hispanic Chamber of Commerce. They understand that their members, who have the closest cultural ties to Mexico, will be among those who will be able to benefit in this country as they do more business with Mexico. They have said, "To defeat NAFTA is more than a just a slap in the face to Mexico. To defeat NAFTA is to deny U.S. businesses markets that we so vitally need."

The Interstate Natural Gas Association of America, with 40 members, 29 associate members, and 8 international affiliates in Canada and Mexico, represents the pipeline industry of North America, and they strongly support NAFTA.

The American Gas Association, which is the trade association of the natural gas distribution and transmission companies, they strongly support the North American Free-Trade Agreement.

The American Textile Manufacturers Institute—remember, textiles is one of the things we have been told that we should be concerned about. Yet textiles is one of the great gainers under NAFTA. Why? Because there is a provision in the agreement that is called fiber forward. In order to be counted as a North American product and free of the tariffs that either United States, Canada, or Mexico charge each other, the fiber has to be made here in the United States, or in Mexico, or in Canada.

Of course, the great strengths of American textile manufacturers is in the fabric. That is where the capital investment is. That is where the high paying jobs are to be found. Not in the people who sew the garment, but in those who make the fabric.

So there will be a tremendous market for fabric manufacturers here in the United States as we make that fabric that will be sewn into blue jeans, shirts, suits, and shoes in Mexico, and the United States, and in Canada. So it greatly expands the market for textile manufacturing, and they are very much in favor of NAFTA as a result of that.

The Association of American Railroads understands that trade depends on free movement of goods. In fact, they have said, "Railroading depends on free trade. Our rapidly growing double stake business, for instance, needs stronger international trade flows in order to offer a viable domestic service."

The Printing Industry of America has 34 State, local, and regional affiliates, and it is a small business industry. It is consistent, representing small businesses all over the United States that are in the printing business.

They also understand that more business will come as they are able to do contracts with people in Mexico or they are able to do business directly in Mexico. They strongly support the North American Free-Trade Agreement.

The American Automobile Manufacturers Association is strongly in favor of NAFTA. I described earlier the very obvious benefits. Not just our CEO's, not just the stockholdersof General Motors and Ford, but the workers who work in our plants, because they will have jobs making more cars, more trucks, that will be sold in Mexico. And they are very, very strongly in favor.

They said this in a letter from Andrew Carr dated October 19, of this year.

NAFTA is a big win for the U.S. auto industry and its workers. It opens up for the first time one of the fastest growing markets in the world to sales of a full range of U.S. built cars and trucks. The allegation that U.S. auto plants are going to pick up and move to Mexico under NAFTA is a complete fallacy. The vast majority of Chrysler, Ford, and General Motors' North American production is located in the United States, because American workers, facilities, and supply networks are simply the most efficient.

That question is a good point to take off on discussion of a subject which is another one of the great myths of NAFTA, that somehow, as soon as we pass NAFTA, all American manufacturers are going to pack up and move to Mexico, as though they could not do it today if that was their desire. There is nothing in the law that prohibits them from going to Mexico. There is certainly nothing in Mexican law that prohibits them. There is certainly nothing in NAFTA that makes it more easy for them to move that production to Mexico.

Sure, NAFTA provides some certainty. In that sense, the stability and the certainty that it brings to the political and the economic circumstances is perhaps a reason for investment in Mexico. But a manufacturer that is thinking of moving a plant down there must consider and weigh many, many factors.

Unfortunately, it is not just the wages. Or perhaps I should say fortunately it is not just the wages that they consider. Common sense, when you think about it, would say, yes, of course, there are other factors that go into that. And common sense will tell you if it was just the wages, what would be the greatest manufacturing giant in the Western Hemisphere? The answer is Haiti. It has the second lowest wages in the world. Only Bangladesh has wages lower than Haiti.

But do you see large numbers of plants moving to Haiti? Of course not. Why not? Because Haiti lacks all the things that are needed in order to make a manufacturing center. It lacks the infrastructure. It lacks the skilled labor. It lacks the political stability. It lacks all of those things, the resources that are necessary in order to make manufacturing work.

Now, Mexico is not Haiti. It is certainly far better than that. There is political stability in Mexico. There is a growing middle class. There is a growing educated work force. There is an increasingly skilled work force. There is growing and improved productivity and improved infrastructure.

But, still, Mexico lacks significantly when compared to the United States in all of those departments. So it is things other than wages that go into the decision about where a manufacturer is going to locate his or her plant.

Not long ago, one of the major accounting firms did a survey of some of the Fortune 500 companies. They asked them to rate what were the factors that made you decide where you would locate? And they listed such things as wages, regulation, transportation, workers skills, and so on and so on.

Of the 20 factors, wages was 14th. For manufacturing wages, direct labor is about 24 or 25 percent of the cost of production. So obviously, it is not the only factor that goes into a decision that is being made about where you are going to locate a manufacturing plant.

□ 2020

The truth of the matter is that many factors go into that decision. The truth of the matter is that companies will locate in a foreign country when they believe that they have access to the market and it is access to the Mexican market that will help them to locate down there. But with NAFTA, they can have that access to the market without having to relocate in Mexico.

The truth is that some companies have found, as they have gone down there, that they have not, it has not worked out as they thought it would, that the infrastructure problems, the regulatory problems, the lack of skilled labor has made it impossible for them to produce goods as productively in Mexico as they can here in the United States. And so they have moved their production back to this country.

If we are talking about support for the North American Free-Trade Agreement, there is an almost endless number of editorial support, editorials in support of NAFTA. I will obviously not take the time tonight to go through all of these. I think it is instructive just for a moment to review a little bit of the scope of this support that exists in the media, because I think it raises the question, for those who may be doubtful about NAFTA, should I reexamine my position or my doubt, when I see that every living former President is in favor of NAFTA, when every living former Secretary of State is in favor of NAFTA, when every living former Secretary of Commerce, Republican and Democrat, is in favor of NAFTA, when 41 of our 50 Governors are in favor of NAFTA, these are the people that are on the line every day with jobs, they understand the importance of NAFTA, and when you have this kind of almost overwhelming total support by the news media of the North American Free-Trade Agreement.

Let me just very quickly run through a few of the newspapers that have written in favor of NAFTA in the last 12 months. Publications that have national circulation that have supported NAFTA include Investor's Business Daily, the Journal of Commerce, the New York Times, the Wall Street Journal, the Washington Post, USA Today.

Those with international circulation include the Economist, the London Daily Telegraph, and then you can go through it State by State. And I will just mention a handful of some of the papers that have supported NAFTA, including, in Alabama, the Birmingham Post-Herald, which, by my count here, has editorialized on at least seven different occasions in the last year in favor of NAFTA; in my State of Arizona, the Arizona Republic, which has editorialized at least nine times in favor of NAFTA.

We have in California the Alameda Valley Times, the Enterprise-Record, the Fresno Bee, the Los Angeles Times, the Monterey Herald, the San Diego Union-Tribune, the Sacramento Bee, the San Francisco Examiner and Chronicle, the Santa Rosa Press Democrat, the Santa Barbara News, the Vallejo Times Herald.

You have on NAFTA other States such as in Colorado, the Colorado Springs Gazette Telegraph, the Denver-Rocky Mountain News.

You have the Hartford Courant in the great Northeast, where there has been high unemployment, that understands that NAFTA is about exports and exports are what we must have if we are going to create jobs. And they have editorialized on at least 3 occasions in the last 3 months in favor of NAFTA.

You have the Wilmington News Journal. You have the Washington Times here in this city. You have, yes, in Florida, where there has been so much opposition to NAFTA, you have the Florida Times Union, the Fort Myers News-Press, the Miami Herald, the Pensacola News-Journal, the Tallahassee Democrat.

You have in Illinois the Bloomington Pontagraph. The Chicago Tribune, on 10 different occasions in the last 2 years, has editorialized in favor of the North American Free-Trade Agreement.

In Indiana, the Evansville Courier, the Indianapolis News. In Iowa, let us remember these are not all large newspapers, in Iowa you have the Wallaces Farmer. In Kansas, you have the High Plains Journal. You have, in Louisiana, the New Orleans Times-Picayune. In Maine, the Bangor Daily News. In Maryland, the Baltimore Sun has editorialized more than a dozen times in favor of NAFTA. In Massachusetts, the Boston Globe and the Boston Herald and the Christian Science Monitor. In Michigan, such small newspapers as the Adrian Daily Telegraph, the Alpena News, and larger newspapers such as the Detroit News and Free Press. The Detroit Daily News and Free Press, by my count here, has editorialized more than 15 times in the last year on the subject of NAFTA and free trade.

In Minnesota, ranging from the small newspaper like the Fairmont Sentinel to the Minneapolis Star and Tribune. In Missouri, the Kansas City Star. In Montana, the Billings Gazette. In Nebraska, the Omaha Daily Record and the Omaha World Herald.

In Nevada, we have had support indicated from the Las Vegas Review-Journal. In New Mexico, from the Albuquerque Journal.

In New York, editorial support has been expressed from the Albany Times-Union, from the New York Daily News, the Rochester Democrat & Chronicle, the Syracuse Post Standard.

I am only, by the way, mentioning here about one-fifth of all the newspapers in each of these States that have editorialized in favor of NAFTA.

In North Carolina, we have heard from the Greensboro News & Record. In Ohio, we have had several editorials on behalf of NAFTA written by the Akron Beacon Journal, the Cincinnati Enquirer, the Dayton Daily News, and small newspapers like the Ravenna Record-Courier and the Willoughby News-Herald.

In Oklahoma, editorial support has been expressed by the Daily Oklahoman and the Tulsa World. In Oregon, from the Oregonian in Portland. In Pennsylvania, from the Philadelphia Inquirer. In Rhode Island, from the Providence Journal-Bulletin. In South Carolina, editorial support for NAFTA has been expressed by the Charleston Post and Courier and the Spartanburg Herald-Journal.

In South Dakota, by the Sioux Falls Argus Leader. In Tennessee, by the Memphis Commercial Appeal.

Many newspapers in Texas have expressed their support. After all, Texas is one of the States that understands best the value of NAFTA. Texas, last year sold $18 billion goods and services in Mexico alone, eclipsing by more than threefold the next largest State in sales to Mexico, which was California, and eclipsing my State, which was the third largest by 9 times. We have had support expressed in Texas by papers ranging from the Amarillo News-Globe, the Dallas Morning News, the El Paso

Times, the Houston Chronicle and the Houston Post, the San Antonio Light and the Victoria Advocate.

In Utah, the Deseret news and the Salt Lake Tribune.

In Virginia support for NAFTA has been expressed by the Norfolk Virginia-Pilot and the Richmond Times-Dispatch. In Washington, by the Seattle Post-Intelligencer and the Spokesman-Review from Spokane, WA. In West Virginia, the Charleston Daily Mail has spoken on behalf of free trade. In Wisconsin, the Milwaukee Journal, the Milwaukee Sentinel.

I have said that there are only a handful of the newspapers that have spoken out in favor of NAFTA and free trade. All together this constitutes 479 editorials in the last year and from 187 American newspaper in 45 States and the District of Columbia.

□ 2030

Once again, I would say the people who may be opposed to NAFTA must at least ask the question: Am I sure of my opposition when there is this much support in favor? Could I possibly be wrong, and they could be right, if so many people that have been involved in world politics and in trade for so long, have some knowledge about this issue, are in favor of it?

I would say that I think that is a compelling argument. It is certainly not enough reasons in and of itself to support the North America Free-Trade Agreement, but I think that it is at least one compelling argument that people must ask themselves: With that kind of support from trade associations, from businesses, from organization all across our land, from elected officials and from Governors and from economic development authorities, there must be something that these people know about what job creation is all about.

Why else are these people, whose sole job it is to provide jobs for their citizens, so much in favor of NAFTA?

I am going to end my remarks, Mr. Speaker, because we all have an opportunity in the next 13 days to continue this discussion and this dialog, I am going to end my remarks with the comment that during the course of these next several days a lot of information is going to be passed along, a lot of statements are going to be made, and unfortunately, some of those statements will not be accurate. They will represent misinformation, and they will represent disinformation.

Many of the statements that will be made are going to be very hurtful to our friends in Mexico, and yes, in Canada, but mostly in Mexico and in Latin America. Many of the statements that are going to be made are going to be false, and they are going to be based on stereotypes, and they are going to be based on fearmongering.

I just hope that in the course of this debate, during this next 2 weeks, that all of my colleagues, whether they are for or against the North American Free-Trade Agreement, will try to keep the debate on the issue, on the facts that are involved in this case.

The relationship that we have had with Mexico throughout the course of our independence and their independence over the last 150, more than 150 years, has not been an easy relationship. It has had its ups and downs. It has had its times when we have been on good terms, and times when we have had more strife in our relationship.

However, never, never in the course of 150 years have we had a relationship as close, as good, as we have today. Much of the credit for this must go to the administration of President Salinas, who was willing to make the bold steps to sweep away the history of 150 years of history, 150 years of nationalism, to say that Mexico's future had to be tied to markets and to the United States, and was willing to take Mexico on this important journey and this difficult road towards greater trade with the United States.

Mr. Speaker, I would hope that as this debate goes forward, that we would try to keep our remarks and our comments in that light of building on the relationship that we have had in the past. If we do that, the relationship between our two countries will be strengthened at the end of this debate.

I am also confident that at the end, when all is said and done, that the Congress of the United States will vote for the future of this country. We will vote for the North American Free-Trade Agreement.

PERMISSION TO RESUME SPECIAL ORDER

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that I be permitted to take the balance of my 1 hour.

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Under clause 2 of rule XIV, a Member may not—even by unanimous consent—occupy more than 60 minutes in special orders.

The Chair notes, however, that the gentleman from California [Mr. HUNTER] earlier yielded back 54 of his 60 minutes.

Without objection, the gentleman may reclaim that time at this point.

There was no objection.

REPORT ON SOMALIA

Mr. HUNTER. Mr. Speaker, I want to again yield to my friend, the gentleman from California [Mr. DORNAN] to speak about this very important issue with respect to Somalia.

DRAWBACKS TO THE NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. HUNTER. Having just listened to my friend, the gentleman from Arizona [Mr. KOLBE], making extensive remarks about NAFTA, about the North American Free-Trade Agreement, and challenging those opponents of that agreement, among which I count myself as a person who thinks that this is not a good deal for the United States or for Mexico, to finish a debate in the next 2 weeks on the merits, I totally concur with those guidelines.

In fact, I think that the interesting and ironic fact is that the people who oppose NAFTA in the House of Representatives respect greatly the capability of Mexican workers and their ability to make high quality goods, utilizing high productivity, for very low wages.

That fact, unfortunately, has resulted in literally hundreds of businesses moving south to Mexico and replacing $10 and $15 and $20 per hour American workers with $2.38-an-hour workers, such as the workers who work in the Ford plant in Hermosillo, Mexico.

It is because anti-NAFTA Members of this House respect the productivity of Mexican workers and their capability, not only of doing low-tech jobs but doing high-tech jobs, something we are seeing south of my district in California, that we feel it is important too, instead of making Mexico investment-friendly for American employers, to make this country, the United States of America, investment-friendly, so we can incentivize businesses to locate plants, factories, and zones of enterprise in the United States, not beyond our border, because we need to have good blue collar jobs, $10, $15, $20 an hour, to make this country go.

I think it is interesting, we are talking about Somalia and about America's projection of military force around the world. I am just reminded in listening to the statement of the gentleman from Arizona that the average blue collar worker in this country pays $1,000 a year out of his or her paycheck, out of his whole pay, just for national defense. He pays that in taxes. It goes to national defense. The great American effort that we saw manifested in Desert Storm was paid for by middle-class America.

The average American worker, in paying $1,000 per year out of his or her paycheck for national security, indeed, for the security of the entire free world, pays what amounts to almost 50 percent of the average Mexican worker's entire annual salary, leaving the question that if jobs are allowed to go to Mexico, because of the delta, the margin in wages, who is going to pay that massive cost of projecting the powers of freedom and military force around the world?

Having said that, Mr. Speaker, let me just introduce the gentleman from California [Mr. DORNAN] one more time. As a member of the Committee on Armed Services, he, more than any other Member, has taken the time to fly to Somalia and back, took 40 hours

in the air. He spent literally dozens of hours reviewing the information as to exactly what happened, and he has done more than any other Member of the House in terms of educating our Members on the Somalia situation, and I think also educating America at the same time.

Having said that, let me thank the gentleman, as a member of the House Committee on Armed Services, on behalf of all of our members on the committee, and all of our Members in the full House, let me thank my friend, Bob, for the work that he has done for the American people.

I know it has inconvenienced him greatly, and he has spent a lot of time away from his family because he thought this was important. More than any other Member, he has undertaken this project with his usual overabundance of energy and verve and concern about America and America's forces.

BOB, thank you.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

REPORT ON SOMALIA

Mr. DORNAN. Mr. Speaker, I thank my colleague from California.

Mr. Speaker, during the break when the gentleman and I were showing some of these pictures to Jody Pierson, the widow of Keith Pierson, killed on August 8, with three of his Military Police colleagues, and to Keith's sister, Laura, you found this article in USA Today: "Grieving Father Rejects Clinton's Letter."

I have read about this Ranger, Corporal James E. Smith. You read his name last week. His father, James H. Smith, Sr., a different middle initial, is a retired infantry captain in Long Valley, New Jersey. He writes in USA Today why he sent back the letter from the Commander in Chief, and why he felt he could not be loyal to his oath as an Army officer and to his Ranger son.

□ 2040

I will put that in the RECORD.

[From USA Today, Nov. 3, 1993]

GRIEVING FATHER REJECTS CLINTON'S LETTER

With the death of my son, Ranger Cpl. James E. Smith, the outpouring of love and support has been overwhelming. The letters and kind words have helped my family through a difficult time, and we will always be grateful. But there was one letter I could not accept and returned to its sender—President Clinton.

As a warrior who was disabled in the Vietnam War, and as the father of a warrior killed in action in Somalia, I could not accept the president's letter of condolence. To do so would have been contrary to all the beliefs I, my son and the Rangers hold so dear, including loyalty, courage and tenacity.

The president's failure to provide the requested combat support in Somalia revealed a lack of loyalty to the troops under his command and an extreme shortage of moral courage.

I've had Rangers with tears in their eyes apologize for letting my son die or for failing to rescue the trapped Rangers. The failure was not theirs; it was the president's. Trucks and Humvees cannot replace the requested tanks, armored personnel carriers and Spectre gunships.

Until the president is either willing or able to formulate a clear foreign policy, establish specific objectives and—most important—support the men and women in uniform, I will "lead the way," as the Ranger battle cry says, in ensuring that he no longer sends America's finest to a needless death.

When the president meets these criteria, then I will accept his letter of condolence.

James H. Smith, retired captain/Infantry, Long Valley, N.J.

Mr. Speaker, here also are two outstanding articles, one from the Army Times by Lt. Col. James H. Baker. He is deputy commander of the U.S. Infantry, the Old Guard at Fort Myer, VA. He has been a peacekeeper in Egypt, Lebanon, the Iraq-Kuwait border zone. He writes how "the issue of putting U.S. troops under U.N. command is too often discussed by persons who know little about armies and less about command structures or U.N. peacekeepers." He speaks from experience. I think I will call him and ask him about the Old Guard over here at Fort Myer being used as messenger boys on Capitol Hill. It is disgraceful.

I include that article from the Army Times.

[From the Army Times, November 1, 1993]

ON PUTTING U.S. TROOPS UNDER U.N. COMMAND

(By Lt. Col. James H. Baker)

The issue of putting U.S. troops under U.N. command is too often discussed by persons who know little about armies and less about command structures or U.N. peacekeepers. It oversimplifies the matter to say that American combat forces can serve under U.N. commanders in peace operations just because they "fought under foreign command" in various wars.

According to their country's geography, prosperity, and neighbors, armies differ widely in methods, equipment and size. Military commanders develop the skills required by their own army. It takes no genius to know that nations with limited technology have few specialists in the use of sophisticated weapons and surveillance systems. Armies with no units larger than a brigade have little need to train commanders for large-scale maneuvers, and those with minuscule mechanized forces rarely develop experts in combined-arms operations.

U.N. forces are drawn from armies all over the world; professional skills and experience differ widely among the various troop-contributing nations. But the most modern, well-rounded armies, and consequently the most versatile commanders, tend to be those of the industrial democracies, most of which are NATO members. Even NATO's smaller armies train frequently with U.S. forces and equipment, and NATO officers are the foreigners most qualified to command U.S. troops and exploit U.S. technology and equipment.

As for command structures, U.S. combat troops have indeed fought under the overall command of military leaders of other countries. In World War II, large American formations were sometimes placed under an allied commander. For example, Gen. George Patton's U.S. Seventh Army, along with Gen. Bernard Montgomery's British Eighth Army, came under the command of British Gen. Sir Harold Alexander during the Sicily invasion in 1943.

In such cases, large American units were preferable because they were self-contained. They fought according to their own training and procedures, often different from those of their allies. They could eat, fight and refuel as independent elements. Equipped, trained and supplied by the United States, they carried out the plans of the allied commander but were not tied to him by an umbilical cord.

Developments in technology and military doctrine over the past half-century have given smaller units more independence. And within NATO, joint training and standardization of some equipment and procedures have made it still easier for such U.S. units to serve under a non-American NATO headquarters. NATO planners and commanders have adapted to these realities. In war plans and large-scale exercises, American brigades and sometimes battalions are routinely put under the command of allied officers. "Interoperability" is the goal, and NATO has consistently worked to realize it.

As a natural outgrowth of this policy, a brigade of the 82d Airborne Division took operational orders from a French division headquarters in Operation Desert Storm. Few problems ensued; although the French Army is not part of NATO's integrated command structure, it long ago adopted NATO procedures and has frequently taken part in NATO training exercises.

But what did not happen in Desert Storm was more noteworthy: No U.S. Army ground combat unit went into battle under command of a non-NATO officer. Implicit is the issue of qualifications and experience. With no slight to their dedication non-NATO officers were professionally unprepared for the job.

The United Nations does not select peace-force commanders for their military acumen. It picks them according to political criteria; these are clearly important, but if the United Nations' task involves anything other than the passive monitoring of a cease-fire—if battle injuries and deaths are anticipated—the selection of a U.N. general must also take into account his purely military qualifications. A Third World colonel "bumped up" to a two-or three-star U.N. rank because of his political suitability does not thereby become qualified to command large formations of troops in near-combat conditions.

Putting U.S. combat forces under U.N. command is a multifaceted issue that defies simple analogies. To address it, pundits and policymakers need more than a superficial knowledge of history. U.N. officers can effectively command U.S. troops—if such a policy is intelligently applied. Bluntly, this will mean allowing U.S. forces to serve under the command of some foreigners but not others, according to their military qualifications and experience. And that will usually mean NATO officers.

Mr. Speaker, here is an article from the same day from the Air Force Times by George C. Wilson. Many people know that name going back over several decades. He has been the senior defense correspondent for the Washington Post and is the author of several books on military affairs. And he says, agreeing with you and me, that "Gen. John Shalikashvili, the incoming chairman of the Joint Chiefs of Staff, owes it to

himself, and Congress owes it to the citizenry, to conduct parallel investigations of what went wrong militarily in Somalia—and why.

"The best way to solve a national problem is to force national leaders to focus on it. That is why the Joint Chiefs' obsessively secret investigations of military foulups are never enough. Congress must get involved as well and tell the people what it learned."

I include that article for the RECORD.

[From Air Force Times, Nov. 1, 1993]

INVESTIGATE SOMALIA IN CLEAN LIGHT OF DAY

(By George C. Wilson)

Gen. John Shalikashvili, the incoming chairman of the Joint Chiefs of Staff, owes it to himself, and Congress owes it to the citizenry, to conduct parallel investigations of what went wrong militarily in Somalia—and why.

The best way to solve a national problem is to force national leaders to focus on it. That is why the Joint Chiefs' obsessively secret investigations of military foul-ups are never enough. Congress must get involved as well and tell the people what it learned.

Daylight is the best disinfectant for fouled-up military procedures. If tactics or commanders or national policies can't stand the light of day, they should be changed. Otherwise airmen, soldiers, sailors and Marines are victimized by other people's mistakes.

As a longtime student of military affairs (I don't believe there are any experts) who has witnessed a goodly number of foul-ups, I have a lot of bothersome questions about our military operations in Somalia.

More impressive, military friends who have been in all kinds of combat, including special operations, have the same questions, as well as many others. They include:

Why did Lt. Col. Danny McKnight lead his Rangers on the raid on Mogadishu's Olympic Hotel Oct. 3 rather than establish himself in a command post on the ground where he could direct their extraction or rescue?

Although it is brave for such high-ranking commanders to get out front with their men, the officers' catechism says this is a temptation to be avoided for the unit's overall security. Perhaps McKnight had good reasons. Let's hear them.

Why did the Rangers descend from helicopters in broad daylight in an area known to be full of heavily armed supporters of Somali warlord Mohammed Farah Aidid, the man they were trying to capture? Who assessed the risks of such daylight raids?

Retired Army Gen. Maxwell Thurman, commander of the Panama invasion, told me that those operations proved U.S. forces hold the biggest advantage when they conducted raids at night. What has changed since Panama?

Where was the backup firepower for the raid on the Olympic Hotel, such as helicopter gunships, if no fixed-wing air cover or direct-fire artillery was available?

What was the extraction plan for the troopers who ended up trapped in Aidid territory in downtown Mogadishu?

When and why did Maj. Gen. Thomas Montgomery, the U.S. commander in Somalia, ask for tanks, Bradley fighting vehicles and artillery? Did the Joint Chiefs analyze his request? What did Gen. Colin Powell, now-retired chairman of the Joint Chiefs and chief military adviser to the president, do about the requests?

Defense Secretary Les Aspin has admitted that he rejected Montgomery's request but has elaborated on the advice he received on the issue from the Joint Chiefs. Is Montgomery being unfairly downgraded in command responsibility because of his foresight?

Why were Rangers and other U.S. forces headquartered at Mogadishu International Airport where hostile warlords could track their every move rather than put in a secure compound outside the city?

How should command and control relationships with U.N. forces be revamped?

How should the Code of Conduct be changed to ease the pressure on U.S. service people who are bound to be captured and tortured sooner or later by warlords who will force them to make anti-American statements and beam them around the world?

OK, Gen. Shalikashvili and Congress: That's a start on the questions; now let's start on the answers.

Also at this point I will put in the RECORD the letter from Gail and Larry Joyce. Larry is a retired lieutenant colonel. His son, James Casey Joyce, was one of the Rangers also killed on that bright Sunday afternoon, October 3. I will put his letter in the RECORD.

LARRY & GAIL JOYCE,
Chicago, IL, October 22, 1993.

HON. ROSCOE G. BARTLETT,
Committee on Armed Services, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN BARTLETT: My son, Sgt. James Casey Joyce, was one of the US Army Rangers killed in the October 3 Somalia ambush in Mogadishu.

Even though I served two combat tours in Vietnam, I could rationalize Bill Clinton's protesting the war in Vietnam. Now, I'm struck by the irony of his objection to American policy in Vietnam, and his support of a similar policy for US involvement in Somalia. It's similar, at least, in its vagueness, its politicization, and its misguided use of the military. My son opposed my support for Bill Clinton. His death in Somalia—brought about by weak and indecisive amateurs in the Clinton Administration—confirms my son's wisdom and my naiveté.

Senior military officers, including Chairman of the Joint Chiefs of Staff General Colin Powell, repeatedly requested armored and mechanized vehicles for Somalia. Secretary of Defense Les Aspin denied each request. Armored and mechanized units are essential reinforcements for the highly mobile but lightly armed Rangers my son was so proud to join.

Those reinforcements might not have helped my son, became he apparently was one of the first killed. But, they certainly would have helped many of the other 16 soldiers who were killed and the scores of others who were wounded. Army Rangers are the most highly trained and motivated soldiers this country ever produced. To put them, or any other soldiers, into combat with no way to reinforce them is criminal.

Americans, especially the casualties and their families, deserve answers. Congressional hearings should be held immediately to determine what wentwrong in Somalia so those mistakes are not repeated. We must know who, specifically, made the disastrous decision to change the American military posture in Somalia from one of humanitarian relief to one of offensive combat and why this decision was made.

Did someone in the administration make that decision? Or was the President, the secretary of state and the secretary of defense simply asleep at the switch? Who decided Rangers should be used to arrest general Aidid? Why? If his arrest was so essential, why did we suddenly decide to reverse course after my son and 17 other American soldiers were killed on October 3? Who so grossly underestimated his generalship in urban guerrilla warfare? Why? Is Aidid perhaps the only stabilizing influence in Somalia? If so, why did it take so many American casualties to learn that fact? Didn't we learn anything from Vietnam, where our obsession with Ho Chi Minh drew us deeper and deeper into that quagmire?

These are just a few questions that are begging for answers. I urge you to call for an investigation and congressional hearings so we can set our foreign policy straight and make proper use of our military in enforcing that policy.

Questions also need to be asked of the military command in Somalia. Why were Army Rangers inserted into what we now know was a deadly ambush without United Nations Forces—in place—to reinforce them? They were not American, but certainly, Malaysian and Pakistani tanks and armored personnel carriers were better than none at all. They did eventually arrive—ten hours late.

Today's army is far superior to the one in which I served in the 60s and 70s. The young men and women who serve in the defense of our country are a national treasure. In the future, let's ensure they get proper direction and support they need and deserve no less. Please let me know how I can help.

Respectfully yours,

LARRY E. JOYCE,
Lieutenant Colonel (Ret.), U.S. Army.

I want to thank all of the staff here, and we are only going to go a few minutes because at 9 o'clock, I repeat, Larry King is going to have on this miracle survivor, WO Michael Durant. He is at his bedside in Fort Campbell, either in the hospital or in Durant's home. They are probably shooting at the hospital.

But you know, with all of this talk about the Army going into Mogadishu, and I showed the picture last week, I flew over the U.S.S. *Guadalcanal*, which is a big landing platform, helicopter Marine ship, and I flew over the *New Orleans*, and that is another LPH, and we have 1,900 marines from Camp Pendleton, CA in between your district and mine and Ron Packard's district, 1,900 marines from Camp Pendleton, that great Marine medium helicopter squadron 278 sitting on the ship, back and forth and back and forth, and another 1,800 marines from Camp Lejeune in North Carolina with their Marine medium helicopter squadron 162 flying these aging CH-46 Sea Knights. This is the 22nd Marine Expeditionary Unit. The one at Camp Pendleton is the 13th Marine Expeditionary Unit. And there are rumors that they are going to be put on the beach, and that they may help the Army guys there and the 10th Mountain Division patrol the streets.

I want to thank all of the staff for staying late tonight. But you know, Chris Heil, who is right behind me, you know Chris hit the beach at Normandy 50 years ago this coming June about 3 hours ahead of the invasion forces. He was one of the lucky engineers. They

said look, why don't you go in in the dark and blow up all of the tank traps, and the barbed wire so that our guys can have an easier time landing. And Chris said, "Yes sir." so he understands why this is important when young men and women are put in harm's way.

I also talked to one of the guards in the hall, and I apologized for this long special order. I talked to Kerry Sullivan out there, and Kerry said, "Congressman, this is my second wedding anniversary." and I said, "What are you trying to do, put a guilt trip on me?" And he said, "No. I want to say to you that I am proud to stay here with you, and so is my wife, Anna." And so I say happy anniversary to Officer Kerry Sullivan and his wife Anna who are putting up with this.

Good news for the troops in Somalia. On the Senate side it says they may get their tax break, but this was adopted by the Senate last month, and I am sure it will go through this House in the Ways and Means Committee. Enlisted warrant officer pay is exempt from Federal income tax, as is the first $500 a month of officer pay. It went through so fast on the Senate side that they did it by voice vote.

Now, DUNCAN, it looks like with 15 minutes to go here I am going to have to do this again next week on the issue of Mr. Morton Halperin, who is serving and advising at the U.S. Pentagon in the Defense Department without Senate confirmation.

Here is the joke that was in the paper.

Mr. HUNTER. If the gentleman will yield, I think he needs to explain the background on Mr. Halperin and the proposed nomination of Mr. Halperin, and the position that he is nominated for by the President, and some of his background to give a context for your remarks.

Mr. DORNAN. I will. This to me was the most shocking appointment of anybody anywhere with the sole exception of the Clintons, and I have to think of them as a team now, of the Clintons appointing Jane Fonda. Remember, it was Hanoi Jane by every person who ever wore a uniform during the Vietnam war, or war era, Europe, stateside, North Pole, South Pole, or under fire in Vietnam, or one of the rear echelon troops, everybody remembers her as Hanoi Jane. Clinton sent her to the United Nations to lecture us about population, and to by name attack the largest Christian denomination in the United States and in the world.

But here is the second most offensive appointment, over the Surgeon General, Clinton's Surgeon General down there in Arkansas. There is nothing to equal Morton Halperin, and it is kind of all said in a joke here that hurts as much as it makes you want to laugh. It shows two pill bottles, a square and a round one, and it says, just the words, "For armor deficiency, take a dose of Aspin and call the Pentagon in the morning." And there's a little play on the word aspirin and it says "Aspin." And then is says, "If Aspin upsets your stomach, try Halperin."

Now here is as fast as I can go through this, to be continued next week, the case against Morton Halperin. Morton Halperin has been nominated to be the Assistant Secretary of Defense for Democracy and Peacekeeping, a brand spanking new position created by the Clinton administration. And this is just a quick summary of this man's life.

Mr. Halperin is the principal architect of Presidential Decision Directive 13, a blueprint for largely subsuming U.S. participation in any peacekeeping to U.N. command and control. I think that was blown sky high by the death of all of our young heroes on October 3 and 4.

He favors considerably augmenting the capabilities and responsibilities to the United Nations to include the authority to raise revenues by taxing multilteral transactions such as arms sales, telecommunications, and multinational corporate sales.

Halperin, since the early 1970's, consistently strongly opposed U.S. covert operations abroad. Now he is claiming, getting ready to face his Senate confirmation, that he has changed his mind on that in the last 2 years. That is like saying Aristide of Haiti has grown up in the last 2 years and promises he will not call for people to be burned alive in the streets of Port-au-Prince, or what a good smell that is. He has grown up.

Mr. HUNTER. Mr. Halperin has in the past condemned our intelligence activities and covert activities. And I saw one statement, or will paraphrase a statement where he says we do not have a need, and we do not have a justification for covert activities.

Mr. DORNAN. Right now he claims that he has changed. That is the only thing now that he has claims he has changed his mind on, but there is no proof, there are no speeches, just he says he has.

He has participated in leadership positions with radical leftist groups engaged in public campaigns to shut down the counterintelligence capabilities of the FBI and the Justice Department, and to reduce drastically the foreign intelligence capabilities of the CIA, all of this at the height of the cold war when all issues were in doubt. And when Clinton says we won the cold war, and I always say what do you mean, we, how about people like this who maybe extended the cold war.

Now he considers his, Halperin's role in defeating Senator DOLE'S constitutional amendment to the Constitution prohibiting the burning of the American flag a crowning career achievement of Morton Halperin. You and I stayed in this entire Chamber all night long with these good workers not getting any sleep for 36 hours, all night, finding every little grade school child's speech, Barbara Frietchie's "Shoot if you must this old gray head," anything to respect our veterans and every veterans organization.

□ 2050

Every veterans organization has had a resolution to stop the legal burning of this flag and act, and to say that it is not free speech. He brags that under the ACLU and its leader in Washington he was the architect that shut you, me, and Senator DOLE down. Now he wants to walk through the halls of the Pentagon, through MacArthur Hall, through Eisenhower Hall, through Marshall Hall, through Bradley Hall, through Nimitz Hall? Give me a break. Where did this appointment come from? Out of Clinton's head? Out of Les Aspin's head? We ought to have hearings on our side of the Hill, but then we do not have gridlock anymore, do we? We have all one Government—not any longer in New Jersey, New York City, L.A., and the Lieutenant Governor's job in Arkansas and the last Texas Senate race and the last Georgia Governors race and the great State—did I leave out New Jersey or Virginia? We are getting a little wake-up call around here about getting rid of gridlock and having one-party Government.

But it gets better: Opposes the unilateral use of force in Grenada and Panama, and he says he would not support it except in very limited circumstances.

Mr. HUNTER. If the gentleman would yield, I guess Mr. Halperin's version of unilateral means if the United States wins, because that is bad if it is unilateral. Bilateral use of force is where you take casualties, I presume.

Mr. DORNAN. Exactly.

Now, he opposes random drug testing for Federal employees, including those in air traffic controller positions or national security officials who are dealing with code word top-secret documents. We may have a leak that some people in the Embassy—one of the marines who went to prison about 8 years ago is up now for parole, we are taking Russian KGB agents on a tour of U.S. Embassy in Moscow. I do not know why when they had the whole place bugged. But he said, "No, no, we cannot test people like that for random drug testing to find out if a scandal would be, maybe, developing, or rumors of one.

Another one: consistently has excused the actions of the Soviet Union and its client, like Cuba, at the height of the cold war, characterizing their intentions as benign. Now, that is communist intentions.

He spent 5 months leading Daniel Ellsburg's defense team of lawyers and testified on Ellsburg's behalf, characterizing the Pentagon papers as inconsequential to U.S. nationalsecurity interests.

He filed a friend-of-the-court brief in defense of David Truong, a Vietnamese expatriate—and I remember this—accused of espionage on behalf of Communist Vietnam and theft of Government property. And he came to this country, David Truong, at our expense as a student. And he is working for the Communist government that has killed 600,000 people, forcing them out of the country as boat people who died on the high seas and the other 600 who made it here, we hope that made it here and are now, most of them, good American citizens.

Get this: He played an integral role in orchestrating the Clinton administration's campaign to allow male homosexuals and lesbians to stay in the military, join in the military, serve openly in defiance of overwhelming votes in this Chamber of 300 here and in the Senate, 70- to 80-percent vote, and he, as a paid consultant not yet approved by the Senate, spent the whole spring before he played a role in denying armor to men who were about to die in Somalia; he was pushing the homosexual agenda in the Pentagon.

Unbelievable.

Considers such issues as mental health, prior arrest record, drug use, alcohol abuse or membership in the Communist Party irrelevant questions to be asked for security clearance background checks. Mr. Speaker, these are facts. This is why I wish I was in the Senate. We ought to go and ask to testify on the Senate side at one of those tables, which is our right as House Members, when this guy's confirmation comes up.

Last but not least, 6 minutes before Durant appears on Larry King, this one particularly makes my blood boil: Morton Halperin, one-time analyst, one of the McNamara whiz kids in the Pentagon decades ago, he flew to Great Britain to testify on behalf of Philip Agee, a CIA renegade ex-agent who exposed the identities of hundreds of American intelligence agents around the world, including releasing the name of our station chief in Athens, Richard Welch. Now, Philip Agee was a Notre Dame graduate, I am sorry to say—there is bad in every great school's lineage. Philip Agee, who is in Cuba right now, got Richard Welch killed. Richard Welch was gunned down in the streets of Athens, a father with four children, I believe, murdered because this slime of the Earth, this Benedict Arnold, traitor, this Catholic-hating ex-Catholic and friend of Castro, expatriate for most of the past 25 years. Who flies to England in an English case against his releasingsecrets to defend him? Morton Halperin.

The officers that I visited at Fort Bragg, down in Huntsville, all the bases I have been at in Somalia have kept their mouths zipped shut about Morton Halperin or the Commander in Chief. But I will tell you the enlisted men must feel that they have more freedom of speech than the officer corps because enlisted men, including enlisted men recovering from serious wounds, have said to me, "Congressman DORNAN, you are not, please, sir, going to allow Morton Halperin to be in our chain of command serving in the Pentagon in some newly created undersecretary seat?" And I said, "Not until I have exhausted every means in this Chamber and talked to my friends in the Senate will I give up on this case." And if we are rolled and this guy is appointed over our objections, I think this is one more huge, not only nail in the Clinton coffin but maybe the beginning of pounding the stake in the heart of the man who dodged the draft three times and has consistently pathologically tortured the truth every time it comes up.

Mr. HUNTER. If the gentleman would yield, the point that he made about Richard Welch is one that I think needs to be restated because it is so significant.

That is that Philip Agee, who is represented by Morton Halperin, was a former CIA agent. And what he did was release the names and the identities of Americans who were serving in the agency.

Now, there are two ways you can kill people in the service of their country or people can be killed. One is the soldier, in uniform, who is identified by the enemy on a battlefield and killed in the course of war.

The other is to reveal the identity of civilians who are in exposed and vulnerable situations around the world, Americans who are serving in our secret service, that is, our CIA.

And they then are killed by our adversaries in their places where they are vulnerable around the world.

Richard Welch's name was revealed by Mr. Agee. Shortly after his name was revealed, he was assassinated. I believe he was assassinated in Greece or in Rome.

Mr. DORNAN. In Athens.

Mr. HUNTER. He was assassinated in Athens.

Mr. DORNAN. Within days of Agee releasing his name.

Mr. HUNTER. So the point is these left-wingers who hated this country so much and hated our intelligence service so much—and, incidentally, I get irritated when I hear people blame our intelligence service and denigrate our intelligence service, because the men and women who serve in our intelligence service never come home to a tickertape parade as our veterans from Desert Storm were; many of them die in small, cold, lonely places. They never receive the fame or the credit that they deserve. And they cannot receive that because their names and their identities must remain secret.

Yet they sacrifice every bit as much as the people who raised the flag at Iwo Jima, those marines, including Ira Hayes, who stood there. They stand out on that most historic landmark on the other side of the river in Washington, DC.

So the point is that Philip Agee killed another American by revealing his identity to our adversaries, who assassinated him.

Mr. Halperin felt compelled to defend Mr. Agee, implying to me at least that he thought Agee's actions in revealing a secret service agent's identity to his enemies who assassinated him was somehow appropriate. And that is what tells me that appointing a man with that type of judgment, that type of moral character to a position where he is going to control literally the life and death of American fighting men and women is a terrible, terrible mistake.

Mr. DORNAN. Let me say to the gentleman because it is coming up on 9 and the gentleman and I are going into the cloakroom and watch Durant—I do not want to be caught driving home and missing this. I can spend another half-hour here. But let me put a few article in. I have already asked unanimous consent. Here is one from Human Events, one of Ronald Reagan's two favorite journals, former President Reagan. The subtitle is "Jane Fonda Next?" And the title is "Senate May Soon Approve Alarming Halperin Appointment." I want that put in there, and that is a two-sided article.

□ 2100

Later another article, "Bill Kolby Testify in Favor?"

Good God, Bill Kolby, I am asking in front of 1,300,000 Americans through our great Speaker, I hope not, Bill.

"Armed Services Poised for Halperin Nomination."

Then a "Chronology of Relevant Aspects of Morton Halperin's Career."

A decision brief from our friend, Frank Gafney and company, the "Halperin Syndrome": Clinton Appointees' Antipathy to CIA, Military Sets Stage for Debacles in Haiti, beyond. This one is dated October 26, 1993. We are going to have to live with a lot of this.

Then here is one, "Notable Halperin Quotes on Selected Topics" cold war, use of military power abroad, Defense Establishment, Intelligence Establishment. These are Clinton in his own words, and it goes on and on.

I just want to close, if I was doing a television show, I would say fade out on this.

This is a big C–130. It is an attack C–130, the gunship, the Spectra, they call it. This is sitting on the ramp at Mogadishu. I took a picture of this as we taxied in on the big C–5, before I even began all the things I was able to do there in a short period of time.

I asked the Rangers up in the hospital at Walter Reed and the Special Forces guys, "When did you get there?"

"August 25th, sir."

I said, "Were the C-130's, the gunships, still there, the Spectras?"

"No, they left 2 days before we got there, and we hope you will find out why, sir."

On August 23 the C-130's were pulled out.

On August 25 the Rangers and the Special Ops guys landed with an order to hunt down Aideed, without something that one of those young men, John Burns told me, Sergeant Burns, "We trained with this all the time. That is what we needed." It flies above 5,000 feet, out of the range of small arms fire and out of the range of the deadly rocket-propelled grenades.

I want to know. I want to ask this question in front of the committee. Who was it, and was it possibly Morton Halperin who said, "Pull them out. It's too offensive looking." Or was it some other civilian, and why were not the Joint Chiefs of Staff involved?

And where is our hero, citizen Colin Powell, when we need him, with the full force of his first amendment rights and a $6 million book deal, signed and sealed. Where is Colin Powell to tell us what his last month was like in the Pentagon, bumping heads with Morton Halperin?

We have a lot of questions. Now what we need, I say to the gentleman from California, Mr. DUNCAN HUNTER are some answers. I will see the gentleman on this floor Monday as we debate Somalia.

Let us go see Michael Durant.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman for his work in this area and for all the investigation that he has done, for the very uncomfortable and inconvenient long 40-hour trip to Somalia and back. I look forward to working with the gentleman again over the next several days, continuing to develop this history for the American people.

Mr. DORNAN. Mr. Speaker, I include the following documents that I referred to earlier:

[From Human Events, Sept. 25, 1993]

JANE FONDA NEXT?—SENATE MAY SOON APPROVE ALARMING HALPERIN APPOINTMENT

Short of treason, what does it take to disqualify someone from securing a key position in the Clinton Administration's Defense Department? Nothing, apparently. So "civil libertarian" Morton Halperin, who collaborated closely with some of America's most vociferous enemies during the Cold War, may yet become assistant secretary of defense for democracy and peacekeeping.

Should Halperin be confirmed, he will have enormous sway over U.S. defense policy, including, it seems, sharing responsibility for putting American troops under United Nations command. He will also have access to our most precious military secrets, the very kinds of secrets he ferociously sought to divulge to the world when the Soviets were threatening us with nuclear annihilation.

The idea that this former, highly influential ACLU figure may actually be confirmed to such a powerful position within the Pentagon has positively alarmed influential members of the national security community.

Nevertheless, he may very well end up getting the job. No Clinton appointee, it should be noted, has yet been defeated on a vote by the Senate, where the Armed Services Committee, chaired by Sam Nunn (D.-Ga.), is supposed to take up the nomination shortly.

So far, not a single Democrat has had a bad word to say about Halperin, an ominous sign for his detractors. The Republicans on the panel are virtually united against him—William Cohen of Maine is still riding the fence—but no one has yet become the point man in opposition.

And where is Senate Minority Leader Robert Dole (Kan.) in all this? Too silent for those who believe, like us, that the GOP should be turning the Halperin selection into the burning national defense issue it deserves to be. Hence the concern that Halperin may be approved after all.

Meanwhile, a curious alliance of the far left (the once Stalinoid Nation magazine, for example), a few ultraliberal "defense experts" (Alton Frye, Arnold Kanter and Jeremy Stone), a clutch of neoconservatives at the New Republic and even an important conservative writer for the Wall Street Journal have begun to rally around the Halperin flag.

Nothing in Halperin's past appears to distress those rushing to his rescue. They're willing to ignore or even forgive his working with Soviet sympathizers and Vietnamese espionage agents to savagely undermine our national security and intelligence operations, his efforts on behalf of those who blew some of our most sensitive secrets during the Cold War and his support of CIA turncoat Philip Agee, the revolutionary Socialist who deliberately exposed hundreds of our CIA agents around the world.

When Agee "outed" our CIA station chief in Athens, Richard Welch, and Welch was subsequently assassinated, guess who came to Agee's defense? But even this astonishing embrace of Agee hasn't bothered Halperin's supporters.

They are apparently willing to have elevated to a key defense post a man who was so egregiously wrong about the Soviet Union that he was willing to proclaim:

"The Soviet Union apparently never even contemplated the overt use of military force against Western Europe.* * * The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one."

He also said: "* * * Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law."

Really, is this the sort of fellow the senators want to entrust with America's survival?

In the great historic battle between Soviet communism and Western democracy, Halperin, invariably, was on the wrong side. But, tush, say his more conservative supporters, what's a few mistakes among civil libertarians?

Instead of assailing Halperin, who should be permanently donning sackcloth and ashes for his abysmal record on defense and foreign policy issues, the alliance has decided to train its guns on former Reagan defense official Frank Gaffney of the Center for Security Policy. Gaffney's crime? He has effectively disseminated factual information about Halperin that should move every normal, red-blooded senator—Democrat or Republican—to veto his nomination.

Gaffney's research on Halperin, contained in a 36-page notebook circulated to both staffers and U.S. senators, is impeccable and can't be refuted. He's let Halperin hang himself by simply publishing lengthy, in-context Halperin quotations ranging from his positions on the Soviet threat to U.S. intelligence operations. Using a wealth of reputable material, including congressional hearings, the Gaffney document also convincingly rebuts efforts by Halperin's defenders to perfume his past and portray him today as a hard-nosed defense specialist whose actions are tempered by deeply held civil libertarian instincts.

Halperin's most remarkable apologist is the Journal's Paul Gigot, viewed by many as a stout conservative. But even Gigot admits that Halperin turned "wildly naive" on most issues of the Cold War, especially in "perceiving a 'defensive' Soviet Union."

Gigot, however, is altogether forgiving, while chastising conservatives for allegedly stretching the truth about Halperin and engaging in "reverse 'Borking.'" "Republicans and especially conservatives * * *," he writes in a reproving tone, "may want to ask if being wrong about the Soviet Union and Vietnam is a lifetime disqualification for public office * * *."

When you're talking about a national security job, Paul, that sounds good to us. Why in blazes shouldn't it count as a lifetime disqualification to be wholly, irresponsibly wrong on the most serious threat ever to this country's survival?

Halperin's Cold War performance, we would suggest, is not precisely the job resume expected for an assistant secretary of defense. And if we accept Halperin today, why not Jane Fonda or William Kunstler tomorrow?

Many Human Events readers may have come to know more about Halperin than they care to in the last few weeks, but for those who may have come in late—and for those senators who may be on the fence—we'd like to recapitulate just a small number of his most outrageous activities and associations:

Josh Muravchik, a neo-conservative who is opposed to Halperin, made this point in the August 1993 issue of Commentary. Morton Halperin, he noted, has been "a veteran battler for causes that ranged from liberal to hard-left. From the mid-1970s until the mid-1980s, for example, Halperin served as the director of the Center for National Security Studies, a spin-off of the radical Institute for Policy Studies (IPS).

"He also served as chairman of the Campaign to Stop Government Spying, an anti-intelligence coalition numbering among its member organizations the Black Panther Party, the Committee for Justice for Huey P. Newton, the National Committee to Reopen the Rosenberg Case, Women Strike for Peace, the National Lawyers Guild, the National Emergency Civil Liberties Committee and sundry other hard-left groups."

National security expert Francis J. McNamara, whose writings on Halperin have appeared in Human Events, stresses that Halperin's philosophy during the Cold War boiled down to the following. He would "strip the intelligence agencies of the weapons which the courts, Congress and the executive have found to be essential to the achievement of their mission—secrecy.

"He would make public their budgets, ties with academics and other sources, control of proprietaries, etc. He would go so far as to compel disclosure not only of diplomatic negotiations, but all research on new weapons systems * * * and would even oppose CIA

covert action taken to prevent Libyan dictator Muammar Qaddafi from sneaking nuclear weapons into New York harbor. All covert action by the CIA and other agencies would be brought to a halt.

"The FBI, if Halperin had his way, would not be allowed to investigate anything but crime. All domestic intelligence collection would cease—by law. All wiretapping, too, would be brought to a halt, even that used to catch spies and learn the intentions, plans and plots of nations hostile to this country."

Halperin testified on behalf of David Truong, an anti-Vietnam War activist, who, along with Roland Humphrey, a USIA officer, was convicted of espionage in January 1978. They were charged with taking classified documents from the USIA, then turning them over to Communist Vietnamese officials.

Halperin made light of the documents that had been admittedly purloined, but the prosecution responded by saying that some of the materials, including a U.S. Embassy report on anti-Communist activity in Laos, did, in fact, contain information vital to our national security.

State Department officials, furthermore, insisted that individuals who were confidential sources of information for the U.S. were jeopardized by the activities of Truong and Humphrey, who eventually were sentenced to prison for 15 years.

And there's this interesting footnote (see Human Events, September 4 issue, page 5): Truong, free on bail in February 1979, pending the outcome of his approval, attended a party staged by the Campaign for Political Rights celebrating the release of a "documentary" against the CIA, the FBI and other U.S. intelligence agencies. A smiling Halperin, who headed the CPR, posed for a press photo with the convicted Truong.

Halperin was, indeed a strenuous defender of CIA renegade Philip Agee. Extraordinarily, however, Halperin's defenders are in a state of denial.

"Another charge that slides into distortion," says the Journal's Gigot, echoing Halperin's left-wing boosters, is that "Mr. Halperin 'aided and abetted' Philip Agee, a genuine scoundrel who leaked names of CIA agents in the 1970s. It's true Mr. Halperin showed bad judgment in testifying in Britain that more evidence should be heard before Agee was deported (which he was anyway). But his error seems rooted in the libertarian zealot's mistrust of all secrecy. He has always said that leaking agent's names is wrong * * *."

The "slide into distortion," however, is Gigot's. First off, we can only wonder why Gigot would suggest that a "libertarian zealot" be allowed a high position in the Pentagon where he would have access to our most precious secrets. Surely, this is akin to putting the family drunk in charge of the liquor cabinet.

More to the point, Halperin may have always said that leaking agents' names is wrong, but he still did his damnedest to praise and protect Agee in his zealous efforts to leak the names of agents.

Halperin traveled 5,000 miles to London in 1977 to assist Agee in his anti-deportation hearings, even though Agee had already become a notorious leaker of CIA names and had informed Esquire a year earlier that "I aspire to be a Communist and a revolutionary."

In September 1975, in his publication First Principles, Halperin also lavished praise on Agee's book Inside the Company: CIA Diary for having supposedly exposed how the CIA operates in Third World countries. Most curious, in view of Halperin's insistence that he never favored the leaking of names, is that he never mentions—and certainly fails to condemn—the fact that the book he heartily endorses reveals the names and identities of over 700 people in all parts of the world Agee claims were officers, agents and co-operators with the CIA.

"CIA News Management," a column by the nominee, was published with Halperin's permission in Agee's 1978 book, Dirty Work. Publisher Lyle Stuart proclaimed in a newspaper ad for the book that it contained "a list of more than 700 CIA agents currently working in Western Europe. It completely blows their cover."

Stuart added: "But Dirty Work is more than that. A comprehensive picture of the CIA emerges in Dirty Work. [Two other contributors] * * * and Morton H. Halperin have all shown considerable courage in informing America about the seamy side of American espionage * * *."

And this only touches on Halperin's defense of Agee and his activities. Gaffney, in short, is right on the money when he charges Halperin with "aiding and abetting" Agee with his campaign to expose the identities of CIA agents overseas.

Morton Halperin, in truth, is a dangerous choice to handle America's defenses or to be anywhere near top-secret materials. His notoriously poor judgment in the past gives every senator, Democrat or Republican, liberal or conservative, ample justification to vote against his nomination. The American grass roots should bombard their senators in opposition.

[From Human Events, Sept. 25, 1993]

WILL COLBY TESTIFY IN FAVOR?—ARMED SERVICES POISED FOR HALPERIN NOMINATION

Morton Halperin, President Clinton's selection for the newly created post of assistant secretary of defense for democratization and peacekeeping, is hoping to round up heavyweight support for his controversial nomination.

Indeed, Scott Cohen, a former CIA official who served as a key aide to ex-Illinois Sen. Charles Percy (R.), who chaired the Foreign Relations Committee in 1981, has come to Halperin's assistance. He's telling Armed Services Committee staffers that, while he didn't always agree with Halperin, he viewed him as an "honest civil libertarian."

He has also left the impression with staffers that former CIA directors William Colby and Stansfield Turner would be willing to testify on behalf of the former ACLU official. (Cohen informed us that, while he had not been personally in contact with Colby, for instance, he had heard that he would be willing to testify in Halperin's favor.)

Should Colby, Turner and, perhaps, other ex-CIA officials go to bat for Halperin, this would be ironic in the extreme, since, as Human Events has documented in detail Halperin has waged a sustained campaign to cripple the CIA's effectiveness.

Republicans on the Senate Armed Services Committee, save for William Cohen (Maine), are, however, said to be still united in their opposition to Halperin, no matter what Colby or Turner or other important members of the national security community (decide to do. Among those who are thought eager to confront Halperin over his past are GOP Senators Strom Thurmond (S.C.), ranking Republican on Armed Services, Trent Lott (Miss.), Lauch Faircloth (N.C.) and Dan Coats (Ind.).

Halperin, these Republicans and their staffers believe, is afflicted with dozens of important vulnerabilities, including his penchant for supporting unsavory characters who were eager during the Cold War to assist America's Communist foes.

Not widely known, for instance, is that Halperin came to the assistance of David Truong, an anti-Vietnam War activist who, along with Roland Humphrey, a USIA officer, was indicted for expionage in January 1978. The indictment charged that Humphrey had taken classified documents from the USIA, then turned them over to Truong, who, through couriers, delivered them to Communist Vietnamese officials. (See Francis McNamara article in Human Events, Dec. 29, 1984, page 10.)

Both Truong and Humphrey acknowledged they had turned over the purloined documents to Vietnamese agents in France, but they maintained they were not guilty of espionage because the papers they transmitted were not harmful to U.S. security. The ever helpful Halperin, a witness for their defense, expressed doubt that some of the papers had been properly classified and cavalierly dismissed the others as not being related to national defense.

The prosecution responded by saying that some of the materials, including a U.S. Embassy report on anti-Communist activity in Laos, did, in fact, contain information vital to our national security. State Department officials, furthermore, insisted that individuals who were confidential sources of information for the U.S. were jeopardized by the activities of Humphrey and Truong.

Despite Halperin's vigorous effort to get them off the hook, both men were convicted and began serving their 15-year prison terms in January 1982 after an appeals court had upheld their convictions and the Supreme Court refused to review its decision.

There's an interesting footnote to the case. Truong, free on bail in February 1979, pending the outcome of his appeal, attended a party staged by the Campaign for Political Rights celebrating the release of a "documentary" against the CIA, the FBI and other U.S. intelligence agencies. A smiling Halperin, who headed the CPR, posed for a press photo with the convicted spy.

In 1971, Daniel Ellsberg and Anthony Russo, both former employees of the Defense Department and its allied think tank, the Rand Corp., admitted they had unlawfully copied a two-and-a-half-million-word "Top Secret-Sensitive" report on the U.S. role in Vietnam and leaked it to the New York Times and other newspapers. Ellsberg and Russo were indicted on charges of espionage, theft of government property and conspiracy.

Swiftly coming to their assistance was a team of some 35 people, headed by the ubiquitous Halperin. As in the Truong case, Halperin testified that the "Pentagon Papers," as they had become known, would be of little value to the enemy, although this was contradicted by numerous military and diplomatic authorities. (Gen. Lyman Lemnitzer, chairman of the Joint Chiefs of Staff during our early involvement in Vietnam and later supreme commander of NATO, tagged the leak "a traitorous act.")

Equally interesting, however, was Halperin's testimony that the "Papers" were really personal papers belonging to those who had compiled them when they were in the Pentagon: Halperin himself, Leslie Gelb and Assistant Secretary of Defense Paul Warnke. They were not government documents, he said.

It was routine, he went on, for officials in his position at the time, to take their personal papers with them when they left office

and that this was not considered theft or a violation of security regulations.

This was a mind-boggling claim by Halperin, especially since the prosecution had discovered that Halperin, in an affidavit he signed when he joined the Defense Department, had promised to return all classified documents. Moreover, Gelb himself contradicted Halperin, telling reporters that he considered the study "government property," not personal papers that could be distributed to the public at whim.

What this incident underscores, of course, is Halperin's virtual disregard for classified materials.

Halperin's biggest Achilles' heel, as viewed by many on Armed Services, has been his support of Philip Agee, the pro-Communist CIA turncoat, who deliberately exposed CIA officials, even when his actions jeopardized these officials' lives.

Three of Halperin's defenders—including liberal defense specialist Alton Frye, Bush's under secretary of state for political affairs, Arnold Kanter and Federation of American Scientists President Jeremy Stone—have sent a four-page letter to committee members alibiing for Halperin. Halperin's "only 'assistance' to Agee," they write, was "to testify at a British deportation hearing in which he urged that the British national security service provide a valid reason for his deportation as required by law."

"Upholding due process for a then ACLU official," the letter goes on, "is not 'aiding and abetting' criminals any more than it would be the crime of 'aiding and abetting' for a lawyer to help a client."

That alibi, however, is not likely to assuage GOP committee members since Halperin has a history of being in Agee's corner. Not only did he travel to England to defend Agee—no small thing, even for an ACLU official—but he constantly defended Agee and his efforts to expose CIA officials and those who cooperated with them.

Halperin favorably reviewed Agee's first book, Inside the Company: A CIA dairy, in 1975, even though Agee thanked the Cuban Communist party for the help it had given him in writing the book, which listed over 700 people in all parts of the world who Agee claimed were CIA officers, agents or cooperators.

In testimony before the House Intelligence Committee in 1978, Halperin assailed the CIA for launching a "disinformation" campaign against Agee and the publication he was associated with CounterSpy, whose listing of the CIA station chief in Athens, according the CIA's William Colby himself, led to that agent's assassination.

There is a ton of other documents that Halperin's opponents on Armed Services can use against him, as Human Events readers are by now aware, but the bottom line remains: Do the Republicans have the will not only to oppose him, but to go all out for a kill?

A CHRONOLOGY OF RELEVANT ASPECTS OF MORTON HALPERIN'S CAREER

Present: On 31 March 1993, the White House announced the President's intention to nominate Halperin to the newly created position of Assistant Secretary of Defense for Democracy and Human Rights. Since that time, he has been working in the Pentagon nominally as a consultant but on an essentially full time basis and in a manner that appears to exceed congressional and departmental restrictions on the involvement of nominees in policy-making prior to their confirmation.

Halperin is formally still listed as a Senior Associate of the Carnegie Endowment for International Peace and the Baker Professor at George Washington University's Elliott School of International Affairs.

1984–1992: Director of the Center for National Security Studies (CNSS), originally an offshoot of the hard left-wing Institute for Policy Studies (IPS). Halperin was also the director of the Washington Office of the American Civil Liberties Union (ACLU), with responsibility for the national legislative program of the ACLU.

1977: Once of the founders and the director of the Campaign to Stop Government Spying, which changed its name the following year to the more benign Campaign for Political Rights. Like CNSS, the Campaign was populated with personnel associated with the Institute for Policy Studies and dozens of other dubious organizations (e.g., the National Committee Against Repressive Legislation, reportedly a Communist Party front).

Also in 1977, while serving as the deputy director of the Center for National Security Studies, Halperin went to London to help in the defense of Philip Agee. At the time, Agee was in the process of being deported from Great Britain as a security risk for collaborating with Cuban and Soviet intelligence.

1969–1973: Senior Fellow associated with the Foreign Policy Division of the Brookings Institution.

1969: Member of senior staff of the National Security Council during the Nixon Administration with responsibility for program analysis and planning. During this period, the information concerning secret U.S. bombings of targets in Cambodia was leaked to the New York Times. Then NSC Advisor suspected Halperin and colleague Anthony Lake of the leak and authorized FBI wiretaps on their office and home phones.

1966–1969: Deputy Assistant Secretary of Defense for International Security Affairs, with responsibility for political-military planning and arms control.

THE "HALPERIN SYNDROME": CLINTON APPOINTEES' ANTIPATHY TO CIA, MILITARY SETS STAGE FOR DEBACLES IN HAITI, BEYOND

WASHINGTON, D.C.—The world is now being treated to the spectacle of a U.S. president determinedly pursuing a policy toward Haiti predicated upon a man whom the American intelligence community believes to be a psychotic manic depressive and involving a use of the armed forces opposed by senior military commanders. Unfortunately, the bizarre overinvestment by the Clinton Administration in Jean-Bertrand Aristide is not an isolated incident. Rather, it seems the product of a dangerous predisposition shared by many of Mr. Clinton's senior security policy advisors, and perhaps by the President himself.

While much of the focus to date has been on a dubious commitment to multilateralism that is rife in the senior echelons of the Clinton Administration, another—arguably more insidious—mindset appears to be at work: a deep-seated mistrust of, if not outright contempt for, the Central Intelligence Agency, its sister organizations and the American military. Unless there are wholesale changes in the Administration's foreign and defense policy team, it is predictable that such a predisposition will produce even more serious and expensive debacles for the United States than that entailed in trying to restore Jean-Bertrand Aristide to power and to assure his survival once there.

THE HALPERIN SYNDROME

For want of a better term, this mindset might be called the "Halperin syndrome" since Morton Halperin, Mr. Clinton's nominee to become the top Pentagon policymaker responsible for democracy-building and peacekeeping in places like Somalia and Haiti, epitomizes the phenomenon. In over two decades of public advocacy and agitation prior to beginning work on the Clinton Defense transition team in 1992, Halperin repeatedly and unambiguously made clear his low regard for what he has called the "massive undemocratic national security structure [that] was erected during the Cold War."

In particular, Halperin has consistently excoriated the U.S. intelligence community. To cite but a few illustrative examples from Halperin's copious writings, public statements and congressional testimony on the subject:

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (The Lawless State: The Crimes of the U.S. Intelligence Agencies, 1976)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run *if you decide to have* intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

Halperin concluded a favorable review of CIA turncoat Philip Agee's book "Inside the Company: CIA Diary" by pronouncing: "The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing any allied nations." (Center for National Security Studies newsletter "First Principles," September 1975)

HALPERIN AS POLICYMAKER

Even though Morton Halperin has yet to be confirmed as the Assistant Secretary of Defense for Democracy and Peacekeeping, he has been one of the principal authors of the Clinton policy toward Haiti. It is hardly surprising that a man with such a low opinion of the U.S. intelligence community would be inclined to give short shrift to warning signs produced by that community.

What is more, Halperin has recently been implicated in two decisions that suggest an equally cavalier attitude toward the American military. Notwithstanding formal denials by Secretary of Defense Les Aspin, there are persistent reports that Halperin contributed to the decision not to approve the repeated requests for additional armor to support U.S. armed forces deployed in Somalia on the grounds that doing so would not square with the Administration's political agenda. This decision contributed to the loss of 18 American servicemen in Mogadishu on 3 October.

While Halperin's exact pre-confirmation role in that tragic episode remains a matter of dispute, his reported involvement in the Somalia decision is of a piece with another *confirmed* instance of subordinating military requirements to a perceived political agenda: According to yesterday's Washington Times, Halperin has acknowledged asking that a

joint U.S.-Guatemalan exercise be terminated prematurely to protest the alleged involvement of Guatemala's military in the escape of an individual convicted of killing an American. This direction was, properly, ignored by the U.S. military as it came outside of the normal chain of command and from someone who—by virtue of being only a consultant—had no authority to issue such guidance.

THE HALPERIN SYNDROME AND CLINTON POLICY TOWARD HAITI

Morton Halperin's disdainful attitude toward the U.S. intelligence community and the American military appears to be shared by other Administration officials, as well. At the very least, such widely shared sentiments seem to be driving factors regarding the Clinton policy toward Haiti.

As President Clinton, himself, put it on 22 October: "The CIA would be the first to tell you that they get a lot of information. It's not always accurate. It's not always determinable." The unsaid implication of this statement: In the case of the intelligence community's assessment of Jean-Bertrand Aristide, its information is simply inaccurate.

And yet, the information being thus discounted is compelling. According to press accounts of the congressional briefings presented in recent days by a 30-year veteran of the Central Intelligence Agency (who has served for the past three years as its senior national intelligence officer for Latin America), Aristide takes medicine to treat "psychotic manic depression" which can have such symptoms as suicidal tendencies, delusions of persecution and hallucinations. The briefing also confirmed reports that while president of Haiti, Aristide encouraged the "necklacing" of his political opponents, the practice of lighting gasoline-laden tires placed around the victim's neck. Aristide said of necklacing:

"What a beautiful tool, what a beautiful instrument, what a beautiful device, it's beautiful, yes, it's beautiful, it's cute, it's pretty, it has a good smell. Wherever you go you want to inhale it."[1]

Importantly, according to the 24 October edition of the Washington Post, the briefing represented "the consensus judgment of the entire spy community, including the Intelligence and Research branch of the State Department." On Thursday, CIA Director James Woolsey endorsed the conclusions of the briefing before members of the House and Senate intelligence committees.

Speaking on ABC-TV's "This Week" on Sunday, Senate Minority Leader Robert Dole said that the CIA briefing unearthed "very disturbing" information about Aristide's mental stability, his treatment of political opponents and his "commitment to democracy." Sen. Dole averred that, in light of what he had heard, he "certainly wouldn't risk one American life to put him back in power."

DON'T BOTHER ME WITH THE FACTS

Two particularly noteworthy manifestations of the Halperin syndrome have recently been reported. According to the 25 October edition of U.S. News and World Report, Phil Peters, a spokesman for the State Department's Bureau of Inter-American Affairs, called the CIA accusations about Aristide's mental health part of "a full-scale attack on the President's policy." According to Peters, the Pentagon (i.e., the uniformed military—as opposed to Halperin and the civilian leadership) and other agencies "don't think it is worth doing anything to reinstate Aristide, despite the fact that President Clinton decided on that course."

Meanwhile, syndicated columnists Rowland Evans and Robert Novak reported yesterday that Deputy National Security Adviser Sandy Berger angrily ordered the Pentagonto proceed to deploy the USS Harlan County to Haiti three weeks ago over the objections of senior military commanders who were recommending a postponement of its embarkation. Berger is said to have overruled the military—setting the stage for the ensuing embarrassing withdrawal of the vessel in the face of a small number of armed protesters—on the grounds that "We committed ourselves publicly in the campaign, and we're going to do it."

IF MICHAEL BARNES SAYS IT'S SO

Such is the influence of the Halperin syndrome that Clinton Administration officials who exhibit its symptoms are prepared to rely upon the self-serving judgments of *interested parties*—rather than the findings of U.S. intelligence. As President Clinton himself put it on 22 October: "No one knows whether [the CIA's allegations about President Aristide's mental illness] were true or not" but that the "sustained experience" of U.S. advisers working with Mr. Aristide "tended to undermine those reports."

One of those advisers upon whom the President and his staff are apparently relying is the former chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, Michael Barnes. Rep. Barnes has recently been playing a highly visible role as a witness to President Aristide's mental fitness. He has gone so far as to claim that Mr. Aristide "has not suffered from nor been treated for any mental problems." Rep. Barnes may have at least as compelling—and certainly a far more tangible—stake than Mr. Clinton in arriving at such a conclusion, however: He is reportedly receiving $50,000 per month to serve as counsel for President Aristide.

THE BOTTOM LINE

What has become evident in both the Somalia and Haiti debacles is that the Clinton Administration is prepared to discount the advice of the U.S. intelligence community and the military, a *modus operandi* that has already had tragically fatal consequences in the first case and humiliating effects in the second. Unless a thorough housecleaning of those prone to such attitudes is accomplished at once, it seems inevitable that additional—and probably more serious—disasters lie ahead.

This is not to say that the intelligence community is infallible or that civilian control of the military should not be exercised. It is, however, to say that the nation is poorly served by an Administration staffed in key positions by those who have an ill-concealed, visceral and apparently immutable distrust of the U.S. intelligence agencies and the armed forces as institutions and of their activities. Such individuals are unlikely to be able either to utilize the products of intelligence properly or to exercise the kind of *effective* civilian control of the military that is clearly required.

The Center for Security Policy believes, in addition, that an urgent effort should be made to declassify—and present publicly—the CIA analysis of Jean-Bertrand Aristide's mental health and his record with regard to democracy during his brief presidency. The fullest possible transparency is in order before the American people are asked to entrust additional American lives, treasure and prestige to policy-makers who have already demonstrated proclivities that could result in a further squandering of these precious assets.

NOTABLE HALPERIN QUOTES ON SELECTED TOPICS

On the Fundamental Nature of the Cold War:

"The Soviet Union apparently never even contemplated the overt use of military force against Western Europe * * *. The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one. The positioning of Soviet ground forces in Eastern Europe and the limited logistical capability of these forces suggests an orientation primarily toward defense against a Western attack." (Defense Strategies for the Seventies, 1971)

"* * * Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government and have remained only at their request * * *. The American public needs to understand that Soviet conduct in Africa violates no Soviet-American agreements nor any accepted principles of international behavior. It reflects simply a different Soviet estimate of what should happen in the African continent and a genuine conflict between the United States and the Soviet Union." ("American Military Intervention: Is It Ever Justified?", The Nation, June 9, 1979)

On U.S. International Commitments:

"One of the great disappointments of the Carter Administration is that it has failed to give any systematic reconsideration to the security commitments of the United States. [For example, President Carter's] decision to withdraw [U.S. ground forces from Korea] was accompanied by a commitment to keep air and naval units in and around Korea—a strong reaffirmation by the United States of its security commitment to Korea. This action prevented a careful consideration of whether the United States *wished* to remain committed to the security of Korea * * *. Even if a commitment is maintained, a request for American military intervention should not be routinely honored." (The Nation, June 9, 1979)

On The Use of U.S. Military Power Abroad:

"All of the genuine security needs of the United States can be met by a simple rule which permits us to intervene [only] when invited to do so by a foreign government * * *. The principle of proportion would require the American intervention be *no greater than the intervention by other outside powers* in the local conflict. We should not assume that once we intervene we are free to commit whatever destruction is necessary in order to secure our objectives." The Nation, June 9, 1979)

On the U.S. Defense Establishment:

Referring to the Reagan defense buildup: "Are we now buying the forces to meet the real threats to our security? Unfortunately, there is little reason to be confident that we are." (New York Times, June 7, 1981)

"In the name of protecting liberty from communism, a massive *undemocratic* national security structure was erected during the Cold War, which continues to exist even though the Cold War is over. Now, with the Gulf War having commenced, we are seeing further unjustified limitations of constitutional rights using the powers granted to the

[1] Incredibly, some of Aristide's defenders contend that his statement was actually made in reference to the Haitian constitution adopted during his brief presidency.

executive branch during the Cold War." (United Press International, January 28, 1991)

On the U.S. Intelligence Establishment:

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (The Lawless State; The Crimes of the U.S. Intelligence Agencies. 1976)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run if you decide to have intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

"Generally, secrecy has been used more to disguise government policy from American citizens than to protect information from the prying eyes of the KGB * * *. U.S. government officials admit that experts in the Soviet Union know more about American policies abroad than American citizens do." (The Lawless State)

"* * * The intelligence [service's] * * * monastic training prepared officials not for saintliness, but *for crime*, for acts transgressing the limits of accepted law and morality * * *. The abuses of the intelligence agencies are one of the symptoms of the amassing of power in the postwar presidency; the only way to safeguard against future crimes is to alter the balance of power * * *.

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to informed consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State)

"Secrecy * * * does not serve national security * * *. Covert operations are incompatible with constitutional government and should be abolished." ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987)

"*The primary function* of the [intelligence] agencies is to undertake disreputable activities that presidents do not wish to reveal to the public or expose to congressional debate." (The Lawless State)

"CIA defenders offer us the specter of Soviet power, the KGB, and the Chinese hordes. What they fail to mention is more significant: they have *never* been able successfully to use espionage or covert action techniques against the USSR or China, which are the only two nations that could conceivably threaten the United States * * *. The 'successes' of covert action and espionage, of which the CIA is so proud, have taken place in countries that are *no threat* to the security of the United States." (The Lawless State)

"Spies and covert action are counterproductive as tools in international relations. The costs are too high; the returns too meager. Covert action and spies should be banned and the CIA's Clandestine Services Branch disbanded." (The Lawless State)

On Behalf of Extreme Interpretations of the First Amendment:

"Under the First Amendment, Americans have every right to seek to 'impede or impair' the functions of any federal agency, whether it is the FTC or the CIA, by publishing information acquired from unclassified sources." ("The CIA's Distemper: How Can We Unleash the Agency When It Hasn't Yet Been Leashed?", The New Republic, February 9, 1980)

"Lawful dissent and opposition to a government should not call down upon an individual *any surveillance at all* and certainly not surveillance as intrusive as a wiretap." ("National Security and Civil Liberties," Foreign Policy, Winter 1975-76)

In opposition to draft legislation setting heavy criminal penalties for Americans who deliberately identify undercover U.S. intelligence agents: "[Such legislation] will chill public debate on important intelligence issues and is unconstitutional * * *. What we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (UPI, April 8, 1981).

In criticizing scientists who "refused to help the lawyers representing The Progressive and its editors" in fighting government efforts to halt the magazine's publication of detailed information about the design and manufacturing of nuclear weapons: "They failed to understand that the question of whether publishing the 'secret of the H-bomb' would help or hinder non-proliferation efforts was beside the point. The real question was whether the government had the right to decide what information should be published. If the government could stop publication of [this] article, it could, in theory, prevent publication of any other material that it though would stimulate proliferation." ("Secrecy and National Security," The Bulletin of the Atomic Scientists, August 1985)

In response to government attempts to close down the Washington offices of the PLO: "It is clearly a violation of the rights of free speech and association to bar American citizens from acting as agents seeking to advance the political ideology of *any* organization, even if that organization is based abroad. *Notwithstanding criminal acts in which the PLO may have been involved*, a ban on advocacy of all components of the PLO's efforts will not withstand constitutional scrutiny." (The Nation, October 10, 1987)

In arguing that the random use of polygraph tests to find spies was unconstitutional: "Congress should strip these measures from the bill and start attacking the genuine problems, such as over-classification of information." (Associated Press, July 8, 1985)

On U.S. Aid to Foreign Pro-Democratic Movements:

Regarding President Reagan's veto of a bill tying U.S. military aid to El Salvador to improved human rights, "[This action] makes clear that the administration has reconciled itself to *unqualified support* for those engaged in the systematic practice of political murder." (Washington Post, December 1, 1983)

Halperin called U.S. aid to the pro-democracy Contra rebels "ineffective and immoral." (Associated Press, October 2, 1983)

On Nuclear Strategy and Arms Control:

As reported by the New York Times on November 23, 1983: "Mr. Halperin said the most important contribution American officials could make to stability would be 'to renounce the notion that nuclear weapons can be used for any other purpose than to deter nuclear attack.' He also argued that the United States should abandon plans to attack Soviet missile silos in responding to a nuclear attack. For one thing, he said, the missiles would probably have already been fired. Also, he said, a high degree of accuracy would be required."

As reported by the Chicago Tribune on December 11, 1987: "Halperin explained the NATO deterrent strategy known as coupling, whereby a Soviet conventional attack in Europe would be met with Allied tactical, and if the Soviets persisted, strategic nuclear weapons, in this way: 'First, we fight conventionally until we're losing. Then we fight with tactical nuclear weapons until we're losing; then we blow up the world.'"

Referring to the Nuclear Freeze proposal: "Sounds like good arms control to me." (Bulletin of the Atomic Scientists, March 1983)

On Classification of Sensitive Information:

"While the most flagrant abuses of the rights of Americans associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, July 26, 1992)

Halperin called the government's prosecution of Samuel Loring Morrison, who was convicted of disclosing classified satellite photos of a Soviet aircraft carrier under construction "an extraordinary threat to the First Amendment." (Washington Post, October 8, 1985).

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia, [Ms. NORTON] is recognized for 60 minutes.

[Ms. NORTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BOEHNER] is recognized for 60 minutes.

[Mr. BOEHNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

[Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

H.R. 3450, THE NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, at the request of the administration, it is my honor to introduce, by request, H.R. 3450, the implementing bill for the North American Free-Trade Agreement, which was submitted to the House of Representatives and the Senate earlier today by President Clinton.

This implementing bill and the statement of administrative action accompanying it are the product of an extensive process of consultations in recent months between the Congress and the administration. This process has resulted, to the maximum extent possible, in an implementing package that reflects congressional intent and addresses congressional concerns. It is important to keep this in mind as Congress considers this implementing bill in the coming days under the fast-track procedures of the Trade Act of 1974.

As President Clinton has frequently noted and stressed again at the White House yesterday morning, NAFTA is in the best interests of the United States. It is part of a forward-looking economic strategy that will create high-wage U.S. jobs, boost U.S. economic growth and expand the base from which U.S. firms and workers can compete in a dynamic global economy.

The debate over NAFTA in the past few months has been intense. I fully expect, and indeed hope, that such intense debate will continue because the only logical conclusion that can be drawn from such debate is that NAFTA is in the national interest and should be approved by Congress.

As I have studied the issues surrounding NAFTA, I have learned a number of very positive things about NAFTA, but most importantly:

NAFTA is not a zero-sum game where one country gains and another loses. NAFTA will result in increased economic growth and increased employment in all three NAFTA countries, including the United States.

NAFTA will level the playing field for United States exporters in Mexico, leading to greater exports and a favorable balance of trade for years to come.

NAFTA, by opening the Mexican market to the export of United States goods and services, will discourage United States firms from moving jobs south to supply the Mexican market.

While Americans already compete successfully in global markets, NAFTA will make us more competitive with Asia and Europe than we would be alone.

When the House votes on NAFTA in the near future, it will be an historic vote. The House will not only be voting on a trade agreement, it will be voting on whether we as a nation should embrace the future or cling to the past. I firmly believe in President Clinton's vision of the future and intend to vote in favor of NAFTA.

LEGISLATION FOR IMPLEMENTATION OF NAFTA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–159)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means, the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Government Operations, the Committee on the Judiciary, and the Committee on Public Works and Transportation, and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today legislation to implement the North American Free Trade Agreement, an agreement vital to the national interest and to our ability to compete in the global economy. I also am transmitting a number of related documents required for the implementation of NAFTA.

For decades, the United States has enjoyed a bipartisan consensus on behalf of a free and open trading system. Administrations of both parties have negotiated, and Congresses have approved, agreements that lower tariffs and expand opportunities for American workers and American firms to export their products overseas. The result has been bigger profits and more jobs here at home.

Our commitment to more free and more fair world trade has encouraged democracy and human rights in nations that trade with us. With the end of the Cold War, and the growing significance of the global economy, trade agreements that lower barriers to American exports rise in importance.

The North American Free Trade Agreement is the first trade expansion measure of this new era, and it is in the national interest that the Congress vote its approval.

Not only will passage of NAFTA reduce tariff barriers to American goods, but it also will operate in an unprecedented manner—to improve environmental conditions on the shared border between the United States and Mexico, to raise the wages and living standards of Mexican workers, and to protect our workers from the effects if unexpected surges in Mexican imports into the United States.

This pro-growth, pro-jobs, pro-exports agreement—if adopted by the Congress—will vastly improve the status quo with regard to trade, the environment, labor rights, and the creation and protection of American jobs.

Without NAFTA, American business will continue to face high tariff rates and restrictive nontariff barriers that inhibit their ability to export to Mexico. Without NAFTA, incentives will continue to encourage American firms to relocate their operations and take American jobs to Mexico. Without NAFTA, we face continued degradation of the natural environment with no strategy for clean-up. Most of all, without NAFTA, Mexico will have every incentive to make arrangements with Europe and Japan that operate to our disadvantage.

Today, Mexican tariffs are two and a half times greater than U.S. tariffs. This agreement will create the world's largest tariff-free zone, from the Canadian Arctic to the Mexican tropics—more than 370 million consumers and over $6.5 trillion of production, led by the United States. As tariff walls come down and exports go up, the United States will create 200,000 new jobs by 1995. American goods will enter this market at lower tariff rates than goods made by our competitors.

Mexico is a rapidly growing country with a rapidly expanding middle class and a large pent-up demand for goods—especially American goods. Key U.S. companies are poised to take advantage of this market of 90 million people. NAFTA ensures that Mexico's reforms will take root, and then flower.

Moreover, NAFTA is a critical step toward building a new post-Cold War community of free markets and free nations throughout the Western Hemisphere. Our neighbors—not just in Mexico but throughout Latin America—are waiting to see whether the United States will lead the way toward a more open, hopeful, and prosperous future or will instead hunker down behind protective, but self-defeating walls. This Nation—and this Congress—has never turned away from the challenge of international leadership. This is no time to start.

The North American Free Trade Agreement is accompanied by supplemental agreements, which will help ensure that increased trade does not come at the cost of our workers or the border environment. Never before has a trade agreement provided for such comprehensive arrangements to raise the living standards of workers or to improve the environmental quality of an entire region. This makes NAFTA not only a stimulus for economic growth, but a force for social good.

Finally, NAFTA will also provide strong incentives for cooperation on illegal immigration and drug interdiction.

The implementing legislation for NAFTA I forward to the Congress today completes a process that has been accomplished in the best spirit of bipartisan teamwork. NAFTA was negotiated by two Presidents of both parties and is supported by all living former Presidents of the United States as well as by distinguished Americans from many walks of life—government, civil rights, and business.

They recognize what trade expanding agreements have meant for America's economic greatness in the past, and what this agreement will mean for America's economic and international leadership in the years to come. The North American Free Trade Agreement

is an essential part of the economic strategy of this country: expanding markets abroad and providing a level playing field for American workers to compete and win in the global economy.

America is a Nation built on hope and renewal. If the Congress honors this tradition and approves this agreement, it will help lead our country into the new era of prosperity and leadership that awaits us.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 3, 1993.*

TRANSFERRAL OF DOCUMENTS RELATING TO NAFTA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–160)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means, the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, the Committee on Foreign Affairs, the Committee on Government Operations, the Committee on the Judiciary, and the Committee on Public Works and Transportation, and ordered to be printed:

To the Congress of the United States:

By separate message, I have transmitted to the Congress a bill to approve and implement the North American Free Trade Agreement (NAFTA). In fulfillment of legal requirements of our trade laws, that message also transmitted a statement of administrative action, the NAFTA itself, and certain supporting information required by law.

Beyond the legally required documents conveyed with that message, I want to provide you with the following important documents:

—The supplemental agreements on labor, the environment, and import surges;

—Agreements concluded with Mexico relating to citrus products and to sugar and sweeteners;

—The border funding agreement with Mexico;

—Letters agreeing to further negotiations to accelerate duty reductions;

—An environmental report on the NAFTA and side agreements;

—A list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with relevant congressional committees.

These additional documents are not subject to formal congressional approval under fast-track procedures. However, the additional agreements provide significant benefits for the United States that will be obtained only if the Congress approves the NAFTA. In that sense, these additional agreements, as well as the other documents conveyed, warrant the careful consideration of each Member of Congress. The documents I have transmitted in these two messages constitute the entire NAFTA package.

I strongly believe that the NAFTA and the other agreements will mark a significant step forward for our country, our economy, our environment, and our relations with our neighbors on this continent. I urge the Congress to seize this historic opportunity by approving the legislation I have transmitted.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 4, 1993.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MORELLA (at the request of Mr. MICHEL) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. BATEMAN, for 60 minutes each day, on November 8 and 9.

Mr. PORTER, for 5 minutes each day, on November 8, 9, 10, 15, 16, 17, 18, and 19.

Mr. BOEHNER, for 60 minutes each day, on November 19, 20, and 21.

Mr. HORN, for 60 minutes each day, on November 8 and 15.

Mrs. BENTLEY, for 5 minutes today, in lieu of 60 minutes previously requested.

Mr. KINGSTON, for 5 minutes each day, on November 8 and 9.

Mr. BILIRAKIS, for 5 minutes each day, on November 9 and 10.

(The following Members (at the request of Mr. MONTGOMERY) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes each day, on November 4, 5, 8, and 9.

Mr. SCOTT, for 5 minutes, today.

Mr. UNDERWOOD, for 30 minutes each day, on November 4, 5, 16, and 17.

Mr. SANDERS, for 60 minutes each day, on November 17, 20, and 21.

(The following Member (at the request of Mr. TUCKER) to revise and extend his remarks and include extraneous matter:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TRAFICANT, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,302.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mrs. FOWLER.
Mr. QUINN.
Mr. DELAY.
Mr. CALLAHAN.
Mr. PACKARD.
Mr. THOMAS of California.
Mr. KYL.
Mr. GOODLING in two instances.
Mrs. BENTLEY.
Mr. GILMAN in four instances.
Mr. PORTER in two instances.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. HOYER.
Mr. MAZZOLI in two instances.
Mr. MANN.
Mr. TOWNS.
Mr. BONIOR.
Mr. KREIDLER.
Mr. GORDON.
Mr. SWETT.
Mr. FINGERHUT.
Mr. KOPETSKI.
Mr. TRAFICANT.
Mr. WILLIAMS.
Mr. BARCA of Wisconsin.
Mr. BARCIA of Michigan.
Mr. POSHARD.
Mr. MENENDEZ.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. DEUTSCH.
Mrs. ROUKEMA.
Mr. DICKS.
Mr. DINGELL.
Mr. FRANKS of New Jersey.
Mr. MARKEY.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1308. An act to protect the free exercise of religion.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, November 8, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2108. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation entitled "Retail Food Store Authorization Act of 1993"; to the Committee on Agriculture.

2109. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to the CCNAA for defense articles and services (Transmittal No. 94-08), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2110. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Colombia for defense articles and services (Transmittal No. 94-07), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2111. A letter from the Acting Chairman, U.S. Nuclear Regulatory Commission, transmitting a report on abnormal occurrences at licensed nuclear facilities for the second quarter of calendar year 1993, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Natural Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. S. 836. An act to amend the National Trails System Act to provide for a study of El Camino Real de Tierra Adentro (The Royal Road of the Interior Lands), and for other purposes (Rept. 103-326). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 983. An act to amend the National Trails System Act to direct the Secretary of the Interior to study the El Camino Real Para Los Texas for potential addition to the National Trails System, and for other purposes (Rept. 103-327). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. House Resolution 293. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 170) directing the President pursuant to section 5(c) of the War Powers Resolution to remove United States Armed Forces from Somalia by January 31, 1994 (Rept. 103-328). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. MINETA, Mr. SHUSTER, Mr. BOEHLERT, Mr. VOLKMER, Mr. DURBIN, Mr. GEPHARDT, Mr. EMERSON, Mr. COSTELLO, Ms. DANNER, Mr. WHEAT, Mr. SKELTON, Mr. TALENT, Mr. CLAY, Mr. EVANS, Mr. SMITH of Iowa, Mr. LEACH, Mr. LIGHTFOOT, and Mr. NUSSLE):

H.R. 3445. A bill to improve hazard mitigation and relocation assistance in connection with flooding, to provide for a comprehensive review and assessment of the adequacy of current flood control policies and measures, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DELAY (for himself, Mr. THOMAS of Wyoming, and Mr. EWING):

H.R. 3446. A bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. DINGELL (for himself, Mr. MOORHEAD, Mr. MARKEY, and Mr. FIELDS of Texas):

H.R. 3447. A bill to amend the Federal securities laws to equalize the regulatory treatment of participants in the securities industry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DIXON:

H.R. 3448. A bill relating to the tariff treatment of hand crafted stone figurines; to the Committee on Ways and Means.

By Mr. GILLMOR (for himself, Mr. BAKER of Louisiana, Mr. BILBRAY, Mr. ROHRABACHER, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BOEHNER, Mr. COX, Mr. DOOLITTLE, Mr. DUNCAN, Mr. GOSS, Mr. HOBSON, Ms. ROS-LEHTINEN, Mrs. MEYERS of Kansas, Mr. SOLOMON, Mr. SWIFT, Mrs. VUCANOVICH, Mr. GILCHREST, Mr. LIPINSKI, Mr. MACHTLEY, Mr. LIGHTFOOT, Mr. PAXON, Mr. LEVY, Mr. SCHAEFER, Mr. FROST, Mr. QUINN, Mr. HOEKSTRA, Mr. HANCOCK, and Mr. WALSH):

H.R. 3449. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

Mr. ROSTENKOWSKI (as designee of the majority leader) (for himself and Mr. ARCHER) (as designee of the minority leader) (by request):

H.R. 3450. A bill to implement the North American Free Trade Agreement; jointly, to the following committees for a period ending not later than November 15, 1993: Ways and Means, Agriculture, Banking, Finance and Urban Affairs, Energy and Commerce, Foreign Affairs, Government Operations, Judiciary, and Public Works and Transportation.

By Mr. KLECZKA:

H.R. 3451. A bill to amend the Internal Revenue Code of 1986 to provide a cost-of-living adjustment for the thresholds used in determining the 85 percent inclusion of Social Security and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

By Mr. McCLOSKEY:

H.R. 3452. A bill to provide that service performed in or under any of certain nonappropriated fund instrumentalities of the Government be creditable for purposes of the Federal Employees' Retirement System; to the Committee on Post Office and Civil Service.

By Mr. OWENS:

H.R. 3453. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for the continuation of the programs of such act; to the Committee on Education and Labor.

By Mr. PORTER:

H.R. 3454. A bill to amend the provisions of title 39, United States Code, to provide that certin periodical publications shall not be bound publications for mail classification purposes, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PORTMAN:

H.R. 3455. A bill to amend title 39, United States Code, to prevent mass mailings from being sent as franked mail, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. SLATTERY (for himself, Mr. MONTGOMERY, Mr. STUMP, Mr. APPLEGATE, Mr. EVERETT, Mr. EVANS, Mr. STEARNS, Mr. KING, Mr. EDWARDS of Texas, Mr. TEJEDA, Ms. WATERS, and Mr. SPENCE):

H.R. 3456. A bill to amend title 38, United States Code, to restore certain benefits eligibility to unremarried surviving spouses of veterans; to the Committee on Veterans' Affairs.

By Mr. SMITH of Michigan (for himself, Mr. ALLARD, Mr. DREIER, Mr. HERGER, Mr. HOEKSTRA, Mr. JACOBS, Mr. KLINK, Mr. TRAFICANT, Mr. GINGRICH, Mr. COPPERSMITH, and Mr. TORKILDSEN):

H.R. 3457. A bill to provide that cost-of-living adjustments to payments made under the Federal law shall be determined using a new price index which does not take into account tobacco products; jointly, to the Committees on Ways and Means, Armed Services, Education and Labor, Post Office and Civil Service, and Energy and Commerce.

By Mr. HOLDEN (for himself and Mr. GEKAS):

H.J. Res. 287. Joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. BARCIA of Michigan (for himself, Mr. BILIRAKIS, Mr. BROWN of Ohio, Mr. KILDEE, Mr. SKELTON, Mr. STRICKLAND, Mr. TOWNS, and Mr. WYDEN):

H. Con. Res. 173. Concurrent resolution expressing the sense of the Congress that the unique and vital health care services provided by osteopathic physicians must be included in any health care benefits package developed as part of health care system reform; to the Committee on Energy and Commerce.

By Mr. CALVERT (for himself, Mr. BACHUS of Alabama, Mr. WALKER, Mr. FISH, and Mr. ARMEY):

H. Con. Res. 174. Concurrent resolution expressing the sense of Congress that entities established under health care reform proposals should not be permitted to form political action committees or make contributions to Federal candidates; to the Committee on House Administration.

By Mr. DEUTSCH (for himself, Mr. BERMAN, Mr. SWETT, Mr. LANTOS, Mr. SAXTON, Mr. ROEMER, Mr. SCHUMER, Mr. HASTINGS, Ms. CANTWELL, Mr. WYNN, Mr. GEJDENSON, Mr. ENGEL, Mr. LEVY, Ms. SNOWE, Mr. DIAZ-BALART, Mr. FINGERHUT, Ms. ROS-LEHTINEN, Ms. MARGOLIES-MEZVINSKY, Mr. TORKILDSEN, Ms. WOOLSEY, Mr. ANDREWS of New Jersey, Mr. ACKERMAN, Mr. JOHNSTON of Florida, and Mr. GILMAN):

H. Con. Res. 175. Concurrent resolution concerning the Arab League boycott of Israel; to the Committee on Foreign Affairs.

By Mr. JOHNSTON of Florida (for himself, Mr. BURTON of Indiana, Mr. PAYNE of New Jersey, Mr. HASTINGS,

Mr. ENGEL, and Mr. FRANK of Massachusetts):

H. Res. 294. Resolution expressing the sense of the House of Representatives with respect to the situation in Burundi; to the Committee on Foreign Affairs.

By Mr. MCCOLLUM:

H. Res. 295. Resolution providing for the consideration of the bill (H.R. 2872) to prevent and punish crime, to strengthen the rights of crime victims, to assist State and local efforts against crime, and for other purposes; to the Committee on Rules.

By Mr. SANTORUM:

H. Res. 296. Resolution requiring each Member of the House of Representatives to hold at least 12 town meetings per year in the district of the Member; to the Committee on House Administration.

H. Res. 297. Resolution providing for greater disclosure of information relating to franked mass mailing and voting records of Members of the House of Representatives; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. OBEY.

H.R. 39: Mr. OWENS, MS. ROS-LEHTINEN, Ms. FURSE, Mr. FINGERHUT, Mr. FLAKE, Mr. LAZIO, Mrs. MALONEY, and Mr. BONIOR.

H.R. 58: Mr. SWIFT.

H.R. 140: Mr. CALLAHAN, Mr. COOPER, Mrs. LLOYD, Mr. GILCHREST, Mr. WILSON, Mr. SOLOMON, Mr. TORKILDSEN, Mr. BOEHNER, Mr. LIPINSKI, Mr. HUNTER, Mr. MCCANDLESS, Mr. POSHARD, Mr. BAKER of Louisiana, and Mr. BEVILL.

H.R. 408: Mr. HUTTO, Mr. PETERSON of Florida, Mr. CANADY, Mr. JOHNSTON of Florida, Mr. LEWIS of Florida, and Mrs. THURMAN.

H.R. 466: Mr. BOEHLERT, Mr. KOPETSKI, Mr. MARKEY, Mr. GUNDERSON, Mr. CHAPMAN, Mr. PRICE of North Carolina, and Mr. BILBRAY.

H.R. 518: Mr. RAVENEL, Mr. BARCA of Wisconsin, Mr. BILBRAY, Mr. KOPETSKI, and Mr. MARKEY.

H.R. 723: Mr. SMITH of Texas and Mr. GALLO.

H.R. 739: Mr. KING.

H.R. 786: Mr. ANDREWS of New Jersey.

H.R. 830: Ms. WOOLSEY and Mr. MEEHAN.

H.R. 886: Mr. WELDON and Mr. STEARNS.

H.R. 1015: Mr. FILNER.

H.R. 1172: Mr. KLECZKA.

H.R. 1181: Mr. PASTOR, Mr. LANCASTER, Mr. MINGE, and Mr. COPPERSMITH.

H.R. 1322: Mr. BEILENSON, Ms. SNOWE, Mr. VISCLOSKY, Mr. CASTLE, Mr. SMITH of Texas, and Mr. ORTON.

H.R. 1332: Mr. MCCRERY.

H.R. 1432: Ms. WOOLSEY.

H.R. 1504: Mr. NADLER, Mr. GRANDY, Mr. MINETA, and Mr. OWENS.

H.R. 1552: Mr. CRAPO, Mr. STEARNS, and Ms. BYRNE.

H.R. 1687: Mr. SKELTON.

H.R. 1697: Mr. NEAL of North Carolina.

H.R. 1709: Mr. GINGRICH, Mr. HANCOCK, Mr. ARCHER, Mr. BONIOR, Mr. FINGERHUT, Mr. GOSS, Mr. BARTLETT of Maryland, Mr. EMERSON, Mr. CRANE, Mr. STUMP, Mr. WOLF, Mr. THOMAS of California, and Ms. LOWEY.

H.R. 1886: Mr. SANGMEISTER.

H.R. 1900: Mr. HILLIARD.

H.R. 1935: Ms. FURSE.

H.R. 2135: Mr. TAYLOR of North Carolina.

H.R. 2145: Mr. WILSON.

H.R. 2169: Mr. LIPINSKI and Mr. NEAL of North Carolina.

H.R. 2191: Mr. LIPINSKI.

H.R. 2286: Mr. BARCA of Wisconsin and Mr. DREIER.

H.R. 2293: Mr. POMEROY.

H.R. 2360: Mr. BEILENSON, Ms. PELOSI, and Mr. SHAYS.

H.R. 2394: Mr. MANTON, Mrs. KENNELLY, Mr. GONZALEZ, and Mr. FILNER.

H.R. 2395: Mr. MANTON, Mrs. KENNELLY, Mr. GONZALEZ, Mr. BILBRAY, and Mr. FILNER.

H.R. 2434: Mr. ROHRABACHER, Mr. BAKER of Louisiana, and Mr. INHOFE.

H.R. 2499: Mr. MCKEON and Mrs. MEYERS of Kansas.

H.R. 2572: Mr. GUTIERREZ.

H.R. 2740: Mr. RICHARDSON.

H.R. 2826: Mrs. MORELLA, Mr. GEJDENSON, Mr. MCCRERY, Mr. ACKERMAN, Ms. NORTON, Mr. SCHUMER, Mr. LEWIS of California, Mrs. MINK, Mr. FOGLIETTA, Mr. TRAFICANT, Mr. BONIOR, Mr. QUINN, Mr. ROHRABACHER, Ms. PELOSI, Mr. SMITH of Iowa, Mr. PAYNE of Virginia, Mr. KILDEE, Mr. TORKILDSEN, and Mr. DIAZ-BALART.

H.R. 2884: Ms. VELÁZQUEZ and Mr. PAYNE of Virginia.

H.R. 2886: Mr. BAKER of California, Ms. BYRNE, Mr. DORNAN, Mr. STENHOLM, and Mr. BACHUS of Alabama.

H.R. 2936: Mrs. MEYERS of Kansas.

H.R. 2938: Mrs. MEYERS of Kansas.

H.R. 2947: Mr. FILNER, Mr. WHEAT, Mr. BONIOR, Mr. TOWNS, Mr. SARPALIUS, Mr. VALENTINE, Mr. BISHOP, Mr. KILDEE, Mr. SCOTT, Mr. RANGEL, Mr. DELLUMS,Mr. FROST, Mr. GENE GREEN of Texas, Mr. SANDERS, Mr. WAXMAN of California, Mr. JOHNSTON of Florida, Mr. PARKER, Ms. FURSE, Mrs. KENNELLY, Mr. FRANK of Massachusetts, Mr. KYL, Mr. DIXON, Mr. SAWYER, Mr. HUTTO, Mr. HILLIARD, Mrs. MEEK, Mr. HOCHBRUECKNER, and Mr. SHAYS.

H.R. 2959: Mr. ROGERS and Mr. BARTON of Texas.

H.R. 2971: Mr. FISH, Mr. SANGMEISTER, and Mr. DELLUMS.

H.R. 2995: Mr. HUFFINGTON and Mr. WHEAT.

H.R. 3020: Ms. VELAZQUEZ.

H.R. 3059: Mr. HINCHEY, Mr. FRANK of Massachusetts, Mr. HOCHBRUECKNER, Mr. SANDERS, Mr. BEILENSON, Mr. DELLUMS, Mr. GEJDENSON, and Mr. FOWLER.

H.R. 3088: Mr. NEAL of North Carolina, Mr. MORAN, Mr. MARTINEZ, and Mr. FLAKE.

H.R. 3182: Mr. HINCHEY, Mr. GUTIERREZ, and Mrs. MALONEY.

H.R. 3203: Mr. SAWYER, Ms. BYRNE, Mr. YATES, Mr. SANDERS, and Ms. VELAZQUEZ.

H.R. 3213: Mr. KOPETSKI.

H.R. 3252: Mr. RAHALL, Mr. MARKEY, Mr. BERMAN, Mr. DURBIN, and Mr. BOUCHER.

H.R. 3256: Mr. BLACKWELL, Mr. JEFFERSON, Mrs. LLOYD, Mr. ROMERO-BARCELO, Mr. SOLOMON, Mr. RAHALL, and Mr. TOWNS.

H.R. 3294: Mr. MCDERMOTT and Mr. MORAN.

H.R. 3313: Mr. STEARNS, Mr. QUINN, Mr. SPENCE, Mr. RIDGE, Mr. KING, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, and Mr. PARKER.

H.R. 3363: Mr. HOLDEN and Mr. JOHNSON of South Dakota.

H.R. 3367: Mr. SOLOMON, Mr. BALLENGER, Mr. PAXON, Mr. BUNNING, Mr. MCMILLAN, Mr. SERRANO, Mr. KYL, Mr. SUNDQUIST, Mr. GORDON, Mr. HERGER of California, and Mr. GILLMOR.

H.R. 3370: Mr. LIPINSKI and Mr. DELLUMS.

H.R. 3372: Mr. MCDERMOTT, Mr. HASTINGS, Mr. HOLDEN, Mr. DORNAN, Mr. SCOTT, Mr. ACKERMAN, Mr. TORRES, Mr. BARLOW, Mr. ORTIZ, Mr. FAZIO, Mr. COPPERSMITH, Mr. HILLIARD, Mr. COLEMAN, Ms. ENGLISH of Arizona, Mr. KLINK, Mr. HAMBURG, Mr. BARRETT of Wisconsin, Mr. FIELDS of Louisiana, Mr. WATT, Mr. WILLIAMS, and Mr. BROWN of Ohio.

H.R. 3396: Mr. PICKLE and Mr. HOUGHTON.

H.R. 3416: Mr. MORAN.

H.J. Res. 75: Ms. BROWN of Florida, Mr. BECERRA, Mr. DELLUMS, Mr. FOGLIETTA, Mr. DORNAN, Mr. NADLER, Mr. ORTIZ, Mr. TEJEDA, Mr. EDWARDS of Texas, Mr. DOOLITTLE, Ms. DUNN, Mr. MCNULTY, Mrs. LLOYD, Mr. PRICE of North Carolina, Mr. HOYER, Mr. GEPHARDT, Mr. STENHOLM, Mr. GLICKMAN, Mr. HALL of Texas, Mr. BUYER, Mr. RAVENEL, Mrs. BENTLEY, Mr. DREIER, Mr. BILIRAKIS, Mr. LEWIS of Florida, Mr. SHAW, Mr. STARK, Mr. KENNEDY, Mr. DURBIN, Mr. SWIFT, Mr. NEAL of Massachusetts, Mr. TORRICELLI, Mr. RAHALL, Mr. MOLLOHAN, Mr. DARDEN, Mr. SISISKY, Mr. MURTHA, Mr. HOLDEN, Mr. MCHALE, Mr. MOAKLEY, Mr. BARRETT of Wisconsin, Mr. WASHINGTON, Ms. WATERS, Mr. MCKEON, Mr. LEWIS of Georgia, Mrs. COLLINS of Illinois, Mr. MYERS ofIndiana, Ms. FURSE, Mr. TAYLOR of North Carolina, Mr. GUTIERREZ, Ms. ROYBAL-ALLARD, Mr. TORRES, Ms. ESHOO, Mr. COSTELLO, Mr. SANGMEISTER, Mr. POSHARD, Mr. PAYNE of New Jersey, Ms. WOOLSEY, Mr. LANTOS, Mr. STOKES, Mr. MONTGOMERY, Mr. SCHUMER, Mr. RICHARDSON, Mr. BLACKWELL, Ms. KAPTUR, Mr. INSLEE, Mr. ROEMER, Mr. PICKLE, Mr. THORNTON, Mr. COPPERSMITH, Ms. PELOSI, Mr. UNDERWOOD, Mrs. MEEK, Ms. DANNER, Mr. APPLEGATE, Mrs. UNSOELD, Mr. HYDE, Mr. LIVINGSTON, Mr. GINGRICH, Mr. MCDADE, Mr. DICKEY, Mr. BROWN of California, Mr. OWENS, Mr. SKEEN, Mr. DIAZ-BALART, Mr. HOUGHTON, Mr. GUNDERSON, Mr. MANTON, Mr. BORSKI, Ms. MARGOLIES-MEZVINSKY, Mr. HEFLEY, Mr. LIGHTFOOT, Mr. PACKARD, Mr. FRANKS of Connecticut, Mr. VENTO, Mr. GORDON, Mr. HOBSON, Mr. CLINGER, Mr. KASICH, Mr. SCHAEFER, Mr. MFUME, Mrs. MINK, Mr. KANJORSKI, Mr. MINETA, Mr. ACKERMAN, Mr. BARRETT of Nebraska, Mr. MORAN, Mr. LAFALCE, Mr. WHITTEN, Mr. JACOBS, Mr. GRANDY, Mr. STUDDS, Mr. HUNTER, Mr. BAKER of California, Mr. BOEHLERT, Mr. WALSH, Mr. THOMAS of California, Mr. BARTLETT of Maryland, Mr. SUNDQUIST, Mr. GREENWOOD, Mr. DUNCAN, Mr. TAUZIN, Mr. ROGERS, Mr. EVANS, Mr. BONIOR, Mr. VALENTINE, Mr. VISCLOSKY, Mr. WYDEN, Mr. ABERCROMBIE, Mr. ROHRABACHER, Mr. THOMAS of Wyoming, Mr. BLILEY, Mr. WELDON, Mr. TAYLOR of Mississippi, Mr. BURTON of Indiana, Mr. WHEAT, Mr. MEEHAN, Mr. LEVIN, Ms. SHEPHERD, Mr. FLAKE, Mr. COYNE, Mr. DEFAZIO, Mr. PICKETT, Mr. HALL of Ohio, Ms. DELAURO, Ms. SLAUGHTER, Mrs. KENNELLY, Mr. HAYES, Mr. JEFFERSON, Mr. WATT, Mr. POMEROY, Mr. ROMERO-BARCELÓ, Mr. DEAL, Mr. MAZZOLI, Mr. MILLER of California, Mr. CARR, Mr. ANDREWS of Texas,Mrs. MALONEY, Mr. FIELDS of Texas, Mr. YATES, Mr. CHAPMAN, Mr. KILDEE, Mr. PASTOR, Mr. MCCLOSKEY, Mr. STRICKLAND, Mr. SAWYER, Mr. HOKE, Mr. OBERSTAR, Mr. FORD of Michigan, Mr. KLECZKA, Mr. LAUGHLIN, Mr. HEFNER, Mr. GILCHREST, Mr. BRYANT, Mr. CAMP, Ms. SCHENK, Mr. JOHNSON of South Dakota, Mr. LEACH, Mr. INHOFE, Ms. VELAZQUEZ, Mr. DELAY, Mr. SMITH of New Jersey, Mr. ANDREWS of Maine, Mr. FINGERHUT, Mr. DE LUGO, Mr. HAMBURG, Ms. CANTWELL, Mr. TUCKER, Ms. BYRNE, Mr. KIM, Mr. CLEMENT, Mr. BLUTE, Mr. COLLINS of Georgia, Mr. HUTCHINSON, Mr. SPENCE, Mr. MCCOLLUM, Mr. CALLAHAN, Mr. STUMP, Mr. KINGSTON, Mr. SHAYS, Mr. COBLE, Miss COLLINS of Michigan, Mr. QUINN, Mr. SWETT, Mr. OXLEY, Mr. BARLOW, Mr. BROWN of Ohio, Mr. BALLENGER, Mr. FORD of Tennessee, Mr. HORN of California, Mr. CLAY, Mr. PAXON, Mr. LEWIS of California, Mr. SOLOMON, Mr. UPTON, Mr. VOLKMER,

Mr. ROSE, Mr. SKELTON, Mr. SMITH of Iowa, Mr. HAMILTON, Mr. OLVER, Mr. LEHMAN, Mr. BARCA of Wisconsin, and Mr. SLATTERY.

H. J. Res. 79: Mr. CASTLE, Miss COLLINS of Michigan, Mr. CONYERS, Mr. SAM JOHNSON, Mr. PORTER, Mr. TRAFICANT, Mr. VALENTINE, Mr. VENTO, and Mr. GALLO.

H. J. Res. 90: Mr. HOCHBRUECKNER, Mr. BACCHUS of Florida, Mr. FALEOMAVAEGA, Mrs. LLOYD, and Mr. MCDERMOTT.

H. J. Res. 113: Mr. PAYNE of Virginia and Mr. MANN.

H. J. Res. 159: Mr. WYNN, Mr. NEAL of North Carolina, Mr. NUSSLE, Mr. DE LA GARZA, Mr. LEWIS of Florida, Mr. HINCHEY, Mr. TAYLOR of North Carolina, Mr. GREENWOOD, Ms. MCKINNEY, Mr. TORKILDSEN, Mr. GRANDY, Mr. BISHOP, Mr.REYNOLDS, Mr. MEEHAN, Mr. KENNEDY, Mr. CASTLE, Ms. BYRNE, Mr. KLINK, Mr. CLAY, Mr. MORAN, Mr. LIGHTFOOT, Mr. CONYERS, Mr. SWETT, Mr. BERMAN, Mr. GONZALEZ, Mr. JACOBS, Mr. YATES, Mr. HOYER, Mr. SABO, Mr. MURTHA, Mr. MONTGOMERY, Mrs. MINK, Mr. SOLOMON, Mr. RICHARDSON, and Mr. BALLENGER.

H.J. Res. 175: Mr. DINGELL, Mr. GEJDENSON, Mr. BEILENSON, Mr. CRAMER, Mr. BROWN of California, Mr. BRYANT, Mr. BREWSTER, and Mrs. THURMAN.

H.J. Res. 209: Ms. PELOSI.

H.J. Res. 216: Mr. HOYER, Mr. MICHEL, Mr. BAKER of Louisiana, Mr. BAKER of California, Mr. BOEHLERT, Mr. CRANE, Mr. DORNAN, Mr. DREIER, Mr. GALLO, Mr. HEFLEY, Mr. HOBSON, Mrs. JOHNSON of Connecticut, Mr. RIDGE, Mr. SAXTON, Mr. UPTON, and Mr. PALLONE.

H.J. Res. 237: Mr. SCHIFF.

H.J. Res. 274: Mr. JOHNSON of South Dakota and Mr. HUGHES.

H.J. Res. 278: Mr. EDWARDS of Texas and Mr. MARTINEZ.

H. Con. Res. 52: Mr. GLICKMAN, Mrs. FOWLER, Mr. BARCIA of Michigan, and Mr. LAUGHLIN.

H. Con. Res. 148: Mr. DUNCAN, Mr. LAZIO, Mr. HYDE, Mr. EVERETT, Mr. FALEOMAVAEGA, Mr. MYERS of Indiana, and Mr. SUNDQUIST.

H. Con. Res. 156: Mr. FISH, Mr. ROMERO-BARCELÓ, Ms. VELAZQUEZ, Mr. MACHTLEY, Mr. EVANS, and Mr. UPTON.

H. Con. Res. 171: Mr. MACHTLEY, Mr. MCCLOSKEY, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. KING, Mr. LIPINSKI, Mr. COPPERSMITH, Mr. BEILENSON, Mr.YATES, Mr. BACCHUS of Florida, Mr. SAXTON, Mr. PALLONE, Mr. GORDON, Mr. SCHIFF, Mrs. MALONEY, Mr. KOPETSKI, Mr. HOCHBRUECKNER, Mr. LEVY and Mr. FROST.

H. Con. Res. 172: Mr. CRAPO.

H. Res. 156: Mr. DICKEY, Mr. ROYCE and Mr. PORTMAN.

H. Res. 165: Mr. BEVILL and Mr. ORTON.

H. Res. 234: Mr. INSLEE, Mr. PASTOR, Mr. WELDON, Mr. WOLF, Ms. PRYCE of Ohio and Mr. FAZIO.

H. Res. 277: Mr. WELDON, Ms. SCHENK, Mr. BAKER of Louisiana and Mr. BEVILL.

H. Res. 280: Mr. BREWSTER, Ms. CANTWELL, Ms. DELAURO, Mr. DEUTSCH, Ms. ESHOO, Mr. FARR, Mr. FAZIO, Mr. INSLEE, Mr. BEREUTER, Mr. HUFFINGTON, Mr. HYDE, Mr. JOHNSON of South Dakota, Ms. SCHENK, Ms. WOOLSEY, Mrs. ROUKEMA, Mr. POMEROY, Mr. BROWN of California, Mr. COX, Mrs. SCHROEDER, Mr. WELDON, Mrs. MINK, Mr. PASTOR, Mr. PENNY, Ms. LONG and Mr. KOPETSKI.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on H.R. 493: J. Alex McMillan.

Petition 6 by Mr. SENSENBRENNER on H.R. 1025: Michael Huffington.

Petition 9 by Mr. WELDON on House Resolution 227: Michael Huffington and Ernest J. Istook, Jr.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

61. By the SPEAKER: Petition of the Western Legislative Conference, Council of State Governments, relative to urging WLC members and schools to establish effective programs to prevent youth violence; to the Committee on Education and Labor.

62. Also, petition of the Western Legislative Conference, Council of State Governments, relative to requesting Federal assistance to upgrade the commercial ports of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Republic of Palau; to the Committee on Natural Resources.

63. Also, petition of the Western Legislative Conference, Council of State Governments, relative to calling on the WLC to actively pursue the extension of supplemental security income to needy aged, blind, and disabled citizens in U.S. flag territories; to the Committee on Ways and Means.

64. Also, petition of the Western Legislative Conference, Council of State Governments, relative to urging Congress to approve the North American Free-Trade Agreement; to the Committee on Ways and Means.

65. Also, petition of the Western Legislative Conference, Council of State Governments, relative to reducing the demand for illegal drugs; jointly, to the Committees on Education and Labor and Energy and Commerce.

66. Also, petition of the Western Legislative Conference, Council of State Governments, relative to urging Congress to approve a United States-Mexico Border Health Commission; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

67. Also, petition of the Western Legislative Conference, Council of State Governments, relative to coordination of guidance and prevention services for families; jointly, to the Committees on Ways and Means, Education and Labor, and Energy and Commerce.

SENATE—*Thursday, November 4, 1993*

(Legislative day of Tuesday, November 2, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA BOXER, a Senator from the State of California.

PRAYER

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

Let us pray:

Thus saith the Lord, What iniquity have your fathers found in me, that they are gone far from me, and have walked after vanity, and are become vain?—Jeremiah 2:5.

Eternal God, sovereign Lord of history, the question of the prophet Jeremiah is timely. One translation quotes it: Why have you forsaken me for hollow gods and become hollow souls?

We have relegated reverence for God to a religious issue, and it is infinitely more. It is the root of virtue, of morals and ethics and values. When God is not reverenced, morality becomes relative—whatever feels good. Absolutes are abandoned, and there are no criteria for values. Anything goes.

Patient God, awaken us to the fact that our Founding Fathers had a reverence for God which generated their courage and vision and virtue. It was their reverence for God which stimulated victory in the Revolutionary War and established the greatest nation in history. Restore to us the faith of our fathers which is the mother of virtue and national strength.

In the words of Samuel Adams, "He, therefore, is the truest friend of the liberty of his country who tries most to promote its virtue * * * if we should most truly enjoy the gift of Heaven, let us become a virtuous people."

We pray in His name who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 4, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARBARA BOXER, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the consideration of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair, in her capacity as a Senator from California, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Madam President, I ask to address the Senate in morning business. The Senate is in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business until 9:30.

The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1618 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized for 5 minutes.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. HOLLINGS. Madam President, the Constitution speaks very clearly as to the primacy of Congress in trade matters. The Constitution, article I, section 8, expressly states that the Congress shall regulate foreign commerce. Yet, Congress deliberately restricted its role with regard to the North American Free-Trade Agreement by enacting fast track legislation—legislation that said NAFTA would not be subject to amendment by Congress. So we in Congress are prohibited from amending NAFTA. Yet, each day now we see the executive branch effectively amending NAFTA in their all-out effort to pick off votes in the House. The administration is effectively amending NAFTA with regard to sugar imports from Mexico, citrus imports, peanut imports and more. I quote from this morning's Washington Post.

"It's a quid pro quo," said the top negotiator of the administration's NAFTA lobbying team. "We are not going to do this unless it is going to deliver a significant number of votes."

So, yes, the executive branch, the President can wheel and deal with the lobbyists, effectively amending NAFTA—with Mexico's complicity and agreement—with regard to citrus, sugar, peanut butter, flat glass, wine, appliance exports, you name it. They just amend NAFTA willy-nilly to pick up a vote here and pick up a vote there. So they are continually amending. And now you see the reason this South Carolina Senator so vigorously opposed that fast track procedure.

Meanwhile, Madam President, the administration's dissembling and misrepresentation continue unabated.

Earlier this week, at a NAFTA pep rally attended by numerous former secretaries of State and Treasury, the President said, "Look, if Congress votes NAFTA down on the 17th of November, if I were the Prime Minister of Japan, I would order my finance minister to see the President of Mexico on the 18th of November."

Well, heavens above, the finance minister of Japan has already been to Mexico. The fact of the matter is President Salinas' children are enrolled in a special Japanese language program in school. The Mexican elite knows exactly where their economic future lies. They would love to have Japanese investment in Mexico; they have courted it. But Japan has been reluctant to invest in Mexico. Japan says, look, Mexico's consumer market is smaller than the consumer market in one United States city, Los Angeles. What we, Japan, are interested in is the richest consumer market in the world in the United States of America.

Less than 10 percent of the Mexican population has enough discretionary income to purchase imported consumer goods. Japan said, no, our interest is the U.S. consumer market. So if Mexico gets NAFTA, the Japanese will gain the investment security they need to set up plants in Mexico to produce for the United States market.

This Japanese game plan is pointed out very dramatically in the Washington Post of Tuesday, November 2, in an op-ed titled "NAFTA: The Japan Card," by Harley Shaiken and SANDER LEVIN, our distinguished congressional friend on the other side.

I ask unanimous consent this article be printed in the RECORD.

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

NAFTA: THE JAPAN CARD

(By Harley Shaiken and Sander Levin)

The ever-shifting sands of the debate over the North American Free Trade Agreement have shifted again. Proponents of NAFTA now argue that if the United States doesn't strike a deal with Mexico, Japan will.

Facing difficulties selling NAFTA on its merits, the agreement's supporters are now trying to play the Japan card. At a White House event last month, the message was that rejecting NAFTA would spur large Japanese investments south of our border and a flood of Japanese products coming through the "back door" from Mexico. Lee Iacocca is even more blunt, asserting that "the Japanese think NAFTA is a bad deal because it's good for us and it's bad for them."

Are these fears realistic? In fact, this argument stands reality on its head. The Japanese have more to gain with NAFTA than without it and are less likely to become a major presence in Mexico if the present agreement is voted down.

Rather than being poised to rush into Mexico in the wake of a no vote, Japanese firms are waiting for NAFTA to pass before deciding on major new investments. The reason is simple. Japan is far more interested in sales to the United States than in entering the small Mexican market. Japanese companies would like to use a Mexican production base to supply the U.S. market if investment security and low tariffs are guaranteed. NAFTA provides those guarantees. Moreover, Japan could ship more goods without exacerbating trade frictions, since Sony televisions or Nissan cars made in Mexico and sold in the United States don't add to Japan's trade surplus. They are charged to Mexico's account.

With or without this agreement, Mexico's primary trading partner will remain the United States. In the first six months of 1993 more than 80 percent of Mexico's exports and 70 percent of its imports involved the United States. In contrast, Japan accounted for about one percent of Mexico's exports and 5 percent of its imports. Despite a far smaller volume of trade, however, Mexico's trade deficit with Japan was $1.3 billion, more than half the size of Mexico's deficit with the United States.

This ballooning deficit raises a critical point: Mexico can offer Japan increased access to the Mexican market but is unlikely to gain better access to the Japanese market in return, as the United States and almost all other countries in the world can attest. If Mexico is interested in rapidly increasing its trade deficit, then trade with Japan certainly offers possibilities, but it is highly unlikely that one-way trade is Mexico's goal. Moreover, Mexico cannot guarantee access for the Japanese to the U.S. market without NAFTA, diminishing Japan's interest in Mexico.

While its argument that Japan will strike a deal with Mexico is plainly wrong, the Clinton administration's more aggressive policy toward Japan is right on target. But the more the administration pursues this policy, the more the question is raised: If the failed trade policies of the '80s teach us to get tough in creating a more level playing field with Japan, why do they not counsel us also to get realistic in dealing with the unlevel playing field confronted in integrating our economy with Mexico?

In the '80s the United States went through a process of denial that there was a trade problem with Japan. A chorus of academia, media and others sang the "free trade" liturgy and dismissed any criticism as mere protectionism. This ideological onslaught polarized the debate and deprived the nation of the honest evaluation of trade policy that was needed.

Yet, with respect to Mexico we are going through the same process of denial that we went through with Japan in the '80s. True, the source of the unlevel playing field is different—with Japan it was government promotion of informal trade barriers and exclusionary corporate sourcing practices, while in the case of Mexico it is a government policy of holding down wages and denying labor rights in order to attract investment. But while the source is different, the effect can be much the same. U.S. business and workers are forced to make a "Pickett's charge" on a badly tilted playing field.

The way to judge NAFTA is on the merits of the agreement itself, not on the specter of Japanese involvement. In fact, the deployment of the Japan argument at this late date indicates that supporters are running out of plays. Ironically, bringing up Japan underscores the similarities between the failed Japan policy of the '80s and the flawed Mexico policy embodied in NAFTA. Playing the Japan card does not remedy the flaws in the present agreement and will not save NAFTA in the House.

Mr. HOLLINGS. So, with regard to NAFTA, I hear a swooshing sound. It is not just the sucking sound of jobs going to Mexico, Madam President. It is also the swooshing sound of investment pouring into Mexico from Japan, Korea, Taiwan, the People's Republic of China and so on. They are all poised to build plants in Mexico so they can export duty-free into the United States market.

Madam President, I note that Mrs. Linda J. Wachner sent me a tie yesterday with a letter advising, "Don't tie the economy in knots. Vote 'yes' on NAFTA." Mrs. Wachner writes in her letter, "The NAFTA will allow Warnaco and our more than 7,000 workers to produce even more ties in New York," on and on and on, in the different States.

Now, typically when you examine these kinds of gifts, you see they are made in Taiwan, they are made in Hong Kong, they are made in the People's Republic of China, and so on.

Sure enough, the tag on this particular tie says, "Hathaway, made in U.S.A. of imported fabric." This is exactly the point of our opposition to NAFTA right here. These ties should be distributed by opponents, not supporters, of NAFTA, because they illustrate the flight of U.S. textile jobs to other countries. Opponents of NAFTA ought to be giving out these ties, to tell you the truth, because those 7,000 workers referred to by Mrs. Wachner are not going to have job security for long. How much do you think it costs to assemble these ties in New York? And how much does it cost to assemble these ties in Mexico? In Mexico there is no free trade or free press. More to the point, in Mexico there is no minimum wage, no work place safety, no environmental safeguards, no plant closing notice, no parental leave, no Social Security, no unemployment insurance, and so on—the whole range of mandates this Congress has imposed on manufacturers operating in the United States. So those 7,000 jobs referred to by Mrs. Wachner are at risk if NAFTA is passed. That is exactly the point of our opposition to NAFTA. Indeed, I would point out that the Warnaco Co. already has a number of plants located outside the United States. Who would bet that Warnaco's New York plant will not move offshore as well?

Be that as it may, if Mrs. Wachner will deliver these ties to my office, I will be glad to distribute them to all the Members as an illustration of why I oppose NAFTA.

I think this example of ties manufactured from foreign-made fabric sends a very, very clear message. Therein lies the split within the U.S. textile industry. The cloth and the apparel folks are divided.

Madam President, for the last 8 years they have implored me: "Senator HOLLINGS, you've got to oppose GATT. You've got to oppose GATT because we are going to lose a million jobs under the General Agreement on Tariffs and Trade in the Uruguay round if they phase out the multifiber arrangement."

In the last administration a study was done in the Office of the U.S. Trade Representative—a study echoed by another one produced at the Wharton Business School—predicting that if GATT goes through it will cost at least a million jobs in the apparel industry. There is no question about that.

So I have been fighting for 8 years on behalf of my home State industry not to lose the million jobs, and here comes the American Textile Manufacturers Institute saying: "Now, Hollings, we do not mind losing a million jobs. We want to be for NAFTA."

When you ask them about it, to quote Mr. Elisha, the chairman of Springs Industries, he says: "You are going to lose the jobs anyway. What are you sweating about?" It is a defeatist attitude.

Madam President, the realities of the Japan-Mexico relationship are made crystal clear in this morning's New York Times, and I quote:

Since taking office in December 1988, Mr. Salinas has courted Asian investment and trade but encountered skepticism because of Mexico's debt crisis of the 1980's.

In fact, Mexican officials recall that Mr. Salinas turned to the idea of NAFTA after

initially rejecting it, in part because of the difficulties in getting European and Asian investors to come to Mexico.

I will read again from this morning's New York Times:

Other Japanese officials expressed irritation or amusement that Mr. Clinton seemed to be invoking Japan to scare Americans. "He's joking, right?" a senior Government politician asked. "Japan and Mexico? Does that sound like a big alliance?"

Obviously not.

Madam President, they have tried everything in the book to try to scare the folks and try to bring the pressures and try to buy the votes, but there is no doubt that what is really occurring is a fire sale of the remaining jobs in America.

I ask unanimous consent that the article in the New York Times entitled "Mexican Trade Accord: Japanese Role Doubted" be printed in the RECORD at this particular point.

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

[From the New York Times, Nov. 4, 1993]

MEXICAN TRADE ACCORD: JAPANESE ROLE DOUBTED

(By Tim Golden)

MEXICO CITY, November 3.—Contradicting a central argument from the Clinton Administration in favor of a free trade accord with Mexico, businessmen, diplomats and trade experts in Japan and Mexico say Mexico is unlikely to be flooded with new Japanese and European investments and trade deals if the pact is defeated.

With the prospect for Congressional approval of the North American Free Trade Agreement in doubt, both President Bill Clinton and President Carlos Salinas de Gortari have warned that Japan and other American rivals would seize whatever economic opportunities the United States might pass up in Mexico.

Trade experts and businessmen here, however, say Mexico is likely to prove more attractive to many potential Asian and European investors with the trade accord than without it.

Moreover, given Mexico's economic difficulties and its dependence on American capital and commerce, many economists and Government officials also say it simply could not afford to turn away from the United States, even if the trade pact fails.

'AFRAID OF JAPAN'

"This has touched a chord in the United States because people are afraid of Japan, but it is not an alternative as such," said a senior Mexican official who supports the accord and spoke on the condition he not be named. "Japan will be interested in Mexico. The same goes for Europe. But it would be naive to think that Japan is poised to jump in."

In Tokyo, Japanese officials and business people echoed the view that Mexico is unlikely to loom large in their thinking. Total Japanese investment in Mexico last year, they noted, was $60 million, roughly what Japan invested in Bangladesh and a small fraction of United States investment in the same period.

"I don't think that a discussion about a free trade agreement between Japan and Mexico has ever taken place here," said Masakazu Toyoda, the director of the Americas division of Japan's Ministry for International Trade and Industry, known as MITI. "It is an interesting idea, but I don't think it works. Perhaps we can help the U.S. and Mexico reach their own agreement."

Other Japanese officials expressed irritation or amusement that Mr. Clinton seemed to be invoking Japan to scare Americans. "He's joking, right?" a senior Government politician asked. "Japan and Mexico? Does that sound like a big alliance?"

WARNING TO CONGRESS

On Monday Mr. Clinton warned that if American legislators vote later this month to reject Nafta, as the accord is known, the Japanese would swarm over Mexico "like flies on a June bug."

Mexican officials have indeed quickened their efforts to find new economic partnerships in Europe, Asia and Latin America in case the agreement is killed. But similar efforts in recent years have been less than successful.

Since taking office in December 1988, for instance, Mr. Salinas has courted Asian investment and trade but encountered skepticism because of Mexico's debt crisis of the 1980's.

In fact, Mexican officials recall that Mr. Salinas turned to the idea of the pact after initially rejecting it, in part because of difficulties in getting European and Asian investors to come into Mexico.

Some Japanese officials have spoken positively of the trade deal, suggesting that by improving the investment climate in Mexico it would work to the benefit of Japanese investors who might want to use Mexico and Canada as a base for producing products to be exported to the United States.

OTHER PARTNERS SOUGHT

Throughout its trade talks with Canada and the United States, Mexico has continued to working to diversify the foreign partners for its investment and trade.

Until it became clear this summer that the accord was in serious trouble in the American Congress, however, Mexican officials said they saw little reason to risk antagonizing the United States by wooing America's economic competitors more aggressively.

Last year, for example, Mexican trade with European Community nations was $10.3 billion, accounting for 11.5 percent of Mexico's imports and 7.2 percent of its exports, according to Mexican figures.

Mexico's trade with Japan amounted to $3.2 billion, or less than 5 percent of the national total. But with a drop in the value of Mexico's oil sales, its trade deficit with Japan skyrocketed from $542 million in 1991 to $2.2 billion last year.

By comparison, Mexico's imports from the United States alone were $24.6 billion, or 62.8 percent of the country's purchases from abroad, while the United States accounted for 68 percent of Mexican exports, or $18.7 billion.

If the deal is rejected, senior Mexican officials say they will probably revise the country's foreign investment law in order to extend to all foreign investors some of the benefits that would go only to Americans and Canadians under the North American accord.

They said restrictions on foreign participation in banking, insurance and other financial services were almost certain to be loosened. Mexico is also contemplating signing investment-protection agreements with European countries in order to guarantee their businessmen special terms, they said.

Mexico's Trade Secretary, Jaime Serra Puche, said in an interview, "It is conceivable that in the absence of Nafta, we would go ahead and negotiate trade agreements with the European Community and Japan."

But Mexican officials acknowledged that a tariff-reduction agreement with European Community nations would be difficult to reach because it would have to be negotiated with the community as a whole. They predicted that such a deal might be more possible with Japan.

A parade of Japanese officials, however, have said that Japan is not interested in individual trade agreements with any other Latin American countries, Mexico included.

CRITICISM FROM ABROAD

The trade pact has been criticized by some Asian and European officials for what they say are barriers to investment to businesses outside the western hemisphere. The main one of these is from the fact that Nafta would set high "rules of origin."

As tariff barriers are gradually eliminated among the United States, Canada and Mexico, most goods would only be able to move freely through the zone if they were made mostly from North American materials. In two areas where Asian manufacturers might be especially anxious to invest, the automotive and textile industries, this so-called content requirement is even stiffer.

In a speech to Mexican businessmen late last month, a former Japanese Government trade official for North America, Yasuo Tanabe, complained that the trade accord showed evidence of "sneaking protectionism." But in a later interview with the Mexican newspaper El Financiero, Mr. Tanabe added that independently of the pact. "There's no Mexican boom among Japanese business society."

Trade experts and businessmen in Mexico gave a similar view: the fact that some non-American companies might be dissuaded from investing in Mexico with the accord in place does not mean those companies will invest without it.

Gabriel Szekely, a professor of international relations at the University of California at San Diego who is a leading expert on Mexico's economic relations with Asia, suggested that Mexico remained even more remote for potential investors in Japan.

"If the Japanese trading companies had identified any opportunities in Mexico, they would be pursuing them now," he added, noting that Japan is also concerned about antagonizing the United States by seeming to use its neighbor as a base for exports.

"The Japanese do not want to risk conflict with the United States by an overture to Mexico," Dr. Szekely said. "It's just not worth it to them in terms of the amount of trade they have or the new investment opportunities that such a policy could generate."

Mr. HOLLINGS. Madam President, they had all manner of big shots at the President's pep rally the day before yesterday, including Henry Kissinger. I can hear our friend Henry saying, "Oh, it is going to be a terrible disaster if we turn down the free trade agreement."

To get a feel for Henry Kissinger and his elite dealings in Mexico, I will quote briefly from a book about Kissinger:

Trust Company of the West, an investment managing firm, was a leader in raising investment capital for privatizing state-owned industries in Latin America, particularly in Mexico. Kissinger, who was on the TCW board and also served as a consultant on various projects, gave the company regular

briefings on the political climate of Mexico along with colorful assessments of its leaders. But he also did something only he could do. In March 1990, while in Acapulco on vacation, he invited TCW's energetic Chairman Robert Day, to come for a visit. Then he arranged a day trip to Mexico City. They flew in Day's corporate jet, had a breakfast meeting with the finance minister, and in the course of the day met with every other major Cabinet minister. That evening, Day went to a reception thrown for Kissinger by the American Ambassador, John Negroponte, who had once been a member of Kissinger's White House staff. On hand were 80 of Mexico's top political and business leaders. At midnight, they flew back to Acapulco.

Madam President, this is the perfect illustration of the elites—the big banks and corporations, the big moguls and influence peddlers—who are the driving force behind NAFTA. They are the ones financing the big full-page NAFTA ads in the major newspapers. They are the ones who will profit from NAFTA.

It is the little guy, the ordinary men and women on the assembly line, who have no protection whatsoever from the negative fallout from NAFTA. And it is an absolute national disgrace to see these workers sold out for peanuts and citrus and sugar and flat glass, as we see in the morning paper.

And, again, consider the hypocrisy of the administration's support of fast track treatment of NAFTA. The whole premise of fast track was that it would be impossible to negotiate a trade agreement if Congress reserved the right to make modifications and amendments to the final negotiated text. So Congress—abdicating its constitutional powers with regard to commerce—agreed to fast track consideration in order to assure Mexico that no amendments or modifications would be made to NAFTA during congressional consideration. Now we see that the administration is amending the final NAFTA text minute by minute, item by item, payoff by payoff in order to buy the votes needed for passage. As one administration official admitted in this morning's paper:

> It is a quid pro quo. We're not going to do this unless it's going to deliver a significant number of votes.

Since Tuesday's elections, much has been said about the disdain the American people have for their Government. Looking at the elite, back-room deals being cut to pass NAFTA, I join Americans in that disdain. I join them. It is an embarrassment to serve in an institution where this kind of activity is going on. It is embarrassing to witness the media, this crowd up there in the gallery, averting their eyes from these special interest deals as though they were normal and acceptable business.

The Senate is assertive in enforcing its own ethical standards and practices, but where are the ethics over in the White House? They negotiated a final agreement. They submitted the agreement. It is on fast track, with no amendments permitted. Yet they continue unethically to agree to de facto amendments in order to buy off special interests. These deals are documented in the morning newspapers, yet no one talks about the unethical nature of such deals.

I repeat, it is the little guy who is being sold out. The elites, the wheeler dealers, the Kissingers, the banks are buying the newspaper ads and financing the pro-NAFTA drumbeat. This is exactly the crowd that plans to go to Mexico to make a quick profit, even at the tremendous cost to America's industrial backbone.

We need to create jobs in America, not ship them abroad. The distinguished occupant of the Chair knows this from her experience in California. California has suffered from earthquakes, fires, runaway immigration, urban riots, a disproportionate share of base closures. The cumulative economic impact is devastating, and this is the problem we should be addressing in this body. Instead, we are debating a trade agreement that we know will cost American jobs.

Madam President, I have to immodestly present myself as Exhibit 1 on the matter of jobs. I do not need any economist's study. As Governor, I had the pleasure of carpetbagging Europe, the Northeast and, yes, even San Angelo, California, in order to persuade industries to move to my State of South Carolina.

And we experienced tremendous success, so that today South Carolina boasts tens of blue chip corporations, plus 45 Japanese and 100 German plants. But now the tables are turned. Now it is Mexico that is carpetbagging the State of South Carolina, the State of California, the State of Michigan, and so on.

In recent days, the President purchased the vote of one Member of the House by promising a multibillion-dollar aid program. Fine. If the President wants to soften the blow of free trade with Mexico, he can give South Carolina an aid program for the thousands of workers from more than 15 corporations that have already departed South Carolina for Mexico—companies such as United Technologies, Cummins Gear, Pratt and Reed, Union Carbide, Abbott Labs, and Emerson Electric. Note that these are not low-paying textile jobs. They are good jobs. They are—or were—sophisticated, high-technology jobs. But they went to Mexico to take advantage of low-cost labor south of the border.

So this is our future under NAFTA. We are already witnessing a slow, destructive bleeding of jobs from the United States to Mexico. Instead of applying a tourniquet to this hemorrhage, NAFTA will cut the wound wide open. This may be good for Dr. Kissinger and the elite banks and corporations he collects consulting fees from. But pity the ordinary American worker who gets left behind.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from Oregon.

Mr. HATFIELD. Madam President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator is recognized for 10 minutes.

Mr. HATFIELD. I thank the Chair.

APPOINTMENT OF THE NEW FOREST SERVICE CHIEF

Mr. HATFIELD. Madam President, for the past 6 years, F. Dale Robertson has served as Chief of the U.S. Forest Service, leading his agency through perhaps the most difficult challenges and transformations in the history of any government resource management agency. Throughout his tenure, Chief Robertson has served this country with honor, distinction, integrity and ingenuity and is unworthy of the treatment he has received at the hands of the current administration.

Unfortunately, however, a decision has been made to remove Dale Robertson and Associate Chief George Leonard from their top career Forest Service positions in an effort to clean house and promote a new agenda for the embarrassed and embattled agency.

I find this practice troublesome because these positions, which have traditionally been filled by lifetime career personnel, provide the agency with a sense of continuity, institutional knowledge and insulation from the shifting tides of Washington, DC's political culture.

Nevertheless, the termination of these two public servants appears to be an attempt to lay the blame for the problems in our national forests squarely on the shoulders of the now-former chief and his closest staff person. On its face, this misguided action is simply ludicrous. The blame for the controversy surrounding the management of our National Forest System over the past 6 years lies not with one or two men, but with those most able to actually do something about the problem: Congress and past and present Presidential administrations.

Over the past 35 years, Congress has done an excellent job layering numerous contradictory forest and resource management laws on top of one another, all the while expecting immediate and clear results from the Forest Service. In fact, over half of the laws affecting forest management in the United States today have been passed since 1964. Taken as a whole, the result of all these laws is to create a smoke obscured minefield, surrounded by what I call hyperprocess: Contradictory and unclear statutory and regulatory requirements which are the legislative equivalent of a train wreck.

Despite this untenable situation, there has been no interest in taking a

broad look at our Nation's forest management policies, an ecosystem approach debating solutions, and making the necessary changes. The current base of law has become so sacrosanct to some that, despite the pleading of myself and others, for clarifications to the forest statutes which have caused the loss of at least 26,000 jobs in my region, the majority of our Nation's lawmaking body has resisted any changes. In fact, the inaction by Congress and successive administrations mirrors an often heard theme of our time, where unless the settlement to a contentious issue is a 100-percent solution, there is no solution at all, and thus no balance and no relief is obtained for the 84 rural communities in my State dependent on a Federal timber supply.

In addition, the current administration has said it will not support—not support—clarifications in the laws relating to management of the forests of the Pacific Northwest but, rather, it will work within the existing system to solve the forest crisis.

This action is a failure to begin with. And it will continue to be a failure.

For example, last July, at the conclusion of the President Clinton's forest conference in Portland, OR, the administration promised an annual regional timber safe level of 1993—and this is now November 1993—of 2.2 billion board feet. This year, the administration will be lucky to deliver on 10 percent of that amount as they fumble about in the existing labyrinth of forest management laws. That is the effect of hyperprocess and gridlock—and with a President so willingly pointing to Congress today about gridlock, let him look at his own resource management agencies where you have a perfect example of gridlock. And it is equivalent to fiddling while Rome burns.

Clearly, the blame for the problems in our national forests likes in many places other than upon the shoulders of Dale Robertson and George Leonard. The policies of Chief Robertson over the years of his service have come under fire from all sides of the resource management spectrum, including the current Secretary of Agriculture. In fact, opponents of Chief Robertson came out in the Oregon press last week contending that he overcut national forest lands as supervisor of the Mount Hood National Forest in Oregon from 1976 to 1980. This assertion, however, is totally false.

It is an example of the misinformation, and outright lies that are now being leveled at the Forest Service in our national government.

During Dale Robertson's term as Mt. Hood supervisor, the Forest Service met its average timber sale targets almost exactly by the numbers. This target over the 5-year period of his tenure was 1.973 billion board feet, and the actual amount of timber sold was 1.981 billion board feet. In short, using the best science of that era, Supervisor Robertson maintained almost the exact level of sustainable timber harvest established through the National Forest Management Act's 10-year planning process.

To assert then that he had overcut that forest is patently false.

Despite his efforts to facilitate change and steer the agency in new and bold directions as Chief, Dale Robertson has had the unfortunate duty to serve at a time when the public has been more interested in a fight than in finding solutions. Throughout this time of criticism and constant battles, Dale has served with distinction, as shown by his numerous agency-wide and personal accomplishments.

In recent years, many have criticized the Forest Service for being an entrenched bureaucracy where change seldom, if ever, occurs. The record, however, tells a different story. In the last 15 years, the agency has changed dramatically, both in the direction and character of its programs and work force.

May I speak to substantiate this point as a member of the Appropriations Committee handling the appropriations of this agency? Let me tell you the changes that have occurred in the National Forest System between 1988 and 1992:

An increase of 75 percent in recreation funding; a 137-percent increase in funding for fish and wildlife; Madam President, a 50-percent reduction in the annual timber sales program, from 11.3 billion board feet down to 5.1 billion board feet nationwide.

In addition, the new policy to move clearcutting as a forest management tool to the bottom of the toolbox.

In addition, in 1989, at the direction of Chief Robertson, the Forest Service launched the New Perspectives Program to identify more environmentally sensitive ways of managing the National Forests and Grasslands. This year the lessons of new perspectives have been applied not only to the agency's ecosystem management policy, but also to the President's Forest Ecosystem Management Assessment Team report.

Chief Robertson has also received numerous personal awards during his time as Chief, such as two from the President of the United States—the "Meritorious Service Award" in 1987 and the Distinguished Presidential Rank in 1988. He also received Trout Unlimited's Special Conservationist of the Year Award in 1989, American Rivers Association's River Conservationist of the Year Award in 1990, the Secretary of Agriculture's award for Best Manager in USDA for Workforce Diversity in 1992 and the Senior Executive Association's Award for Outstanding Career Executive Leadership and for Success in Meeting the Challenge of Change in 1993.

Madam President, are these awards reflective of a man who shows disdain and disregard the Nation's resource conservation laws? I think not.

Dale Robertson is respected by his peers both within and outside the Forest Service as an individual with outstanding leadership abilities and high moral integrity. A man of such high accomplishment is certainly deserving of a more distinguished exit from an agency in which he has worked all his life.

Perhaps Dale, as Chief, was not a good politician. Believe me there are worse things to be charged with than that. But where he may not have been a good politician, Dale Robertson was—and remains—an exemplary forester and a cosummate professional. I have been proud to know and to have worked with him.

My disappointment with the handling of the Chief's departure is in no way a reflection of my feelings for the individual just named to serve as acting Chief, Dave Unger. My congratulations go out to Mr. Unger and I stand ready to assist with his transition to acting Chief in any way possible. His task will be formidable, likely without much satisfaction, and I pledge to work with him and his new team to bring this conflict to an end and return peace—true peace—to our forests and our communities.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

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

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

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD) Without objection, it is so ordered.

The U.N. CHARTER IS NOT SOCIAL SCIENCE

Mr. MOYNIHAN. Madam President, as we approach the fiftieth anniversary of the charter, it is important to remember that it was a project of law, not social science. The drafters' frame of reference: the cataclysm that was World War II. Their principal goal; to establish enforceable legal standards against the use of force to resolve international disputes. In short, the charter was a concrete effort to advance international law; fundamentally, a treaty about the use of force.

It is common enough to state that during its first four decades superpower rivalries frustrated the purposes of the charter. This is, of course, the truth, but it is a partial truth. For the nonaligned bear substantial responsibility as well. By the time of my tenure at

the United Nations the very term "nonaligned" was a misnomer—the 1979 triennial meeting was in not the least bit-nonaligned Cuba. Ironically, the nonaligned found themselves in fact very much aligned with a Soviet Union at the United Nations at the same time that the highest ranking Soviet official at the United Nations—Under Secretary General for Political and Security Council Affairs Arkady Shevchenko—was defecting to the United States because of his utter disillusionment with the Soviet Union.

Blessedly, that is behind us. The obscene resolution equating Zionism to racism has been revoked. There is a new spirit of cooperation on the Security Council. Operation Desert Storm.

But then came Bosnia. The failure to combat international aggression against a member state. And Somalia. The extension of U.N. involvement into the internal affairs of a member state. And, we should add, the prolonged financial crisis of the institution to which the United States contributes as the leading delinquent in payment of dues.

At such a time it is best to return to first principles. Combatting international aggression. Extending the reach and salience of international law. This is a noble endeavor. As the distinguished commentator William Pfaff has recently written:

Let us simply promote the observance and extension of international law and legality. This is a long-term project, but it is the way that, during the past two centuries, some degree of regulation and pacification of state relations has been accomplished. One may consider this a progress of civilization.

Indeed it is.

Madam President, I ask unanimous consent that the entire article by Mr. Pfaff be printed in the RECORD at this point.

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

[From the International Herald Tribune, Oct. 9-10, 1993]

THE AMERICAN ROLE: SPARE US THE BLAND IDEALISM, MR. PRESIDENT

(By William Pfaff)

PARIS.—The foreign policy of the Clinton administration has now been explained, and the explanation is unsettling. The secretary of state, Warren Christopher, the national security adviser, Anthony Lake, and UN Ambassador Madeleine Albright all have made speeches in recent weeks setting out how the administration sees the world.

General Colin Powell, departing chairman of the Joint Chief's of Staff, made his own national policy speech. As he served most of his career in Washington under Republican presidents, his talk is particularly interesting in generally confirming what the three Clinton administration officials have said. We have before us something like contemporary Washington's consensus view of what the United States should be about.

It amounts to a desiccated Wilsonism. With the end of the Cold War, Washington has for lack of other ideas, fallen back on the idealistic and sentimental view of history and the world that characterized the Wilson and Roosevelt administrations.

But while those presidents set out ambitious plans to remake international society through the League of Nations and the United Nations, the Clinton officials, product of less confident times, speak verily and inconclusively of the pitfalls of multilateralism versus unilateralism.

They express the belief, nonetheless, that peoples elsewhere turn to America for leadership because it exemplifies the values others seek.

We are told that democracy and market economics are universally valid and indispensable to one another, a doctrine uncritically taken over by the Clinton administration from its Republican predecessors—and historically untrue. The goal of U.S. policy is identified as to "enlarge" the influence and reach of the American model of a free society and marketplace.

"We have arrived at . . . a moment of immense democratic and entrepreneurial opportunity, and we must not waste it," said Mr. Lake. Against this "advance of democracy and markets" we must expect "forceful reactions from those whose power is not popularly derived."

The other main dangers facing the United States are identified as nuclear proliferation; ethnic conflict, terrorism, notably by Islamic fundamentalists, and environmental degradation.

In their program to enlarge the sway of markets and democracy, the secretary of state and his colleagues have not seriously addressed the problem that Max Singer and Aaron Wildavsky stated in their recent book "The Real World Order: Zones of Peace/Zones of Turmoil": that a major part of the world experiences internal turmoil which the intervention of others, or of the "world community," may be unable to influence or may even worsen (IHT, Sept. 2).

This turmoil may be a reaction against social, economic and political forces originating in the West. This is true of Islamic fundamentalism, which was installed in Iran by the popular will, not against it. Nuclear proliferation no doubt is dangerous, but to an Israeli, Pakistani, Indian or Iranian, nuclear proliferation offers security against threats or intimidation by other countries.

Terrorism is loathsome, but so is any form of warfare directed against civilians with the intention of influencing the policies of governments; and terrorism is the weapon of people who have no other weapon. Like ethnic conflict, terrorism is a social and political phenomenon that has nothing to do with democracy or markets—or trust in Americans.

In that respect, I could supply General Powell with a dozen citations every day from European politicians, businesspeople and the mainstream press expressing distrust of the United States and its policies. We Americans are accused of being economic predators who conceal our self-interest in hypocritical language. And the Europeans are our friends. The notion that we are universally envied is a very dangerous illusion.

Let me propose two simple priorities for a new American foreign policy. First is to protect well-defined U.S. material and political interests. This means defending the internal peace and external security of the community of industrial democracies. These are the only countries that, if they go wrong, could produce a real upheaval in the world.

What happens in China, Iran or South Africa is marginal to what happens in North America, Western Europe and Japan. Southeastern and Eastern Europe is important because events there threaten the security of industrial Europe—the place where much trouble has originated in the 20th century. What happens to Russia is important for the same reason, and because Russia is a nuclear power.

But if we wish to enlarge the zone of stability in the world, let us leave democracy and markets out of it for the moment. Let us simply promote the observance and extension of international law and legality. This is a long-term project, but it is the way that, during the past two centuries, some degree of regulation and pacification of state relations has been accomplished. One might consider this a progress of civilization.

Mr. Lake, in his talk, brings up the subject in an apologetic fashion, expressing a "personal hope" (unshared by the Clinton administration?) that "one day" international law may play a more civilizing role in international relations, quickly adding that "any official with responsibilities for our security policies" must act solely on the basis of American interests. So much for law. But then, so much for civilization.

THE 25TH ANNIVERSARY OF THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. MITCHELL. Madam President, this week, the National Council on the Aging is celebrating the 25th anniversary of the Senior Community Service Employment Program [SCSEP]. Funded under title V of the Older Americans Act, the SCSEP provides training and employment opportunities to older persons age 55 and above, who meet certain income guidelines.

As a part of their celebration, the SCSEP will be holding its Project Directors' Conference in Portland, ME, from November 6 through November 10, 1993. The University of Maine, which receives funding from the National Council on the Aging, has agreed to serve as a cosponsor for the conference. The university's cooperative extension program trains seniors for placement with businesses and nonprofit agencies throughout Maine.

Seniors trained in the university's program have been employed in a variety of capacities. One person worked as a clerk at a Belfast, ME, department store, while another was hired by a Presque Isle lawyer. Several other seniors have gone on to start their own bussiness.

Programs like the SCSEP contribute to our Nation's economic well being by providing challenging and rewarding jobs to older Americans. Utilizing the talents and resources of these experienced people benefits not only the individuals themselves, but the communities in which they serve. These workers bring to their jobs dependability, attention to detail, loyalty to coworkers and employers, and a commitment to productivity.

Extended work life enhances independence for older Americans, helps provide a foundation for healthier

lives, and allows them to continue contributing to their communities and families.

The SCSEP and other programs have made significant contributions to both older Americans and the general community. Therefore, I would like to commend the Senior Community Service Employment Program of the National Council on the Aging and ask that citizens, employers, public and private human service agencies, educational and training institutions, and younger workers join in congratulating their worthwhile enterprise.

RUSSIAN TROOPS IN ESTONIA AND LATVIA

Mr. DECONCINI. Madam President, I would call attention to a frontpage article in the November 4, 1993, issue of the Washington Post regarding the new, assertive military doctrine adopted by President Yeltsin and his Security Council.

As outlined by Russian Minister of Defense Grachev, there are several aspects of this new military doctrine that may cause concern in post-cold war Europe. At this moment, I would like to focus on a statement by Minister Grachev that is particularly disturbing. According to the chief of the Russian military, and I quote, "there is absolutely no problem" in withdrawing the Russian troops from Estonia and Latvia from a technical point of view, and if the "problem" of Russian-speaking minorities were solved, "within a half a year, not a single soldier would remain there."

This is very interesting, inasmuch the CSCE summit declaration of July 1992 called upon participating states to assist in removing foreign troops from the Baltic States without conditions. And Russia, as we know, is a participating CSCE state. In fact, Russia's Foreign Minister said in London recently that "Russia does not plan to tie withdrawal of troops from the Baltics to conditions of the Russian population in those countries." It makes you wonder who is making foreign policy over there, the Foreign Ministry or the Ministry of Defense?

In the past, the Russian Government claimed that a lack of housing in Russia prevented Moscow from removing the troops expeditiously. Apparently, based upon Minister Grachev's statement, the housing that has been built in Russia, partly with United States taxpayers' money, is now adequate to house returning troops. So now, it would appear that these troops will be used to blackmail Baltic governments into yielding to Moscow on citizenship and naturalization procedures for ethnic Russians.

Madam President, United States policy toward Estonia and Latvia on the ethnic Russian issue has been to encourage these nations to allow the reasonable integration of its non-indigenous minorities into the national structure. The majority of ethnic Russians still in Estonia and Latvia are going to remain there and they deserve treatment in accordance with internationally accepted standards. In Latvia, the situation is still developing, as a law on naturalization has not yet been passed. A CSCE mission has recently been established in Latvia to address citizenship and other related matters, and to report on the realization of CSCE principles.

In Estonia, CSCE has been working assiduously to bring the Estonian and Russian communities together, and on the advice of CSCE and the Council of Europe, the Estonian parliament amended its law on aliens to help assuage concerns of the ethnic Russian community.

I do not claim that the ethnic Russian communities in Estonia and Latvia are entirely satisfied. After all, Estonia and Latvia were illegally incorporated into the former Soviet Union, and are entitled to re-establish their statehood.

What I will say, however, is that for Russia to use the presence of its remaining troops in Estonian and Latvia as a blunt instrument to enforce its will on the sovereign nations of Estonia and Latvia is simply unacceptable.

I commend Secretary Christopher for his principled call in Riga recently for the removal of Russian troops from Latvian and Estonian soil, and I trust the State Department will continue to make that position absolutely clear.

I would also remind my colleagues of the Byrd amendment to the foreign assistance bill, according to which foreign aid to Russia is contingent on White House certification on significant removal of Russian troops from Estonia and Latvia.

Let us hope the White House is watching Russian words and Russian deeds in the Baltics very closely. I am sure the Congress will.

COMBATING ETHNIC INTOLERANCE IN ROMANIA

Mr. DECONCINI. Madam President, on October 21, 1993, the Senate agreed to support the administration's recommendation that most-favored-nation [MFN] trade status be granted to Romania. Although I was one of the early proponents of that decision, I have repeatedly emphasized, in my statements in this CONGRESSIONAL RECORD and in my interactions with Romanian officials, that my support for MFN is contingent on continued progress in a number of areas of human rights concern.

Significant among these is respect for the rights of all Romania's citizens, regardless of ethnic origin. As a participating state of the Conference on Security and Cooperation in Europe, Romania has pledged to "promote a climate of mutual respect, understanding, cooperation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and [to] encourage the solution of problems through dialogue based on the principles of the rule of law."

Regrettably, recent violent events in the village of Hadareni indicate that serious inter-ethnic tensions and hostilities persist. On September 20, 1993, following a fight between members of the Roma [Gypsy] and non-Roma community in which a 25-year-old non-Roma was killed, hundreds of non-Roma villagers assaulted their Roma neighbors, lynching 3 men and burning 13 houses to the ground.

The Romanian Government speedily issued a statement expressing serious concern over the incident, committing itself to investigate the case and bring the incriminated persons to trial. The Government also promised to grant financial support to the rebuilding of the homes that had been destroyed, and to help house and school the affected children. The promptness of this response is welcome and commendable. I also want to express my gratitude to the Romanian Embassy here in Washington for its efforts to keep me informed of developments in the case.

I am deeply concerned, nonetheless, by a pattern of discrimination and violence against Roma in Romania—not merely in popular attitudes, but also reflected in the press, and even statements by Romanian officials. It is my firm conviction that political leaders and other government authorities have a critical role to play in promoting tolerance and mutual respect, in combating negative stereotypes, and in ensuring that justice is fairly administered. I am troubled by reports that investigations of 16 recent incidents of this nature have resulted in trials for Roma alone, whereas non-Roma suspects have been freed. I would urge the Romanian authorities to ensure that the investigation of this particular case is conducted in a prompt and impartial manner.

As chairman of the Commission on Security and Cooperation in Europe, I fully understand the complexities and difficulties Romania is facing as it undergoes the transition to democracy and a market economy. I know, too, that questions concerning inter-ethnic relations and the situation of Roma in particular are not limited to Romania. It takes time to change popular attitudes in all of our countries—but when discrimination is exploding in violence, we have no time. This is particularly important when, as was the case in Hadareni, popular notions of justice threaten to undermine basic concepts of law enforcement. Crimes committed by Roma, or any other individuals, should be punished to the fullest extent

of the law. Democracy assumes civic responsibility, as well as guaranteeing rights. But mob justice, by definition, has no place in societies governed by the rule of law. Spontaneous aggression in the name of justice can only undermine progress toward that goal.

HATE CRIMES MUST BE PUNISHED

Mr. MOYNIHAN. Madam President, I rise to express my deep concern over the recent attack on American athletes which took place in Oberhof, Germany. On October 29, 1993, fighting broke out in a discotheque in Oberhof after a group of approximately 15 German skinheads began shouting racist insults at an American athlete, Robert Pipkins of Staten Island, who is black. When a teammate went to help him, he was attacked. Such racially motivated incidents are highly disturbing wherever and whenever they occur. It is particularly disheartening that this attack was targeted at American athletes who were training for the Olympics. The spirit of international harmony embodied by the Olympics suffers from such incidents. German authorities are seeking stiff penalties for the perpetrators of this terrible attack, and I urge them to make every appropriate effort to bring justice to bear in this situation.

CONDEMNING THE NEO-NAZI ATTACK ON MEMBERS OF THE UNITED STATES NATIONAL LUGE TEAM IN GERMANY

Mr. D'AMATO. Madam President, I rise today to comment on the Neo-Nazi hate crime carried out upon two members of the United States National Luge Team in Germany last week.

All New Yorkers are shocked by this blatant racial attack on our athletes in Germany. My constituents Robert Pipkins, of Staten Island, and Duncan Kennedy, of Lake Placid, were simply victims of an unconscionable hate crime.

It is outrageous that an American should be targeted simply because he is an African-American. When a teammate came to his aid, the teammate himself was beaten by the gang of skinheads.

On Friday, October 29, 1993, three United States athletes, entered a German disco in the town of Oberhof, 150 miles southwest of Berlin. While one left the disco, 15 Neo-Nazi skinheads surrounded the other two and began to taunt Robert Pipkins, the only black in the room. When his teammate, Duncan Kennedy, came to his aid, he was chased up a staircase and was caught by these thugs, who repeatedly beat and punched him, until he ran from the building.

This kind of behavior is inexcusable and an outrage to civilized society. Our citizens need to feel secure when abroad, especially when they officially represent our Nation. On Monday, I, along with to Congresswoman SUSAN MOLINARI and Staten Island Borough president, Guy Molinari, wrote to Secretary of State Christopher demanding to know what actions the State Department has already taken and what actions it plans to take. Americans want to know what their Government is doing to ensure their protection overseas. Most importantly, we strongly urged him to issue a formal complaint to the German Foreign Minister, and demanded to know what the German Government will do to address this egregious situation. I reiterate these requests.

These gangs of hoodlums are murdering, pillaging, and sowing the seeds of fear wherever they go. For this incident to pass without an official complaint would be tantamount to condoning their behavior.

Nazism is a scourge of the past and cannot be allowed to raise its ugly head. Germany must do more to fight this awful movement and we too, in the United States, must do all that we can to fight bigotry and religious and ethnic hatred. There is no place in our society, or any society for crimes of hate. We must work to eliminate this violence and eliminate it now.

ON USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

Mr. FORD. Madam President, on behalf of Senator STEVENS and myself, I wish to announce that the Committee on Rules and Administration at its meeting of November 4, 1993, approved an amendment to rule XVII, "Use of Display Materials in the Senate Chamber," of the Rules for Regulation of the Senate Wing of the Capitol.

The amended rule increases the maximum size of graphic materials from 24 inches by 30 inches to 36 inches by 48 inches and permits them to be displayed next to the Senator's desk, as well as at the rear of the Chamber as previously allowed.

I ask unanimous consent that the rule, as amended, be printed in the RECORD at this point.

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

[Committee on Rules and Administration, U.S. Senate]

RULE FOR USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

(Approved July 25, 1986)

(*Amended/Effective November 4, 1993*)

Rule XVII of the Rules for Regulation of the Senate Wing of the United States Capitol, entitled "Use of Display Materials in the Senate Chamber", adopted under authority of rule XXXIII of the Standing Rules of the Senate, is hereby amended to read as follows:

USE OF DISPLAY MATERIALS IN THE SENATE CHAMBER

Graphic displays in the Senate Chamber are limited to the following:

Charts, photographs, or renderings:

Size—No larger than 36 inches by 48 inches.

Where—On an easel stand next to the Senator's desk or at the rear of the Chamber.

When—Only at the time the Senator is engaged in debate.

Number—No more than two may be displayed at a time.

DELEGATION OF AUTHORITY TO APPROVE RULES AND REGULATIONS

Mr. FORD. Madam President, the Committee on Rules and Administration has amended its rules of procedure to provide for the delegation of authority to approve rules and regulations that require committee approval. On behalf of the committee, I submit for printing in the CONGRESSIONAL RECORD, pursuant to rule XXVI of the Standing Rules of the Senate, a copy of the committee's rules of procedure that includes the amendment that was approved November 4, 1993.

There being no objection, the rules of procedure were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted November 4, 1993)

TITLE I—MEETING OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath: *provided, however,* That in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

TITLE V—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

The chairman and ranking minority member, acting jointly, are authorized to approve on behalf of the committee any rule or regulation for which the committee's approval is required, provided advance notice of their intention to do so is given to members of the committee.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOX SCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, November 3, the Federal debt stood at $4,424,959,774,661.34, meaning that on a per capita basis, every man, woman, and child in America owes $17,227.19 as his or her share of that debt.

TRIBUTE TO MR. FRANK TIMMERMAN

Mr. THURMOND. Mr. President, W.W. Ball, the former editor of the Charleston News and Courier, once said the following of the country where I was born: "Edgefield has had more dashing, brilliant, romantic figures, statesmen, orators, soldiers, adventurers, and daredevils than any other county of South Carolina, if not of any rural county of America."

Today, I rise to pay tribute to one of Edgefield County's proudest sons, the able and dedicated statesman, Mr. Frank Timmerman.

Frank Timmerman's name has been synonymous with public service since the early 1950's. He has served as the chairman of the county school board of trustees, a member of the State senate, and as a civic and church leader. We are all proud of Frank Timmerman's many contributions to our State and are grateful for his lifelong commitment to making Edgefield County a better place to live.

Mr. President, Frank Timmerman recently celebrated his 94th birthday and the Edgefield Citizen News printed a flattering editorial about this great man. I ask unanimous consent that a copy of this editorial be placed into the RECORD following my remarks.

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

A TRIBUTE TO "MR. FRANK"

Tuesday, October 19, 1993, marked the 94th birthday of one of Edgefield County's most renowned and beloved citizens: Frank Elbert Timmerman, fondly known to many as "Mr. Frank."

During the course of his long and productive life, "Mr. Frank" served Edgefield County in an infinite number of ways. Perhaps the most noteworthy service which he rendered to Edgefield County was his representation of our county in the South Carolina State Senate for eight years between 1957 and 1964.

Born in the Eureka section of Aiken County, "Mr. Frank" attended the public schools in the Johnston area and was graduated from Johnston High School. He attended Mars Hill Junior College and Clemson College (1916-1918).

In 1928, he moved to Edgefield where he became the local Chevrolet automobile dealer and a fuel distributor. He was actively engaged throughout his life in the timber and real estate businesses as well.

Apart from his business interest, "Mr. Frank" has given enormously of his time and resources to the service of his fellow man. From 1951 through 1956 he served as Chairman of the School Board of Edgefield County. During this tenure he was responsible for great improvements to our public schools. Of his many contributions, perhaps one of the most significant was the construction of the Edgefield Gymnasium at the then Edgefield Public School. This gymnasium has been renovated in recent years and is now maintained as a public recreational facility by the Town of Edgefield.

Beginning in 1957, "Mr. Frank" served in the South Carolina State Senate. While in the State Senate he served on numerous committees of statewide importance. Of perhaps greater local interest, though, was the Senator's careful attention to the public works in Edgefield County, particularly our public roads.

A lifelong member of the Baptist Church, "Mr. Frank" has given enormously of his time to the First Baptist Church in Edgefield. A former Deacon and tireless worker, he took particular interest in maintaining the church building and grounds for many years. Moreover, in 1974, at his instigation, under his oversight and largely at his expense, a major cleanup of Willow Brook Cemetery was undertaken.

Over the course of his lifetime Mr. Frank has helped countless citizens. From our less fortunate folks who simply need food or financial help, to the budding young entrepreneurs who needed guidance and advice, Mr. Frank has always been uniformly generous. He has helped more people during his lifetime than we'll ever know.

On July 26, 1932, "Mr. Frank" married the former Lucy Scurry ("Miss Lucy") of Edgefield. Last year they celebrated sixty years of marriage. This golden couple of Edgefield are the proud parents of two children: a daughter, Helen T. Daeger of Columbia and a son, Frank E. Timmerman, Jr. of Atlanta. They are the proud grandparents of Miss Kimberly Daeger of Rome, Italy, Mrs. Lucinda Worthington Moore of St. Paul, Minn., Miss Alyson Worthington of Columbia, and Miss Maria Timmerman and Miss Angela Timmerman, both of Atlanta.

To "Mr. Frank" on this, your 94th birthday, we at The Citizen News join all of Edgefield County in saluting you, and in thanking you for your many years of service to our County.

PAYING TRIBUTE TO ALEXANDER M. SANDERS, JR.

Mr. THURMOND. Mr. President, I recently had the opportunity to attend the inauguration of Alexander Mullings Sanders, Jr., as the 19th president of the College of Charleston.

Alex Sanders is certainly well qualified to assume the duties of the presidency of this 208-year-old college. His background includes teaching law at both Harvard and the University of South Carolina as well as serving as chief judge of the South Carolina Court of Appeals. The reputation of President Sanders is one of unquestionable fairness and tolerance. I have every confidence that the College of Charleston will prosper under Judge Sander's presidency and I wish him the best of luck in his new job.

Mr. President, I ask unanimous consent that an editorial that appeared in the Charleston Post and Courier be inserted into the RECORD following my remarks.

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

[From the Charleston Post and Courier, Oct. 24, 1993]

ALEX SANDERS MADE FOR THE JOB

When Judge Alexander M. Sanders Jr. left the S.C. Court of Appeals a year ago, his colleagues on the bench made it clear they felt their loss was the College of Charleston's gain. How right they were. He was made for the job of president in which he is being formally installed today.

Alex Sanders is, after all, a man of enormous intellect, wit and charm. He also is one of those rare individuals who has genuine tolerance for opposing views, a contagious enthusiasm for life and a true zest for knowledge. Where better to use all those attributes than a college campus, particularly one with the history of the College of Charleston?

He certainly is the college's best salesman, as his assessment of the state of that institution on our Commentary page today should indicate. And, when it comes to protecting the school's best interests, either before the Commission on Higher Education or the state Legislature, there's no one better. It's not just that he is a former judge and legislator that stands him in such good stead. It's because of the respect his public record commands.

He wasn't on campus long before he was drawing on his training on the bench. The culprits in an incident that had racial overtones were quickly identified and an advisory committee functioned much like a jury in helping come up with appropriate sentences. None of the students involved appealed.

Faculty members will tell you there's no question who comes first with the new President, the 19th in the college's history. He is quick to remind them that before a student's four years are over, that student will spend about $25,000. That's the kind of customer, he notes, to which any business would pay close attention. We're also told that the president devotes a portion of most days to personally calling good academic prospects in hopes of selling them on the college.

And, as best we can tell, Alex Sanders is the only state college president who gives money to his college's foundation, the vehicle through which most state schools supplement their president's salary. That's a result of what he calls his "speech making" policy.

Known for his oratorical ability, by late summer he already had given more than 126 free speeches to various non-profit groups since he's been president.

He does charge business and professional groups an honorarium, ranging from $250 to $2,500. All of that money is donated back to the college or the foundation. To date, he says he has collected $9,900 for the college. There are weeks, he notes wryly, when he gives the college more than it gives him.

Alex Sanders is a leader who knows how to teach by example.

CONCERNING THE CLYDE DANGERFIELD CONNECTOR

Mr. THURMOND. Mr. President, for several years now, there has been what seems to be a confrontational atmosphere between environmentalists and those who wish to develop or harness our Nation's natural resources. Last month, I attended the dedication of a structure which is proof positive that it is possible to both protect and use environmentally sensitive areas.

The Clyde Moultrie Dangerfield connector is a $38.3 million bridge project that runs almost 4 miles, and links the Isle of Palms with Charleston, SC. It is truly a marvel of engineering and will do a great deal to help ease traffic problems in the Charleston area as well as to promote tourism and commerce. What makes this bridge unique is that it is being heralded as an environmentally conscious construction project that will serve as a model for the whole Nation.

Part of the land that the connector crosses is some of South Carolina's most beautiful, yet delicate, marshlands. As we all know, preservation of our Nation's diminishing wetlands has become a matter of great importance and there was concern that building a bridge over this sensitive ecosystem might be catastrophic. In order to complete this project, the South Carolina Department of Transportation took a multitude of steps to ensure that the construction and use of this bridge would have minimal impact on the marsh. The State newspaper, located in Columbia, SC, carried an article this past weekend which outlined many of the measures taken by the transportation department to safeguard the marsh and I ask unanimous consent that this article be inserted into the RECORD following my remarks.

Mr. President, I am a strong advocate of balancing environmental concern with the ability to harness our natural resources. I am proud of the Dangerfield connector and the sensible compromise it strikes between use and protection. I am confident that Government officials and environmentalists will begin turning to South Carolina with greater frequency to study how we tackle difficult environmental issues with a level headed approach.

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

[From the Columbia (SC) State, Oct. 3, 1993]

ISLE OF PALMS BRIDGE PRESERVES WETLANDS BELOW

(By Charles Pope)

For those even vaguely familiar with the state Department of Transportation and the environmental melees that often accompany its road and bridge projects, the $40,000 grant from the Federal Highway Administration was indeed noteworthy.

The money was a gift to publicize the novel construction techniques used to build the $38.3 million Isle of Palms connector and bridge with an amazingly light touch on the environment. The 3.8-mile bridge and road, christened Saturday, was built over some of the most valuable—and vulnerable—salt-water marsh in South Carolina. The road and bridge connect the popular beach resort with U.S. 17.

In addition to leaving the environment virtually untouched during construction, the bridge is equipped with a storm-water management system that will capture rainwater in buckets along the edge of the bridge so the pollutants won't fall into the marsh below. The Isle of Palms project is the only one in the state, and possibly the nation, to have such a system, department officials said.

Moreover, extra care was taken during construction to prevent concrete and other debris from falling into the marsh. Biodegradable compounds such as solvents were used in construction equipment to lessen the risk to the marsh.

And according to Transportation Department officials, the bridge offers something else: tangible proof that the department is serious about reversing its record of disregarding environmental concerns in the name of roads.

As the project's federally funded brochure points out, "This isn't a project designed to look environmentally sound—it's a project that is environmentally sound."

Even the harshest critics agree on that point, but many are withholding final judgment on whether the Isle of Palms project is a reflection of the department's new thinking or a high-profile exception to the rule.

"There is still a great deal of resistance to change within the department for doing things the right way," said Dana Beach, executive director of the South Carolina Coastal Conservation League and a frequent critic of the department.

"They are changing, they are making better decisions, but it's a very slow process and it's not without great wailing and gnashing of teeth."

Beach points out that the department is resisting requests to install a storm-water system in a bridge that will connect Hilton Head Island to the mainland. While the wetlands below the proposed Hilton Head project aren't pristine, the environmental qualities are similar in many ways to what was found near the Isle of Palms.

But if history is a lesson, the Hilton Head Island project may ultimately be equipped with the system. During the early discussion

of the Isle of Palms bridge, the department also insisted a storm-water system could not be added. It finally relented, Beach and others said, when U.S. Rep. Arthur Ravenel, the U.S. Fish and Wildlife Service and other agencies said in the late 1980s, "No storm-water system, no bridge."

There have been other controversies as well during the almost 20 years since the bridge was first proposed. Many Isle of Palms residents fiercely opposed the bridge, fearing it would open the area up to even more development, traffic and congestion. A nonbinding vote in 1988 on whether the bridge should be built was virtually a dead heat, with supporters prevailing by a slim margin.

The project received a boost in 1989, however, when Hurricane Hugo revealed the need for an additional way to get off the beach quickly. Until the Isle of Palms connector opened, the only overland way to get on the beach was by crossing the Ben Sawyer Bridge, a two-lane drawbridge that stalls traffic for miles when it must open for boats. The 20,000 cars that cross the Ben Sawyer Bridge each day have strained its capacity, department officials said.

The new bridge is expected to handle 6,000 cars a day and that number is expected to more than double by the year 2007.

Despite the controversy and unanswered questions, Beach concedes, "I was very impressed with what they did with the construction. I would say generally that the project was as sensitively done as possible."

Beach's endorsement is important because of the constituency his organization represents—mainline, establishment interests that are effective in lobbying for change. State and federal highway officials, therefore, said they were pleased with Beach's assessment, so much so that he is prominently quoted in a brochure and videotape that were produced with the $40,000 grant.

Officials hope the brochure and videotape will spark interest in other areas so the construction technique will be duplicated.

No matter how it's viewed, the 3.8-mile bridge and road are an accomplishment. While spanning wetlands, marshes, rich oyster and shellfish beds, as well as the Intracoastal Waterway, less than one acre of those estuaries was destroyed. If traditional methods had been used—such as building an access road alongside the construction site so it could be built from the ground up—highway designers and builders say hundreds of acres would have been destroyed.

For the Isle of Palms, such destruction was never a possibility. Instead, a "top down" strategy was used, which required the use of a novel trestle and crane system that allowed the road to be built in sections about 120 feet long. In all, there were more than 100 sections.

The system used four steps: first, the pilings were sunk to a depth of about 180 feet and then filled with concrete. Then the pilings were "capped" with a concrete crossbar that connected them. In the third step, seven, 75-ton precast concrete reinforced girders were laid across two sets of girders and fastened. Finally, the deck and roadbed were built.

When one section was finished, the entire construction operation—a 300-foot-long, temporary trestle that sank the pilings and the giant cranes, "leapfrogged" ahead to begin the next section.

"It's considerably harder to build it this way because you're building it in a linear manner. That means any disruption, even small ones, delay the entire project because you can't get alongside it to work," said Keith Jacobson, vice president of Massman Construction Co., of Kansas City, Mo., which built the bridge and road.

But Jacobson, like other officials, said the effort was worth it because the Isle of Palms project, once started, avoided bitter disputes.

"One hallmark of this project is we avoided bad experiences," Jacobson said from his office in Missouri. "South Carolina has had bad experiences with heavy construction projects in the Charleston area, and it says something when you can finish a project without that."

SPEECH GIVEN BY DR. JAMES EDWARDS AT THE OPENING OF THE ISLE OF PALMS CONNECTOR

Mr. THURMOND. Mr. President, Dr. James B. Edwards, president of the Medical University of South Carolina, gave the main address at the dedication of the Isle of Palms Connector, honoring Clyde Moultrie Dangerfield, on October 2, 1993.

In his speech, Dr. Edwards highlighted the many accomplishments of Mr. Dangerfield, which include his service in the State legislature, his commitment to improving the highway system surrounding Charleston, and his many civic activities. Dr. Edwards rendered a distinct service by presenting my good friend Clyde Dangerfield's history and I ask unanimous consent that Dr. Edwards' speech be inserted into the RECORD following my remarks.

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

REMARKS BY DR. JAMES B. EDWARDS, OPENING OF THE ISLE OF PALMS CONNECTOR, OCTOBER 2, 1993

It is my pleasure to introduce the individual we are honoring today in opening this beautiful highway and bridge named in his honor—my good friend, Clyde Moultrie Dangerfield. Clyde, this is your special day and you have been an inspiration for many of us who admire a true "public servant", dedicated to helping people. Clyde exemplifies the strength of this great nation—a man who serves his god, his country, his state, his community, and his family. By his serving, we have been blessed and Clyde, too, has been blessed.

Clyde has been blessed with a beautiful family. Let's ask Betty Dangerfield and their children and grandchildren to stand. Let's give them a hand.

Clyde has served his church, having been a founder and charter member of the First United Methodist Church of the Isle of Palms. He has worked in that church ever since, and raised a Christian family. Clyde recognized the importance of location even back in his younger years, because the church sits prominently at the end of the business district where all must pass. The church has been part of the fabric of the Isle of Palms since 1950, the first church on the island. In introducing Clyde on one occasion, Wayne Martin used the following Biblical quote to describe Clyde's life: 1st Matthew, Chapter 5, Verse 16—

"Let your light so shine before men, that they may see your good works, and glorify your Father which is in Heaven."

CLYDE SERVED HIS COUNTRY

Being a patriot, when our country needed able bodied men and women, Clyde joined the U.S. Army during World War II, where he served for three years before being discharged in 1945, Clyde and I are old enough to remember when ferries—the Sprig Carrol, the Nancymon and the Sapho—connected the islands, and when the soldiers at Fort Moultrie marched down Rifle Range Road in preparation for action in World War II.

CLYDE SERVED HIS STATE

Few can equal the impact of Clyde Dangerfield on the business of this state in recent decades. He was elected in 1953 and served 35 years in the Legislature. He faced the voters 18 times and won each time. Time will not allow me to enumerate his many accomplishments during his tenure, but I know Clyde is very proud of his service as chairman of the House-Labor-Commerce-and-Industry Committee, serving longer as chairman of a state committee than any other member in the state's history; and he served as Chairman of the CHATS Policy Committee from its inception to retirement. While Clyde became a powerful member of the House, he never forgot his roots from Oakley. He was always courteous, honest, and served his constituents to the best of his abilities. He always maintained a certain humility. He also tried to accommodate all viewpoints. Should all members of the General Assembly have conducted themselves like Clyde, ethics laws would not be necessary.

CLYDE SERVED HIS COMMUNITY

Again, time is not adequate to do justice to Clyde's many accomplishments. He founded and operated Suburban Gas and Appliance Company which he owned for 40 years. He was a charter member of the Isle of Palms Exchange Club, which was organized in 1948, and he served as its president. This club has always worked on projects to better the Isle of Palms community and continues to be a positive force. Clyde has always been active in the Boy Scouts and helped to serve as a role model for our youth. For his many hours of community service and dedication, Clyde was honored by receiving the Exchange Club's highest award, the "Book of Golden Deeds."

And, Clyde is a dedicated family man. He and Betty have been blessed with loving children and grandchildren who admire their father and granddad.

Now to the specific project. Clyde worked very hard to plan ahead to solve the traffic problems of the East Cooper area. When I was serving in the State Senate, he would stop by my office with various plans to alleviate the growing traffic congestion east of the Cooper. He finally decided that the best answer would be a connector that would tie in close to the then-planned Mark Clark Expressway.

After that he needed money to get an environmental impact study done. By that time I had been elected Governor and, of course, Clyde knew that I would have an interest in this project. He camped in my office until we found the money, and with it Clyde started this project that we so proudly dedicate to his honor today.

No man has worked harder, no man has been more dedicated, no man has been so persistent in getting this bridge completed, and I am honored to present him to you on this special occasion. Thank you, Clyde, and God bless you.

Ladies and gentlemen—a great community leader and patriot, Clyde Dangerfield.

TRIBUTE TO NICHOLAS C. WASICSKO

Mr. MOYNIHAN. Madam President, I rise today to recognize the passing of one of New York's most respected and decent public servants. Nicholas C. Wasicsko, former mayor and city council member of Yonkers, died this past Friday.

A man of only 34, Mr. Wasicsko has many accomplishments to his name. Aside from being a city council member and the city's youngest mayor, he was a former police officer, ward and district councilman, Democratic minority leader, member of the board for the Yonkers Industrial Development Agency, commissioner of the Yonkers Human Rights Commission, lawyer, son, husband, brother, and friend.

Nicholas Wasicsko may best be remembered as a defender of civil rights. In his first year as mayor, he waged an aggressive battle to set in motion a housing desegregation plan for the city of Yonkers. This noble act earned Mr. Wasicsko a runner-up citation for the 1991 John F. Kennedy Profile in Courage Award.

In my dealings with Mr. Wasicsko, I knew him to be a man of great courage and we are all diminished by this loss.

My thoughts and prayers are with Mr. Wasicsko's family and friends.

Madam President, at this time I ask that my statement and the following excerpt from Mr. Wasicsko's obituary be included in the RECORD.

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

[From the Gannett Suburban Newspapers, Oct. 31, 1993]

NICHOLAS C. WASICSKO: FORMER YONKERS MAYOR

Nicholas C. Wasicsko, a Yonkers city councilman and a former mayor of Yonkers, died Friday.

He was 34.

Mr. Wasicsko was former Westchester County policy officer. He served as 7th Ward councilman in 1986 and 1987, and he was mayor in 1988 and 1989. He lost a bid for reelection as mayor in 1989, but he returned to office in 1991 as 2nd District councilman. He was named Democratic minority leader.

Mr. Wasicsko was born May 13, 1959, in Yonkers to Nicholas and Anne Slota Wasicsko. He was a lifelong city resident.

His father died in 1985, before Mr. Wasicsko won his first election.

Mr. Wasicsko was a 1977 graduate of Gorton High School in Yonkers and a 1981 graduate of Manhattan College in the Bronx. He later graduated from New York Law School in Brooklyn.

On May 18, 1991, Mr. Wasicsko married Nay Noe, now Yonkers' 2nd deputy city clerk, at St. Casimir's Church in Yonkers.

Friends and family are making donations to the Nicholas Wasicsko Scholarship Fund, 111 Yonkers Ave., Yonkers, N.Y. 10701.

Arrangements are being handled by Duchynski-Cherko Funeral Home in Yonkers. A funeral service has been scheduled for 10 a.m. Tuesday at St. Casimir's Church, Nepperhan Avenue.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

Mr. ROCKEFELLER. Madam President, I am proud to join the distinguished chairman of the Senate Agriculture Committee and others in cosponsoring this bill to promote better nutrition for children. Senator LEAHY's longstanding leadership and commitment is truly reflected in this comprehensive package to strengthen Federal nutrition programs for children, and it is an honor to be associated with him.

This initiative is a bold step toward fulfilling the promise of better nutrition and better health for children.

To help infants, children, and mothers, this bill truly invests in full funding for the Special Supplemental Food Program for Women, Infants and Children, known as WIC.

WIC enjoys such broad bipartisan support because it works. Every dollar invested in the prenatal component of WIC leads to greater savings in Medicaid for the newborns and mothers. For example, a GAO report estimated that the $296 million spent on prenatal WIC benefits in 1990 averted $853 million in health-related expenditures during the first year of life, and it will avert over $1 billion in these costs over an 18-year period. Any business leader will agree this is a good investment.

WIC helps our children, their mothers, and our society as a whole. This legislation charts a course that should deliver full funding of WIC through the year 2000.

As chairman of the National Commission on Children, I am proud to support an innovative approach designed to truly achieve full funding of the WIC Program as the Commission recommended in its unanimous bipartisan report in 1991. Working on this Commission was an intense, meaningful experience for me, and I am committed to working diligently to convert the recommendations of the Children's Commission into reality—step by step.

Genuine progress has already been made to implement the Commission's agenda with passage of the reconciliation bill this August. The expansion of the earned income tax credit, the investment of $1 billion in family preservation and family support, and efforts to boldly increase child immunizations are key steps in building a new agenda for children.

Promoting full funding of WIC through the Better Nutrition and Health for Children Act is a natural next step.

This legislation goes beyond WIC by providing greater support for older children through other program changes to promote better nutrition in schools and child care centers.

For schools, the legislation seeks to ensure that Federal dietary guidelines will be met in school lunch and breakfast programs that serve almost 12 million children nationwide, including about 200,000 West Virginia children. But this bill does more than impose requirements on struggling schools by offering real help for schools to achieve this important goal. The legislation provides additional funding for fruits, vegetables, more low-fat dairy products, and lean meat needed to offer nutritious meals.

This bill also invests in educational grants to help schools integrate nutrition education into the general health curriculum from kindergarten through high school.

We hope the combination of nutritious school meals and early education on nutrition will help children develop healthy eating habits that will last a lifetime and promote better health.

Acknowledging the dramatic increase in the need for child care to allow parents to work, the bill expands participation in the Child and Adult Care Food Program by allowing for-profit child care centers to be eligible if 25 percent or more of the children at the centers are from families who meet the guidelines for free or reduced price school meals. I have been working for such a change for several years to ensure that children in child care also get nutritious meals that will help promote health and well-being.

This bill is bold, but necessary. The major investments are in the WIC Program which we know will yield real savings in health care over the long run. While there isn't a cost analysis estimating how much better nutrition for children will promote school readiness and learning, common sense tells us this is true.

The Better Nutrition and Health for Children Act is an important investment in our children and future health care. It deserves bipartisan support and swift action.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1607, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1607) to control and prevent crime.

The Senate resumed consideration of the bill.

Pending:

Feinstein amendment No. 1097, to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes.

AMENDMENT NO. 1097

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, last evening I introduced this legislation and today I would like to have the opportunity to speak to it.

I rise to speak to an amendment which is identical in its text to S. 1522, the Hate Crimes Sentencing Enhancement Act of 1993, which I introduced on October 6 of this year. When I did so, I was joined by my colleagues, Senators BOXER, CAMPBELL, INOUYE, and MOSELEY-BRAUN. I am pleased to report that since that time Senators D'AMATO, KOHL, LAUTENBERG, ROBB, DECONCINI, LEVIN, and MURRAY have joined as cosponsors.

Mr. President, this legislation recently passed the House by a bipartisan voice vote. It has strong bipartisan support and it is patterned after State legislation—as a matter of fact, Mr. President, from your State, Wisconsin—which was upheld by the United States Supreme Court in June. It will increase penalties now available for hate crimes under Federal sentencing guidelines.

Mr. President, this legislation is supported by the National Organization of Black Law Enforcement Executives, the Fraternal Order of Police, the National Association of Police Organizations, the Police Executives Research Forum, the NAACP, the Anti-defamation League of B'nai B'rith, the American Jewish Congress, the American Jewish Committee, the National Council of Jewish Women. It is supported by the Religious Action Network of the Union of Hebrew Congregation, by the National Gay and Lesbian Task Force, the Human Rights Campaign Fund, the Organization of Chinese Americans, the Japanese Americans Citizen League, and People for the American Way.

Mr. President, it is based on legislation passed in the early 1980's and it is based on a Wisconsin statute. Forty-nine States filed briefs in support of the Wisconsin law. The Clinton administration also filed a brief in support of this law.

As said by Chief Justice Rehnquist, "This opinion swept away the constitutional doubt that had surrounded the hate crimes issue for a period of time."

The legislation is aimed at conduct. It is not aimed at expression. And that is the difference between this legislation and other legislation.

I believe that it will help combat an escalating problem in our Nation, and I believe it is appropriate and fitting that it be a part of this crime bill.

Crimes in our country which target specific groups have increased and the time has come to see that the Federal Government develops an effective deterrent to these violent assaults simply by raising the stakes for those who would perpetrate these crimes.

In my own State of California, we have had a rash of hate crimes recently. In the past 3 months, there have been four racially motivated firebombings within a square mile in the Capital of Sacramento.

Last month a molotov cocktail was thrown through the front door of the Japanese-American Citizens League office in Sacramento, burning it to the ground. After the bombing an anonymous caller representing the Aryan Liberation Front said, "Anyone who shows support for the JACL will be shot." That has no place in a democracy.

Also last month, in the same city, the home of an elected official, Councilman Jimmy Yee, was firebombed. And, earlier this summer, the Sacramento chapter of the National Association for the Advancement of Colored People and the Congregation B'nai Israel were firebombed.

In one Los Angeles case, disaster was averted when Federal agents and Los Angeles police officers uncovered plots by white supremacists to assassinate Rodney King and prominent African-American and Jewish city leaders, and to blow up the First AME Episcopal Church. That is the African Methodist Episcopal Church. Those of us in California know it well, because it is one of the largest churches in the Los Angeles area.

A man by the name of Christopher David Fisher, the accused leader of the group known as the Fourth Reich Skinheads told authorities that he had participated in three bomb attacks including an attempted bombing of an Orange County synagogue.

In Los Angeles County alone, the level of hate crimes rose 11 percent in 1992 and hit an all-time high—736 incidents, including three murders.

This year they continue to rise. The LAPD reports that during the third quarter of 1993 there have been 165 incidents, a 19-percent increase over the same period in 1992. Things are not getting better. They are getting worse. Perhaps when the economy is difficult, people look out for scapegoats and they practice violence on their scapegoats.

There was a 37-percent increase in racially motivated hate crimes, and a 63-percent increase in hate crimes motivated by sexual orientation.

The Orange County Hate Crimes Network reports that hate crimes increased 25 percent last year. Of 188 cases reported to the Human Relations Commission, 61 were against African-Americans, 41 were against Asians, 25 were against gay men and lesbians, and 19 were against Jews.

But these heinous crimes are not limited to my own States; they are a national problem.

Last year in Texas, there were 339 hate crimes reported, including 6 racially motivated murders.

Last New Year's day, in Tampa, FL, two white men picked out an innocent African-American man by the name of Christopher Wilson, who was attempting to buy a newspaper. He was 32 years old. He was doing nothing other than buying a newspaper. They abducted him, they took him to a field, they doused him with gasoline, and they set him on fire while they verbally assaulted him with racial slurs. This has no place in the United States of America and we must show that it does not. Just recently these two men were convicted.

Last year, in Coral Springs, FL, young Luyen Nguyen, a 19-year-old who came to this country with his family 13 years ago, in search of a better life after the war in Vietnam, was punched and kicked to death by a mob of 15 young men shouting racial epithets.

In 1989, 24-year-old Ming Hai Loo was beaten to death, with the butt of a gun and a broken bottle, in Raleigh, NC.

In May of last year, a suburban Detroit lesbian couple was shot and killed in their front yard by a neighbor who had harassed them for 25 years.

According to the FBI, racial bias motivated 6 out of 10 hate crime offenses reported in 1991. Of those bias crimes, 36 percent were directed against African-Americans.

In addition, the Klanwatch Project of the Southern Poverty Law Center found that the number of white supremacist hate groups increased by 27 percent from 273 to 346 in 1991. I never thought the United States of America would have 346 white supremacist hate groups, in our country. We do today. And that is up 27 percent.

The Anti-Defamation League's 1991 national survey of anti-semitic attacks showed 1,879 incidents of vandalism, harassment, or violence, an increase of 11 percent over 1990 totals. In fact, there was a steady increase in these attacks from 1985 to 1991.

The National Gay and Lesbian Task Force reported a 31-percent increase in antigay and lesbian violence between 1990 and 1991 in five major cities: Boston, Chicago, Minneapolis/St. Paul, New York, and San Francisco.

In a sense there was a clarion call for action that took place in Flint, MI, in 1982, 11 years ago, when Vincent Chin, a Chinese-American, was beaten to death with a baseball bat by two unemployed auto workers because they thought he was Japanese and they resented Japanese-Americans because of the Japan auto industry.

I do not think this Nation can tolerate crimes that are motivated simply by picking somebody out because of skin color, because of sex, because of sexual orientation, because of religion, and beating them up simply because they happen to have a certain belief or they happen to be of a certain color. This also happens to people who are

fundamentalist Christians; somebody selects them and comes out and beats them up.

The question is, Can that be stopped? I believe it can be. I believe, by enacting this legislation as part of the crime bill, the U.S. Senate says clearly and definitively we are not going to tolerate this. And the way we are not going to tolerate it is we are going to say what is a hate crime, as defined, which is what this legislation does, and we are going to require the U.S. Sentencing Commission to promote new sentencing guidelines for hate crimes, and we are going to require them to increase the penalty by at least three offense levels if a crime is specifically perpetrated and motivated by hate because of skin color, because of religion, because of sex, or because of sexual orientation.

I believe if our Nation says clearly and definitively we will not tolerate this kind of crime, it will have a deterrent effect. A jury will make a finding of the assault or the murder, and then the jury, if that assault or murder is brought about by hate, will effectively add one-third to the sentence that the individual would receive normally.

I found when I was mayor and we had a rash of fire bombings, that special efforts do work. They do send a message, and the message is we will not tolerate this. That is the message of this legislation. We will not tolerate hate crimes in the United States of America because that is not the concept on which our freedom, the Constitution, the Bill of Rights, or any other document is based in this Nation.

It is based on tolerance, and it is based on a number of different people getting together and being able to live a life of freedom and opportunity in the strongest, finest country in the world.

I believe this is legislation whose time has come. I believe it is legislation that will work. I know there are those who will deride it. I know there are those who will say, Why should we do this? Why should we not do it for somebody who is hearing impaired? Why should we not do it for somebody who is disabled?

The point of this is there is a problem out there; these crimes are increasing. I remember in San Francisco when I was home last, right across the bay a young Asian student gets off a BART train and he is shot dead. He is not robbed, he is just shot dead. We have to stop this from happening.

Particularly at a time when there is great dialog over immigration, we have to say clearly we will fight those battles in these Chambers but we will not tolerate somebody going out and murdering or viciously beating someone simply because they are black or Asian or Catholic or Protestant or Jewish or fundamentalist Christian or gay. That is not what this Nation is about.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1098 TO AMENDMENT NO. 1097

(Purpose: To confirm the original intent of Congress in enacting sections 2252 and 2256 of Title 18, United States Code)

Mr. GRASSLEY. Mr. President, on behalf of Senator ROTH and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. ROTH, for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. COATS, Mr. HATCH, Mr. NICKLES, and Mr. HEFLIN, proposes an amendment numbered 1098 to amendment No. 1097.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the pending amendment insert the following:

SEC. . CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92-1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

Mr. GRASSLEY. Mr. President, also—I just got word of this—Senator HEFLIN wants to be a cosponsor.

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

Mr. GRASSLEY. Mr. President, the amendment offered by the Senator from Delaware, the Senator from Iowa and others, is offered in response to the reversal of a very longstanding Justice Department position dealing with child pornography. The Justice Department has just filed legal briefs containing arguments that, if these arguments are adopted by our courts, will threaten the right of every child to be free from sexual exploitation.

We passed legislation in 1984 to protect children from sexual exploitation. We entitled that the Child Protection Act of 1984. In that act, we said what we meant and we meant what we said. Congress prohibited using minors in pornographic materials. We did not require that those children being used for pornographic purposes be nude. We recognized that young children—we recognized at that time and I think we still recognize—that young children in their innocence often do not appreciate the significance of their acts. So we prohibited materials that used the minor engaging in lascivious displays of their private parts. We did not require that the minor herself intend to act lasciviously. Of course not. No young child even knows what it means to act lasciviously.

The relevant intent has always been that if the pornographer poses a child in a lascivious manner, the material is child pornography. The person's intent that matters is that of the criminal, not that of the innocent child.

The Justice Department's view of the statute, however, would create a safe harbor for child pornographers and for pedophiles. Any covering, however skimpy that covering might be, would preclude application of the statute if we let the Department's present point of view stand. But if the pornographer zooms in a long time for a closeup of the minor's private parts, the material would not then be criminally prohibited, if we follow the Department of Justice's new view of this 1984 statute.

Further, the Department also would create a safe harbor for child pornography so long as the child herself did not pose lasciviously. Child exploiters could drive a truck through the holes in the statute that that interpretation, by our present Department of Justice, will open.

The Roth-Grassley amendment will put Congress on record to reaffirm the original intent of the Child Protection Act of 1984. I had quite a bit of involvement in the passage of that act in 1984.

Nudity is not required for the material to be child pornography, and the relevant actor—and this is the most important thing—the relevant actor who must act lasciviously is the pornographer, not the child.

Moreover, the amendment declares the sense of Congress that the Justice Department's brief that was filed in the case of Knox versus United States misconstrued congressional intent in enacting the Child Protection Act of 1984. Mr. President, we have heard that unless the Department's reversal of its position is adopted, people who produce lingerie advertisements will be criminals. Now how foolish of an argument. Strictly nonsense. Advertising producers do not intend to pose children lasciviously. The first amendment does not protect child pornography—the Supreme Court has been very clear on

that—as it does not protect obscenity. And there is no truth to the claim that the first amendment requires the Government's new interpretation of this statute.

Mr. President, I think we need to ensure that children are protected from those who would exploit and those who would abuse the children to make profit off the sick preferences of pedophiles. In fact, we passed legislation in 1984 to prevent these very evils from ever occurring in the first place. Today, this Justice Department, despite its often-expressed deep concern for children, threatens to jeopardize the Government's ability to punish those who exploit our Nation's children.

So I hope that all my colleagues will join Senator THURMOND, and the ranking Republican on the committee, and now it is bipartisan with Senator HEFLIN, and Senator ROTH, who has a longterm interest in child pornography, and myself in again expressing the view that Congress in 1984 did, in fact, outlaw these materials regardless of the nudity of the child and regardless of whether the child actually intended to act lasciviously.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I am pleased to join with my distinguished colleague from Iowa in this amendment. I want to acknowledge his leadership in this important matter that has been longstanding from his service in the Senate.

As the distinguished Senator from Iowa said, the Roth-Grassley amendment expresses the sense of the Senate in opposition to the Supreme Court brief filed by the Department of Justice in September 1993 in the child pornography case of Knox versus United States.

I believe the Knox brief is a travesty and a tragedy. It is a travesty in that it completely misrepresents congressional intent in passing the Child Protection Act of 1984. It is a tragedy because it creates a huge new loophole in our child pornography laws which will likely lead to a flood of child pornography and sexual abuse of children.

I do not make these assertions lightly.

The Clinton Justice Department in the Knox brief asked the Supreme Court to set aside a judgment upholding the second conviction of a man who had already previously been convicted under the Federal child pornography laws. The Justice Department told the Supreme Court that the appeals court has used "an impermissibly broad standard" to interpret and apply the law. The Clinton administration maintained that the appeals court should be ordered to reconsider the case under a narrower standard. In a reversal of its previous interpretation of the Federal child pornography statute, the Justice Department argued that this narrower standard meant nudity or visibility of genitals is required for conviction; and that the material "must depict a child lasciviously engaging in sexual conduct," as opposed to lasciviousness on the part of the photographer or consumer.

Mr. President, this new definition, invented by the Justice Department out of whole cloth, is most disturbing. Many children who are exploited for child pornography are too young to understand what they are doing, much less understand what lascivious behavior or even what sex is. Does the Justice Department now expect that under its new standard prosecutors will have to locate and interview young children depicted in pornographers' films so that prosecutors can determine whether they thought they were acting—that is, whether the children thought they were acting—lasciviouslsy? Obviously, that would be impossible, and it would be ludicrous.

Why do I call this outrageous Department of Justice action a flip-flop? Because in March, 1993, the acting Solicitor General filed a brief in the Knox case arguing that the third circuit had properly upheld the convictions and that the legislative history supported that Court's decision. But in December 1993, the new Solicitor General filed a brief arguing precisely the opposite.

Unfortunately, when confronted with the Department's flip-flop brief, the Supreme Court, figuratively speaking, threw up its hands. Since the prosecutor and the pedophile were now on the same side, the Supreme Court on November 1 dismissed the petition for certiorari, vacated the third circuit opinion and remanded the case for reconsideration in light of the flip-flop brief filed by the Solicitor General.

Will Department of Justice prosecutors vigorously pursue the Knox case now that the strong antipornography opinion of the third circuit has been vacated? That is a question the Attorney General will have to answer, but here is what the New York Times reported about the Knox case on November 2, 1993:

> The order that the Court issued today instructed the Third Circuit, which sits in Philadelphia, to reconsider the case in light of the Government's current position. Before the appeals court does that, however, Federal prosecutors are likely to drop the prosecution. Government lawyers who have seen the tapes at issue have said privately that they fall well below the standard for prosecution described in the Government's new definition.

Yes, that is the tragedy. The Solicitor General, in filing this brief, has now set a new standard which all Federal prosecutors will presumably have to follow. How many child pornography cases now under investigation or prosecution will have to be dismissed under this new standard? The Attorney General will have to answer that question. But, according to the former head of the Department's Child Exploitation and Obscenity Section, much or even most of the Justice Department's child pornography prosecutions would have to be dismissed under this new standard.

What was the pornography involved in this case? The key holding of the third circuit was that, under Federal law, "clothed exhibitions of the genitalia are proscribed" when "a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." That is exactly what the facts show happened in this case.

This is how the video tapes involved in this case were described by the Justice Department in its first brief: The tapes showed various females between the ages of 10 and 17 dressed in bathing suits, leotards, underwear, and other similar attire. The children struck provocative poses, apparently at the direction of someone off-camera. The camera would typically zoom in on the children's pubic and genital areas and display a closeup of that area for an extended time. The tapes themselves and the promotional materials showed that the tapes were designed to pander pedophiles.

An advertising catalog for these tapes included the breathless description of—I am quoting—"bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better)."

Mr. President, I was one of the original Senate sponsors of antichild-pornography legislation with some of my efforts dating back to 1977. I took an active role in the passage of the 1984 Child Protection Act. In 1986, after a 2-year probe, which I directed, the Permanent Subcommittee on Investigations issued a report on the relationship between child pornography and the sexual abuse of children. The key findings of the investigation were that child pornography plays a central role in child molestations by pedophiles. Child pornography is used by pedophiles to justify their own conduct, to assist them in seducing their child victims, and sometimes as a means to blackmail the children they have molested in order to prevent exposure.

When Congress passed the 1984 anti-child-pornography legislation, we meant to stamp out the business of child pornography in this country and to stop the sexual exploitation of our children by pornographers and pedophiles. Until now, the legislation and enforcement efforts have been remarkably successful. But now the Clinton Justice Department's brief represents a major setback to these efforts. It is no exaggeration to say that

the Justice Department has created a giant loophole that has the potential for resuscitating the child pornography industry in the United States. Why is the Department of Justice pursuing this course of action when Attorney General Reno has made prevention of abuse of children a top priority of her Department? We need some answers to these questions. In the meantime, we need to pass this amendment and send a message to the Department of Justice. We want child pornography laws enforced. We do not want new loopholes created for the benefit of pedophiles through strained interpretations of legislative history.

Our children want justice from the Justice Department.

Mr. President, I have sent a letter to the Attorney General in which I respectfully request answers to a number of questions. I would just like to read what those questions are.

One, Will the Department of Justice stop prosecution in the case of United States versus Knox? Two, Will the Department of Justice prosecutors be required to follow the standards set forth in the Knox brief when undertaking future prosecutions of child pornography cases? Three, Will any current prosecutions be terminated because of the new standards announced in the Knox brief? If so, how many and in what district? Four, Will any pending investigations be terminated because of the new standards involved in the Knox case? If so, how many and in which districts? And, five, Will the Department of Justice have under consideration plans to eliminate or merge the child exploitation and obscenity section of the criminal division?

Mr. President, I think we can all agree that child pornography is a most sensitive and important issue. It is one that the Supreme Court recognizes we have a right to prevent, to avoid.

I hope that the Senate will unanimously adopt the amendment proposed by Senator GRASSLEY and myself.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, let me begin by complimenting my colleague from Delaware and my friend from Iowa.

As the author of this legislation, the Biden-Thurmond bill that is being referred to here and has been interpreted by courts, I stand here to say that our intention was as outlined by my distinguished friends from Delaware and Iowa.

If, in fact—to answer the Senator's, my senior colleague's, questions relative to the Justice Department—if, in fact, after passing this resolution, which I believe we are prepared to accept, and I expect will pass, if not unanimously, near unanimously, if we vote on it; if, in fact, the court, the lower court, and/or the Supreme Court at the urging or absent the urging of the Justice Department concludes that it is still not the intent, I can assure my colleagues, and I know Senator GRASSLEY as a member of the committee would need no urging, that I will along with him and move to amend the Biden-Thurmond legislation to make it clear that this was not intended.

There is only one point of departure I have with some of the things that were said today. The truth of the matter is this is an exceptional case. The truth of the matter is the most serious child pornography cases that we are attempting to deal with and have dealt with through this legislation over the last 7, 8, 9 years, whatever it has been, are attempts that relate to incredible exploitation of children.

So although this is, in my view, a misinterpretation of what was intended by Congress, and clearly by the author, one of the two authors of the legislation, it is in fact not nearly the hole through which child pornography will be driven. But, nonetheless, it should be filled, it should be blocked. That hole should be closed. And I sincerely hope that when we pass this amendment, and as I understand it, although I was necessarily absent from the floor for about 6 or 7 minutes when my distinguished colleague from California yielded the floor on her hate crimes amendment, this was a second degree to the hate crimes amendment. Is that correct?

Mr. ROTH. That is correct.

Mr. BIDEN. If I can kill two birds with one stone, as they say, I would like to take a few minutes to speak to the hate crime amendment. I hope that we can pass the underlying amendment and the controlling amendment here by unanimous consent or by voice vote, or get a vote quickly on it if there is an insistence on a roll call vote.

I want to compliment my friend from California. Although she has significant experience in Government, she has been here only a little while and already has taken a lead on law enforcement issues in the criminal justice system in trying to deal with crime in this country. For that, I compliment her, and I might add, her efforts are prodigious and unrelenting. I love seeing her, but I see her more than I ever anticipated seeing her. And, on occasion, I see her, with requests to deal, relative to anticrime legislation, with the rare occasions when we disagree.

But I have found whether I agree or disagree with her, it is irrelevant. It in no way loosens her fervor for her point of view. But all kidding aside, she is an incredible welcome addition to this effort. And I cannot tell her how much I appreciate her effort.

Let me speak specifically to her amendment very, very briefly.

Mr. President, I am pleased to support the amendment offered by the Senator from California. Her amendment confronts a subject that has rightfully received substantial recent attention: Crimes committed because of the race, sex, religion, national origin, ethnicity, color, or sexual orientation of the victim.

Throughout the country, in cities and rural communities, on college and university campuses, and elsewhere, incidents of hate-motivated conduct are on the rise. This is a serious crime problem—one that deserves special attention due to the compounded burden on victims who are targeted because of who they are.

Through this amendment, we can take a stand against violence motivated by hatred.

The amendment is consistent in this sense with my Violence Against Women Act, which would give the victim a civil cause of action for acts of violence motivated by gender.

The language is appropriately limited, in that it requires clear proof of the hate-based motivation for the crime prior to permitting any sentencing enhancement. And it has been carefully drafted to comport with the requirements of the U.S. Constitution.

The amendment punishes hate crimes, not hate speech. In this respect, it is substantially similar to the Wisconsin statute upheld by the Supreme Court this past summer in the case of Wisconsin versus Mitchell. Let me speak for a moment about the Court's precedents, which distinguish these two categories of hate speech and hate crime.

In its 1992 decision in the case of R.A.V. versus City of St. Paul, the Supreme Court invalidated a hate speech law used to prosecute a person for burning a cross on the lawn of a black family.

The law purported to criminalize displays of symbols—including burning crosses and nazi swastikas—that cause injury on the basis of race, sex, creed, color, or religion. The courts construed this statute to proscribe certain fighting words—a category of speech exempt from first amendment protection.

The Supreme Court struck down this statute because it punished some fighting words, and not others—because the statute punished based on the content, or viewpoint, of the speech.

For example, the statute criminalized fighting words that insult and injure based on gender, but it permitted fighting words that inflame and injure through insults about a person's mother, or her neighborhood, or all manner of other matters unrelated to race, sex, religion, creed, or color.

In contrast, the Supreme Court upheld the hate crimes statute in Wisconsin versus Mitchell. Like the amendment offered by the Senator from California, the Wisconsin statute enhanced criminal penalties when the victim is selected on the basis of his or her race, religion, color, disability, sexual orientation, national origin, or ancestry.

Because the statute enhanced penalties for otherwise unlawful conduct, the Court concluded that the law properly punished underlying criminal conduct. A criminal's motives, the Court reasoned, have traditionally been considered in determining a penalty.

This amendment introduces nothing new or unusual into our law. In punishing conduct motivated by hatred, the amendment is not unlike the vast array of noncriminal civil rights statutes already on the books—statutes that prohibit certain conduct based on race or sex or religion.

So, again, I am pleased that this amendment comports fully with the Supreme Court's holdings in this area. Like the Wisconsin statute, this amendment addresses itself solely to criminal conduct and enhances penalties based on the criminal actor's motives.

I thank the Senator for her sponsorship of this amendment and look forward to supporting it.

Mr. President, the language of the Senator from California that she has introduced in her hate crimes legislation is appropriately limited in that it requires clear proof of a hate-based motivation for the crime prior to permitting any sentencing enhancement, and it has been carefully drafted to comport with the requirements of the U.S. Constitution, something that is not always done here on the floor.

The amendment punishes hate crimes, not hate speech. In this respect, it is substantially similar to the Wisconsin statute upheld by the Supreme Court this past summer in the case of Wisconsin versus Mitchell. When the Supreme Court upheld that statute, like the amendment offered by the Senator from California, the Wisconsin statute enhanced criminal penalties when the victim is selected on the basis of his or her race, religion, color, disability, sexual orientation, or national origin or ancestry.

So again, I am pleased that this amendment comports, in my view, fully with the Supreme Court's holdings in this area. Like the Wisconsin statute, this amendment addresses itself solely to criminal conduct and enhances penalties based on the criminal actor's motive.

I thank the Senator for her sponsorship and leadership.

I point out that the ranking member of this committee has worked more on hate crimes legislation and helped fashion constitutionally permissible legislation more than the Senator from Delaware has, or I suspect one or two other people on this floor, or as much as anyone.

So I compliment him for having brought us this far along in the legislation over the past 2 years. I think and I hope that he will agree that the amendment of the Senator from California here is a worthy constitutional and necessary addition at this point.

So I suggest that—I will yield in just a moment to anyone; but my colleague from Utah—I suggest that we pass both the hate crimes amendment and the underlying, the additional amendment attached to it relative to child pornography.

I think they are both in order. They are both appropriate. I would like to see them both move very quickly so we can move to the next 7,487 amendments I expect are going to be offered on this bill.

I yield the floor.

Mr. HATCH. Mr. President, I want to thank my colleague from Delaware for his kind remarks with regard to both of these amendments. I intend to speak on both of them in just a few minutes.

I ask for the yeas and nays on the Grassley-Roth-Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I want to compliment my two colleagues from Iowa and Delaware. I do not know of a more important issue in the whole crime area than worrying about combating child pornography.

I join with them on this amendment because I think it makes a lot of sense. I want to compliment the distinguished Senator, the chairman from Delaware, for his willingness to make sure that the Justice Department's interpretation does not become the law of this land.

I will also support a second Grassley amendment to combat child pornography, which I understand will be offered later. Child pornography is an evil that no moral society can tolerate.

Its victims, which are young children worldwide, who are exploited are especially vulnerable. The second Grassley amendment would provide a penalty for international trafficking in child pornography. The international market for child pornography has, sadly, continued to grow. This amendment is needed to help put an end to this horrible business.

The Grassley amendment would also increase other penalties for child pornography and would encourage States to combat child pornography. The Clinton Justice Department, as has been explained, has shown that it is not serious about combating child pornography. Its position on the child pornography statute recently before the Supreme Court is simply bewildering. With an administration that appears unconcerned about the spread of child pornography, it is all the more important that we in Congress act strongly on this issue.

I want to associate myself with the remarks of the distinguished Senators from both Iowa and Delaware, Senator GRASSLEY and Senator ROTH, in describing what really has happened. I think it is abominable that we have to be in a position where the Government is siding with the position and the defense of the pedophiles and of the child pornographers, rather than siding with the position and the beliefs on the side of the child and the clear intent of the law. It is pretty apparent what the photographs were for, and it was pretty apparent what the videotape was for. It is pretty apparent what they are trying to do.

Frankly, the antichild pornography bill is one that I have been a sponsor of and have helped to put through the Congress, and I do not see how anybody could interpret it the way the administration and the current Justice Department is interpreting it.

So I hope that we pass this amendment, and if the Justice Department continues to take the position that it has, I will join with our distinguished chairman of the committee, and we will do what we can to make sure there is no question on the interpretation of the statute that we have passed in the past.

Mr. President, I also want to spend a few minutes on the hate crimes amendment of the distinguished Senator from California—that is, the underlying amendment, the pending Feinstein amendment. It is similar to the Hate Crime Sentencing Enhancement Act which she introduced—I was a leading cosponsor of that—which passed in the 101st Congress. There was a time when we questioned that we could even get it through the U.S. Senate. But finally we had the guts to bring it up and we got it through.

There has been a lot of criticism of it, but it was the right thing to do. That legislation directed the Department of Justice to keep records on a number of reported hate-based crimes, so at least we know how bad it is in our society; they are in the process of doing that now.

This amendment by the distinguished Senator from California—a new addition to our Judiciary Committee, but one who has I think made a difference since she has been on the committee—would require the sentencing commission to amend its guidelines or promulgate new guidelines for enhancing the penalties for crimes motivated by hate by at least three offense levels. The amendment describes hate crimes as "a crime in which the victim or property against which the crime is committed is intentionally selected on the basis of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person."

I want to be clear about what this amendment is about and what it does. It does not federalize hate crimes; nor does it create a Federal hate crime statute. Instead, it simply provides for enhanced penalties for existing Federal crimes if they are motivated by hate. It is estimated that an enhancement of

three severity levels would, on average, increase sentences by one-third.

For example, a Federal assault conviction brings with it a base offense level of 6 which translates into zero to 6 months imprisonment. An increase of three levels to offense level 9 would result in a sentence of 4 to 10 months. Sentencing enhancements under the guidelines are already in place for other serious relevant conduct. For example, if the victim of an offense was unusually vulnerable due to age or physical condition, the sentencing guidelines increase the penalty. If the victim was a Government employee, the guidelines require an enhanced penalty. This amendment is consistent with existing victim-based sentencing enhancements.

The constitutionality of this provision is clear. In Wisconsin versus Mitchell, a 1993 case, the Supreme Court unanimously held that carefully constructed laws providing for stiffer sentences for criminals that commit hate crimes do not violate the first amendment. In the Mitchell case, the court upheld a statute similar to the Feinstein amendment.

Regarding sexual orientation—I appreciate the view of some of my colleagues that we should remove the sentencing enhancement for crimes based on "sexual orientation." Yet, in my view, violence based on sexual orientation is just as repugnant and immoral to me as hate based on religion, race, or some other sort of bigotry. Although I may not approve of their lifestyles—and I do not—homosexuals are as entitled as anybody else to be free from violence based on the characteristics that hatemongers may target. I have a rough time seeing how anybody can argue with that.

Let me ask the distinguished Senator from California a question. Unlike other guideline enhancements which are proved by a preponderance of the evidence during the sentencing phase of the trial, under this amendment the enhanced penalties would only apply when a hate crime was proved beyond a reasonable doubt. So there is a definite distinction in this hate crimes amendment.

The enhanced standard of proof, in the eyes of many, could be a troublesome precedent. Can my colleague please explain why there is an enhanced burden of proof for these sentencing enhancements in this particular case with regard to her amendment?

Mrs. FEINSTEIN. Mr. President, I would be happy to answer that question. I think there are two reasons. A fundamental reason is: In order to put together the bipartisan support in the House, Congressman EDWARDS and Congressman HYDE worked together on this legislation. They raised the standard of proof to be certain that the crime was motivated beyond a reasonable doubt on the basis of race, creed, color, sexual orientation. And so that is the reason that we took similar language to the House.

It is my belief that the legislation now has a very good chance of surviving, because the House raised the burden of proof, and we are also raising the burden of proof.

Mr. HATCH. I appreciate my colleague's comments. The feeling on the part of some is that this new standard could also apply in other cases like drug offenses.

In other words, defense lawyers can say if you did it for hate crimes, then you have to do it for drug offenses. None of us wants to see that. It could be argued that Congress signals that a higher standard should apply to all or some penalty enhancements. We do not want that. The practical effect of this provision is that the courts could be required to impanel juries to determine whether a defendant's conduct was related to sentence enhancements.

I happen to agree with my friend and colleague from California and the two leaders of the House, Congressman EDWARDS and Congressman HYDE, who are both friends—not that that makes a difference, because I agree with them whether or not they are friends. They are doing a very thoughtful thing here. What they are basically saying is that hate crimes are difficult to establish and define. They really take some effort. And because they are difficult, it is better to have that higher standard of beyond a reasonable doubt in the area of hate crimes. And they are carving that out specifically and only for the area of hate crimes. I do not want anybody to make any mistake. There are arguments to try and apply that to all other crime enhancements other than hate crimes, and I am going to fight that with everything I have.

But I agree with what the distinguished Senator from California has done, and I agree with her explanation, which I think makes a very effective and fair assertion of what she really is trying to do and what our colleagues in the House are trying to do.

These are hate crimes. There are some people who have difficulties because it is a nebulous area. There could be more opportunity to accuse someone of a hate crime where maybe the accusation should not be made. Therefore, I think it is an appropriate carve-out or very narrow exception to penalty enhancement, sentence enhancement that I think is highly justified under the circumstances.

I just wanted to establish that from the mouth of the principal sponsor. So I appreciate her comments on that.

Mr. President, I have mentioned about the anti-child-pornography amendment. I think this is sending a message to this administration and the Justice Department we are not going to tolerate the interpretation the Solicitor's office made in the Knox case. I think this is as nice a way of sending that message as I know. If they do not get that message, then we are going to change the law to make it even more clear that we are not going to tolerate this type of pedophilia and this type of child pornography and this type of exploitation of children.

So I hope that we will all support the distinguished Senator from Iowa and the distinguished Senator from Delaware and others like myself who are cosponsors of this amendment.

At this point, I ask unanimous consent that Senator KASSEBAUM also be added as a cosponsor of the Roth-Grassley-Hatch sense-of-the-Senate amendment on child pornography.

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

Mrs. FEINSTEIN. May I be a cosponsor?

Mr. GRAMM. Mr. President, add me as a cosponsor.

Mr. HATCH. Mr. President, I also ask unanimous consent that the distinguished Senator from California [Mrs. FEINSTEIN] and also the distinguished Senator from Texas, Senator PHIL GRAMM, be added as cosponsors.

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

Mr. HATCH. Thank you.

I just want to say that both of these amendments are important. Both of these amendments should pass. I do not see any good arguments against either of these amendments. I hope all of us will vote for both of them and send a message throughout this society we are not going to tolerate the interpretation of the Justice Department and the Solicitor on this matter on child pornography and not going to tolerate hate crimes in this society. Where they are already in the law and we can prove there was a hate crime involved beyond a reasonable doubt, then there ought to be sentencing enhancement. I agree with that.

And with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise to join as a cosponsor of the Roth-Grassley-Hatch sense-of-the-Senate resolution expressing concern over the most recent actions of the Solicitor General in the area of child pornography.

Senator GRASSLEY and I recently circulated a "Dear Colleague" letter, obtaining the signatures of close to 30 Senators, which was addressed to the Attorney General expressing our concern regarding the change that the Department of Justice has taken in the case of United States versus Knox.

I continue to be disappointed with the Justice Department's recent maneuvering in the case of United States versus Knox and believe that we in the Senate must express our misgivings about these actions. In doing so we must affirm our support for strict anti-

child-pornography legislation, which was adopted in 1984. I was a sponsor of the legislation commonly known as the Child Protection Act. I believe Congress set forth proper standards in the Child Protection Act, standards that still need to be respected today.

Mr. President, I find this policy change on the Department of Justice very troubling.

I believe that the arguments in the brief filed by the Department of Justice constitute a disregard of the intent of Congress when enacting legislation which clearly prohibits the receipt and possession of child pornography. In essence, the statutory law does not allow for the interpretation currently being promoted by the Department. This reversal of policy by the Department of Justice will give child pornographers wide latitude and allow for the exploitation of our Nation's children.

The most recent position taken by the Department of Justice holds that this statute is not applicable unless specific body parts are discernible. It additionally states that the child must engage in sexually explicit conduct. Again, neither of these new positions support the statutory language of the Child Protection Act of 1984. The language of this act clearly prohibits the "producing of the visual depiction involving the use of a minor." In essence, the Department of Justice's approach takes the burden off of the pornographer and places that burden on the child.

I am deeply disturbed by these actions of the Solicitor General. Congress should do all in our power to protect the children of this Nation, and yet the most recent actions by the Department of Justice moves us in the wrong direction.

I urge my colleagues to join in support of this resolution.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank you for recognition.

Let me first say that I rise in strong support of both the underlying amendment and the second-degree amendment.

The underlying amendment focuses on something that we all agree on, and that is crime is a terrible thing under any circumstance, but when it is driven by hate, when it singles out people based on prejudice or bigotry, we ought to put additional punch in the penalties.

I think this is a good amendment. I congratulate the distinguished Senator from California for working with Members of both parties in both Houses to come up with a workable amendment, and I intend to support it.

The second-degree amendment is an amendment which I have cosponsored, and it is basically saying to the Clinton Justice Department we are tired of child pornography and we want to punish those who produce it or profit from it and we want to go after it with as much force as we can muster.

So I support both of those amendments.

I wanted to take this opportunity to talk about the crime bill and to talk about issues that are coming up, but before I do, Mr. President, I want to say something about an amendment that we voted on just last week, an amendment that is going to be voted on in the House today. And I would like to alert my colleagues to the fact that we have had a scoring of that amendment by the Congressional Budget Office.

As many of our colleagues will remember, Senator GRASSLEY and I offered an amendment to enforce the President's reinventing Government provision by putting a cap on total Federal employment and mandating in law that there be a reduction of 252,000 Federal employees over 5 years through attrition; that there be established a system where quarterly the Office of Management and Budget would report on the achievement of this goal; and that there be an automatic trigger that kicks in a hiring freeze if the President's goal is not being met. That amendment, I am happy to remind my colleagues, passed in the Senate 82 to 14.

That provision is being taken up today at 1 o'clock in the House. There will be a motion to instruct conferees.

I wanted to let my colleagues know that when members of the Ways and Means Committee of the House asked the Congressional Budget Office to score that amendment to determine how much savings would accrue if we actually fulfilled its objectives, the Congressional Budget Office estimated that the enactment of the amendment that I offered with Senator GRASSLEY would save $21 billion over the next 5 years.

So I wanted to let my colleagues know about that. I think it is very important that that amendment become the law of the land. There will obviously be an effort to defeat it by those who do not support the President's objective of reinventing Government, cutting red tape, reducing the size of the bureaucracy, but as our vote in the Senate shows there is very strong support here.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BYRD. Mr. President, I am aware of what the distinguished Senator has said with respect to the Congressional Budget Office and the position he has taken vis-a-vis scoring and the amounts of money involved. I was alerted to that this morning. Because of that, I plan to offer an amendment to the crime bill that will certainly provide a way by which it may be funded. I may not be for the current bill and I may be for it. I certainly recognize the terrible problems that confront this country, this city, and every other city in the country.

There may be some aspects of the bill that I would rather have changed, and I will vote to change. But inasmuch as the distinguished Senator has made this statement with respect to the Congressional Budget Office, the Ways and Means Committee of the House, and the amendment which was recently offered by the Senator from Texas, which I voted against, but it passed, it passed the Senate, and I was just over here to tell the chairman, Senator BIDEN, that I was working on an amendment which would provide the funding.

I also told him there might be some aspects of the bill that I want to rewrite. I do not necessarily commit myself to vote for this bill, and I do not even want by that to imply that I am 90 percent against it, but I do want to try to help to find the money for a crime bill.

I notified him of that. I just want to notify the Senate of that also, and I thank the distinguished Senator for yielding.

Mr. GRAMM. Mr. President, I am always happy to yield to the distinguished chairman of the Appropriations Committee.

Let me just begin where he left off. First of all, I want to congratulate the chairman of the Judiciary Committee and the ranking member for bringing this bill to the floor. I think if there is one issue in America that people feel strongly about and an issue which has no tint of partisanship, at least in the minds of the American public, it is crime.

I think the American people are outraged that people of this country are brutalized by violent criminals. When we look at the headlines of our newspapers today, we see almost endless accounts of brutal attacks on law abiding citizens, of violent murders, and almost always they have one thing in common.

We all were shocked by the lady near Washington, DC, who was brutally murdered in a carjacking and her body was dragged for a mile and a half and her baby was thrown out in the street. In fact, we were so shocked that we responded to that by passing a law making it a Federal crime to engage in carjacking.

Needless to say, the whole Nation was shocked and outraged by the murders that have occurred in Florida. Michael Jordan's father being brutally murdered was something that caught the attention and I think touched the heartstrings of every American. There are literally thousands of these cases.

Almost every one of these cases has one thing in common. What it has in

common is the people that brutalized other people, the murderers, were people who should have been in prison. They were people who had already been apprehended, who had already been convicted, who had already been sentenced and, had they been serving the sentence they deserved, they clearly would have been behind bars and they could not have brutalized and murdered the people that they killed.

But what happened was, because our criminal justice system is not working, in all of these cases, people who should have been in prison were walking the streets because they had not been kept in prison where they belonged.

It seems to me that one issue that must be addressed in this crime bill is this revolving door problem we have in the criminal justice system, where violent criminals go in one way and they are spun out almost instantaneously going in the other direction. There has to be something we can do to stop our bleeding Nation from being brutalized by violent criminals.

I think there are two things we need to do, and I am going to offer amendments some by myself, some in conjunction with others, that are aimed at achieving both.

First of all, we need to build more prisons.

I am delighted to hear the distinguished chairman of the Appropriations Committee talk about funding this bill.

One fundamental difference on the crime bill is a difference as to whether we should promise money or whether we should provide it. My view is we ought to provide money at least to build prisons.

I know most people do not understand the distinction between authorizing and appropriating. When we authorize, we promise to spend money. We say that it is our intention to spend money, but we do not actually provide any money. The bill that is before us authorizes substantial sums of money to be spent in hiring police officers and engaging in numerous activities. But the bill before us does not provide one thin dime to do anything about our problem, because the bill before us simply authorizes the expenditure of money. It does not appropriate funds to spend.

I am hopeful—in fact, listening to the distinguished chairman of the Appropriations Committee, I am very encouraged—that we may be able to find a way to fund this bill so that we are not just promising that we are going to do something about crime in the sweet by-and-by but that we are actually doing it now.

One of the areas where I am determined that we will actually provide money is building regional prisons. I know it is expensive to put people in prison. I have seen estimates that range up to $25,000, $35,000, in some cases as much as $80,000 a year, which seems outrageous to me. But we have these high costs of keeping people in prison, in many cases, because the Federal courts have mandated conditions in prisons that are not met in the military and that are not met by many people who are actually working for a living in America.

But my point is this. A violent predator criminal, in many cases committing 100 crimes a year, is imposing half a million to $1 million of cost directly on society a year, not counting the pain and suffering imposed on our fellow citizens by violent crime. I think that we have to build prisons, we have to have honesty in sentencing so that we know that when somebody is apprehended, when someone is convicted, when someone is sentenced for a violent crime in America, we know they are going to serve the time in jail that they have been sentenced to.

Under an amendment that I will offer with others, we will propose building 10 regional prisons. We will enter into a contract with State governments to share these prisons with the Federal Government for the purpose of incarcerating violent criminals.

In order for States to participate, they will have to adopt a truth-in-sentencing provision so that, when someone in that State is sentenced for a violent crime, they have to serve that sentence. This is a very important provision and it really has two parts.

First, we are going to propose cutting existing spending on Government overhead by $3 billion in order to fund this provision now. We are not going to be promising to build Federal prisons. We are going to be building Federal prisons. I think that is a very important distinctions and I do not think it will be lost on the American people.

Second, in order to participate in this program, we want States to have a truth-in-sentencing provision which they must adopt to guarantee to their people that, in return for being able to share this prison capacity with the Federal Government, the States will be responsible for paying part of the cost of incarceration, we want them to adopt minimum mandatory sentencing. I think that is vitally important. And I am not going to be supportive of any effort that does not do that.

Now, I want to talk a little bit about minimum mandatory sentencing.

I am very concerned that the President came into office, cut prison construction in his budget by $580 million, and then immediately the President, the administration, and the Attorney General started talking about overturning minimum mandatory sentencing. I believe the American people support minimum mandatory sentencing. I believe the American people are committed to the principle that violent criminals and drug felons when they are convicted ought to go to prison and they ought to serve the time in prison prescribed for their crime. I believe that our effort in the last 10 years to eliminate parole in the Federal system and to have minimum mandatory sentencing is strongly supported by the American people.

My message to the President is, there is no possibility that the Congress is going to overturn minimum mandatory sentencing. In fact, we are going to adopt, in my opinion, more minimum mandatory sentencing in this bill. I want 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony. I want 20 years in prison without parole for discharging that firearm. I want minimum mandatory life in prison for killing somebody with a firearm during the commission of a violent crime or a drug felony. And finally, in aggravated cases, I want the death penalty. And I believe the American people support this provision.

We are going to offer later today, and I believe the Senate will adopt as it has in the past, a three-time loser provision. I believe the American people are tired of violent criminals being convicted over and over and over again and still be walking the streets brutalizing the Nation.

So we want a minimum life imprisonment term for someone who has been convicted of three violent crimes or drug felonies or any combination of those two crimes. The time has come, it seems to me, to put violent predator criminals in prison where they belong, and I believe the American people strongly support that. I hope the administration will realize that they are on the wrong side of this issue and the American people have spoken very clearly on this issue. I think they spoke very clearly in Tuesday's election. I think crime was a major issue in Virginia, and I think the position taken by the candidate who was committed to tough law enforcement, to minimum mandatory sentencing—I believe that George Allen was elected on that issue, and I believe we should be listening to the American voter.

We are also going to have provisions related to crimes involving children. I am going to offer again, as I have in the past, an amendment that says there is 10 years in prison without parole for selling drugs to a minor. Anybody selling drugs to a child, who is convicted, ought to go to prison, in my opinion, for 10 years, no matter who their daddy is or no matter how society has done them wrong. If they sell drugs to a child or if they use a child in a drug conspiracy, we ought to have a special minimum mandatory sentence, and we ought to have a jail cell waiting for each and every one of those people.

So I believe there alear-cut issues here. First, I want to fund prisons; I do not want to talk about it. Second, I want minimum mandatory sentencing

for violent criminals. Minimum mandatory sentencing for people who carry guns and who use them in violent crimes. I want minimum mandatory sentencing for people who use children in drug conspiracies or who sell drugs to children. And I want those sentences put into effect no matter who those people are or no matter how sad their story is.

Finally, I want a minimum mandatory life imprisonment term for predator criminals who are convicted over and over again of violent crimes and major drug felonies. The time has come for the American people, through the Senate, to say enough is enough. We are willing to grab these violent criminals by the throat and not let them go to get a better grip. I believe that represents the view of the American people, and I believe by the time we have finished this bill these provisions will be part of it.

Finally, I want to remind my colleagues that in many cases these amendments have been adopted in the past. In many cases we have voted on these amendments in the Senate, they have been voted on in the House, and then in some dark corner of some little room in this very building, those provisions have been dropped. I think the time has come to respond to the public's outrage about violent crime and to adopt these provisions. I am committed to seeing that happen in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I support the crime bill that has been offered by the chairman of the Judiciary Committee, and at a later point, I will speak in support of the full bill. This morning I rise in support of the pending first-degree amendment offered by the Senator from California.

Hate crimes shock and horrify us, because they represent the failure of rationality.

When an individual is assaulted or property is defaced out of unreasoning anger toward the stereotype of a particular group, thinking men and women recoil in horror at the perpetrator's abandonment of humanity.

Nonetheless, the issue of hate crime is contentious.

Hate, after all is a subjective term. It's not always easy to determine what is a hate crime or how to deter it.

Because its not a crime for people to form opinions according to their personal value systems.

So what is a hate crime?

I would submit, Mr. President, that a hate crime is one in which a person acts upon those feelings of malice, and chooses a victim based on group criteria such as race, skin color, or religion.

Our physical appearances and our pattern of beliefs are after all, only parts of our personae.

Crimes, directed against one element overlook the value of the whole individual.

Recent history has shown us that hate crimes affect not only the individual victim but their entire community.

When a synagogue is defaced, Jews everywhere feel more vulnerable.

When an African-American is brutalized, horror surges through the entire African-American community.

Just look at the Rodney King and Reginald Denny cases.

These two incidents affected the entire Nation.

By making members of minority groups, fearful, angry, vulnerable, and insecure, hate crimes divide cities, and shatter the very substance of our society.

These incidents are not restricted to one area of the country.

According to the FBI's Uniform Crime Reporting Office, 4,558 hate crime incidents were reported in 1991; 43 cities reported an increase in hate violence between 1990 and 1991.

And this problem continues to grow.

Only when society creates significant deterrents to this type of crime can we give conscience to the conscienceless.

Our Nation was founded on inclusiveness and diversity, and America's demographics grow more varied every year.

That diversity cannot succeed unless we are able to adequately penalize those who fail to respect it and operate instead on hatred and bigotry.

This amendment is fashioned to dramatically increase the penalties for those who respond to God-given differences with violence and other hate-motivated crimes.

Prejudice, bias, and racism have no place in American society. I hope that this amendment will open minds so that people will not be judged or punished simply because of the color of their skin, the person they love, the country they came from, or the religion they practice.

By supporting adoption of this amendment, the Senate will also tell those who are victimized by hate crimes that each and every American is an integral part of this society and that we will do our best to protect them as we would any other American.

Mr. President, I am proud to be a cosponsor of this amendment, and I urge my colleagues to join me in supporting it.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I may end up being the only Senator to do this on the floor, but I feel the need to do this anyway. I rise to oppose the underlying first-degree amendment. It is difficult to do that for several reasons.

First of all, it is difficult because I know the author, the senior Senator from California, has the best of reasons for doing this and has listed the unbelievable amount of hateful crimes and hateful acts that are being committed across this country. I know her reasons for proposing this are the very best of reasons.

I also regret having to take this position because of the other cosponsors who are the leaders in this body of advocating for civil liberties and for fighting discrimination. I especially regret it because the law that the amendment is based on is from my home State of Wisconsin.

I also regret it because of the long list of groups that the senior Senator from California listed. These are some of the finest groups in this country when it comes to trying to fight bias and discrimination.

And I really will take second place to no one in this body when it comes to the issue of disdaining discrimination, hating discrimination. So it is tough.

So why do I do it? It is because I am elected to exercise my own judgment, even though all these groups that have supported me and have worked with me over the years feel differently. I do it because I think it is wrong in this society to not make the distinction between speech and conduct. I still believe that our speech should be free and that we should punish only conduct.

Let me be clear that I do not oppose the second-degree amendment that has been offered relating to a different issue. I also will not support the effort that may be made to try to remove the provisions of the amendment having to do with sexual orientation and make that not covered. I do not think that makes any sense. If we are going to have a hate crime law, we ought to have a hate crime law. It ought to cover all forms of so-called hate crimes. I would oppose making a content-based distinction in the middle of this law. That really is the sign of the whole problem with this whole bill. It is about making distinctions about the kinds of things that people are thinking.

I would like to inform my colleagues that when I was a Wisconsin State senator, I was one of the few who did not support a similar Wisconsin law. I voted against it in its Wisconsin form in the State Senate Judiciary Committee. I was one of only two State senators to opposed it when we had a vote on the floor of the Wisconsin Senate. There were two reasons that I opposed it. The first was my belief, at least at the time, that this was unconstitutional, and the second was it was bad policy.

I will be frank enough to admit that I still believe it is unconstitutional, but I have a little problem in that argument since the U.S. Supreme Court says otherwise. I recognize it is not my job to question their judgment. I think

maybe some different Justices at different times might have ruled differently. I attended the oral argument and felt that the arguments made against this statute made a lot of sense. But the decision was clear, it was 9 to 0; the Justices said this law is constitutional.

I do not expect a better vote, a much better vote on the floor of the Senate on this amendment itself. But the key to this really was expressed when the Wisconsin Supreme Court considered this issue in the first place. One of my favorite members of the Wisconsin Supreme Court disagreed with me with regard to the constitutionality. Justice Shirley Abrahamson said that it is constitutional but if she had been a member of the Wisconsin Legislature, she would have voted against it on the merits, on the ground that it is still bad policy.

That reason still remains. This amendment does affect a person's right to speak freely in this society.

This provision does limit what I think is an American tradition of not inquiring into the general beliefs of a person when considering what criminal penalties are appropriate.

I still do not understand how the first amendment or free speech can allow a greater penalty because of a person's general views, political or otherwise. This is not to say you cannot make a distinction with criminal penalty based on a person's intent or their animus toward a particular individual, but I do have a problem of making a penalty based on a person's beliefs, as awful as those beliefs may be, and awful they are in many of the cases that the senior Senator from California has identified.

I still do not understand how we can avoid intrusion into an individual's free speech. If we provide, for example, that if someone pours red paint all over a church without saying anything with the red paint, that is one penalty; and if they happen to use that same red paint to put the words, "I hate white churchgoers," I do not understand how that should be a differential penalty. Or, to put it more concretely for me, in a case that happened in my own community a couple of years ago, there had been some anti-Semitic vandalism in the greater Madison area in Wisconsin. It culminated with these same individuals taking credit for having cut the brakes on a schoolbus that was used to take children to a Jewish-sponsored camp in the Madison area. This camp has about half Jewish kids and about half non-Jewish kids. Fortunately, the effort to cut the brakes was discovered in time and no one was hurt. It was very personal for me because one of my daughters was traveling on this bus and, thank God, nothing happened to her or any of the other kids.

But if a tragedy had occurred, what difference would it have made if it had happened that it was just all Jewish kids on the bus or all Christian kids on the bus, or some mixture?

In my view, what is a crime is the intentional threatening of a child or harming of a child, of any child, not whether or not somebody was thinking about the background of the child when they committed the act.

So it is with this whole crime bill itself. This crime bill should be about stopping criminal acts, not distasteful or even hateful thoughts. We know there is a great deal of crime in this country and that much of the crime that is occurring today has roots in hatred and racism. Racism in this society has led to a desperation in many communities and it has led people of all colors and all backgrounds to a hopeless resort to crime. And some of these crimes have been racially motivated on both sides of the racial line.

But, Mr. President, it is always a moment of crisis, such as a time of great crime or a time of great racial tension, when civil liberties are most likely to be limited. We know from our own 20th century history, one of the worst invasions of civil liberties in the history of this society was the incarceration of Japanese-Americans. That happened at a time of national crisis, and I would suggest that the situation with crime in this country is similar. It is at these moments when we have to most worry about the judgments we make in a legislative body. It is not when, as Rodney King suggested, we might all get along that we have to worry. It is when we are not getting along, and we are not getting along today.

It is at this moment when we have to at least pause before we start sentencing people not on the basis of the viciousness of their act or the actual harm, but based on what they might have been thinking when they did the act.

Let me conclude, Mr. President, by just citing from an editorial from the Washington Post which the senior Senator from California distributed. That editorial in the Washington Post took issue with the policy that resulted from the Supreme Court decision. It disagreed with the Supreme Court decision about the Wisconsin case, and it said the following:

> Todd Mitchell, the defendant in the Wisconsin case, did a terrible thing when he urged a group of friends to "move on to some white people" and watched while they severely beat a 14-year-old white boy. But surely, it would have been just as terrible if the gang had beat a 14-year-old black child or beat the white child it did just for the sake of indulging cruelty. The sentence for aggravated assault in any of these cases would be 2 years, but the Wisconsin law provides for an additional 5 in the case under consideration. Does a victim suffer less harm if he is bludgeoned by a coreligionist than he would if the culprit were someone from another church? Is an assault on a deaf person by a hearing person more likely to provoke retaliation than the beating of a member of one Mafia family by a member of another?

The editorial continues:

> Assessing bias is far more complicated and could involve the examination of a speech the defendant made in high school or the views championed in the magazines he subscribes to. And it creates its own bizarre moral priorities. Is it less reprehensible to mug a blind woman because she is an easy target than because of a prejudice against the disabled?

The Post goes on to conclude:

> When an extra five years in prison rides in the distinction, that becomes a serious question, not an absurd one, as it seems on its face. Victims have equal rights to vindication. Heavier sentences based on objective assessments of an offender's alleged biases are bad policy.

Mr. President, I realize there may not be much support for this position, but I do believe that this is one moment where we should pause and question whether we really want to get into the area of determining what people generally believe about other people when we decide what the appropriate criminal sentence may be.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the Grassley amendment?

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator CONRAD be added as a cosponsor to the Roth-Grassley-Hatch antichild pornography sense-of-the-Senate amendment.

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

Is there further debate on the Grassley amendment?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to propound a unanimous consent request, and I ask my friend to listen to it.

I ask unanimous consent the vote on the Roth-Grassley amendment occur at 11:50 a.m. and that immediately upon the disposition of that amendment, amendment 1098, the Senate vote on or in relation to the Feinstein amendment, amendment No. 1097, as amended, if amended; that no other amendments be in order prior to the disposition of that amendment and all the above occur without intervening action or debate; and further, that upon the disposition of those two amendments, we then move to a prison amendment that my friend from Utah is prepared to offer.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I would like to have some time to clear that unanimous consent request because I have at least one Senator, the Senator from North Carolina, who would like to speak to the FEINSTEIN amendment, and I have been notified that he would like some time. I will endeavor to clear that.

If we could, why not just vote on Grassley, and then I will endeavor to

clear that so we can vote next on Senator FEINSTEIN's amendment and then go on to the rest of the unanimous consent.

Mr. BIDEN. Mr. President, I say to my friend that I do not have objection to that if, in fact, there can be no—let me be very blunt about it. I am not very good at being coy about this. I just want to make sure there is not an additional second-degree amendment that comes in to replace the Roth-Grassley amendment amending the Feinstein amendment. And so that is what I am attempting to do, very bluntly. If we can agree on that, then I have no problem with voting now on Roth-Grassley, allowing the Senator from North Carolina all the time he wishes on the amendment of the Senator from California.

Mr. HATCH. Mr. President, I do not know what the distinguished Senator from North Carolina has in mind—debate or whether he has another amendment—but I will certainly work to see that he gets over here and does whatever he wants to do.

Mr. BIDEN. Mr. President, maybe we could try it this way. I ask unanimous consent that we temporarily lay aside both of these amendments and move to the amendment of the Senator from Utah—

Mr. HATCH. That is acceptable.

Mr. BIDEN. On prisons so we can just keep moving. And then we can go back to the disposition of the amendments after disposition of the amendment of the Senator from Utah relative to prisons.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1099

(Purpose: To add provisions relating to prisons)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. MACK, and Mr. DOLE, proposes an amendment numbered 1099.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 294, strike line 1 and all that follows through page 303, line 21 and insert the following:

SUBTITLE B—REGIONAL PRISONS AND STATE PRISONS

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall after consultation with State correctional administrators, construct a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any crime of violence that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

SEC. 1332. FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION.

(a) DEFINITION.—In this section, "new prison" means—

(1) a prison or bootcamp or city or county detention facility, including an addition to an existing prison or city or county detention facility, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available or had already planned to construct; and

(2) a prison that is principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

(b) GRANTS.—The Attorney General may enter into agreements with any qualifying State to provide construction grants or operating grants for new prisons.

(c) CONSTRUCTION GRANTS.—The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(d) OPERATING GRANTS.—The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(e) CANCELING GRANTS.—The Attorney General may, in the Attorney General's sole discretion, cancel any construction grant or operating grant if the Attorney General finds that a State is using those funds to substitute for existing funds or to provide prison space that substitutes for existing prison space.

(f) DISTRIBUTION OF GRANTS—The Attorney General shall ensure that each State receives no less than 50 percent of the funds made available under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $600,000,000 for each of

fiscal years 1994, 1995, 1996, 1997, and 1998, of which 50 percent shall be used for construction grants and 50 percent shall be used for operating grants, except that the Attorney General may alter those allocations if the Attorney General certifies that there are compelling law enforcement reasons for doing so.

SEC. 1324. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(A) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 1325. OVERHEAD EXPENSE REDUCTION. FUNDING.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,0000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

(c) ALLOCATION.—The amount of available budget authority resulting from enactment of this section shall be reallocated for programs authorized pursuant to this subtitle.

Mr. HATCH. Mr. President, one of the critical differences between the Dole-Hatch Neighborhood Security Act and the Democrat alternative is that our bill places far greater importance on incarceration in punishing and preventing violent crime. In our view, there is no better way to reduce violent crime than to identify, target, and incapacitate recidivists and violent criminals. Toward meeting the objective of greater incapacitation, we propose spending $6 billion over the next 5 years to build regional prisons to house State and Federal violent offenders and to provide the States with prison construction and operating grants.

The States need the help. For example, my home State of Utah spends over 30 percent of its criminal justice expenditures on corrections. This is not surprising considering Utah's rate of incarceration has nearly doubled since 1982—80 per 100,000 population in 1982 to 149 per 100,000 in 1992. So in 10 years we have doubled the rate of incarceration. And I suspect that is true of most other States.

Utah's State Department of Corrections has more inmates than its operational capacity permits and is forced to house inmates in other facilities on a contract basis. Our Governor, Gov. Michael Leavitt, recently proposed an aggressive prison expansion program to combat Utah's growing gang problem. Utah could sure use the assistance provided in the Dole-Hatch bill and no doubt other States could as well.

In stark contrast, the original Democrat bill provided a paltry $200 million for both State boot camp grants—an alternative sanction—and for regional prisons.

The new Biden bill now authorizes $2 billion, which is clearly a movement toward our position.

But let me just say this. I wish to compliment the distinguished Senator from Delaware because I know he feels very similar to the way I feel about increasing prison capacity and providing the places to put and park these violent criminals. So I wish to pay him particular tribute for being willing to lead on his side and to try to get the prison moneys up where they ought to be.

I commend my colleagues and especially the distinguished Senator from Delaware, but $2 billion is not enough and his bill does not fund prison construction, which we think is critical. It is only a promise to build these prisons. Our amendment actually contains specific cuts. And it mandates that these cuts be spent on prisons. If Congress passes a crime bill which fights crime by increasing the number of police officers on the streets, thereby increasing arrests, prosecutions, and convictions, but refuses to build more adequate prison space, we are left with only three possible outcomes. These are, No. 1, State judges will be forced to grant probation to those who deserve and should be given hard time.

No. 2, there will be an increase in prison overcrowding. We know that is going to be the case.

No. 3, there will be earlier release of more prisoners, which will include earlier release of more violent prisoners to the detriment of society as a whole in each of our States.

These outcomes are wholly inappropriate. We will make no dent in crime if we have so little prison space and thus continue to allow criminals to return to the streets well before they have completed their sentence. As Georgia's attorney general, Michael Bowers—I might add that he is a Democrat—recently said, "All of the police officers in the world are not going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, it is a waste of time."

That is one of our top attorney generals in this country. The choice then is simple. More prisons, or more crime. To me, there is not even a question on this issue. Self-proclaimed criminal "justice" experts—I might put "experts" in quotes too—who oppose increased incarceration will argue that our Nation imprisons too many people.

While I agree that it is indeed tragic that we must incapacitate so many people, on January 1, 1993, there were 824,901 inmates in State and Federal prisons. America's incarceration rate is not the problem. Rather, our prison rate is a symptom of the unparalleled amount of violent crime plaguing our country and each of our States.

Last year violent crimes reported to law enforcement exceeded 1.9 million offenses. Those are violent crimes, not just criminal activity; violent criminal activity.

This figure is 23 percent higher than just 5 years ago in 1988. A violent crime occurs every 22 seconds in this society today. It is pathetic.

Not surprisingly, imprisonment and prison construction policies have had an effect on our Nation's crime rates. For example, in the 1960's, violent crimes reported to police more than doubled while our Nation's prison population declined by almost 8 percent. More recently, a 1992 Justice Department report cited the policies of Texas. The Texas legislature had adopted a less punitive approach to crime that reduced the time the prisoners served in an effort to open up space for other felons. Between 1980 and 1989, after the legislature adopted that less punitive approach, the average prison term served in Texas fell from about 55 percent of the sentence imposed to approximately 15 percent of the sentence, and by 1989 the parole population grew to more than five times its 1980 level.

The expected punishment for serious crimes: murder, rape, robbery, aggravated assault, burglary and theft, fell 43 percent in Texas. That is, the expected punishment fell 43 percent. Not surprisingly, the rate of serious crimes reported in Texas rose by about 29 percent. That is taken right out of the U.S. Department of Justice Report for Incarceration, a 1992 publication.

The same 1992 Justice Department report noted that between 1981 and 1984 Michigan was experimenting with an early release program which actually saw its prison population decrease. Between 1981 and 1986 the violent crime rate in Michigan rose by 25 percent. While they are reducing the prison population, their crime rate rose 25 percent. In 1986, however, when Michigan turned around and embarked on a major prison-building effort, the State's violent crime rate began to fall, and by 1989, just 3 years later, had dropped 12 percent.

I think it is pretty hard to argue with these statistics. Building more prisons, keeping people that are violent criminals in jail longer, reduces crime.

I have to say, putting policemen on the street reduces crime too, and we should do both in this bill.

Like the citizens of Michigan, most Americans have recognized that the

nonpunishment policies of the 1960's and 1970's failed, and most Americans have urged prosecutors in courts to increase the rate of incarceration. In fact, imprisonment rates rose from 134 per 100,000 in 1980 to 282 per 100,000 in 1990. Unfortunately, prison space has not kept pace with the increased rate of incarceration. This is not to say that new prisons are not being built. There are currently 74 new facilities under construction in 20 jurisdictions, 13 of which are Federal. Still prison construction is at its lowest point since 1987.

We got that out of the corrections year book in 1993.

It is not news to anyone that many State prison systems are seriously overcrowded. Nor is it news that other systems let criminals go free either by placing them on probation or releasing them early to make room for the next batch of criminals.

This year the average State prison system is operating with 15.4 percent more inmates than its rated capacity. This figure actually understates the problem, since some of the States currently at or below capacity have reached that position only after releasing prisoners early. So it is really not the true story. It has to be a lot higher than that 15 percent more inmates than each prison's rated capacity.

Rather than build new prisons, these States have chosen or have been ordered to create a revolving door by releasing enough prisoners to meet the cap on population in prison. Currently, 25 States and the District of Columbia have court-ordered prison caps—25. Half of the States in this country plus the District of Columbia have been told these are the caps; you have to put these violent criminals back out on the street.

You wonder why the mothers of this country are concerned about their kids. You wonder about the increase in gangs. You wonder about drive-by shootings. You wonder about the increase in murder in this society today. You wonder about the increase in drugs. We put them in, we roll them out almost as fast. The sentences do not mean very much. The criminals wander in and out. They come out as heroes in some of these communities, especially this community here, and they go right back into the streets to commit and create more violent crime.

We simply have to have this amendment.

Although Americans have said "enough" to the permissiveness of previous decades, our total prison space is obviously inadequate. Yes, incarceration rates have increased, but actual time served is the true test by which our corrections systems has to be judged.

The Department of Justice study found that persons convicted of violent crimes are sentenced on average to 5 years in prison. These are violent criminals, violent crimes, and they are sentenced on average to 5 years in prison. However, they actually serve only 2 years and 2 months on average. Violent criminals are serving—only put away for 5 years—they are only serving 2 years and 2 months across this country.

No wonder we are making no headway.

Fifty-one percent of the Nation's violent offenders are released from prison before serving 2 years, and 76 percent are released before they serve 4 years.

A typical murderer in this country is sentenced to only 15 years but serves—this is what really is mind boggling—sentenced 15 years; which is amazing to me that a murderer would get that short of a time, but they serve on average only 5½ years—murderers, 5½ years.

Rapists are on average sentenced to 8 years. These are rapists. No wonder women in this society do not feel safe. They are sentenced to 8, but guess how many they serve on average? Three years.

Again, that is from the Department of Justice and their statistics.

These statistics illustrate the need not only for more prison space, but also the greater need for truth in sentencing as well. As a result of early release, crimes are committed that would not have occurred had these prisoners remained in prison for the duration of their sentences. And had they been given tough sentences and mandatory minimum sentences for a longer period of time and had to serve it, there would be a lot more forethought before they commit crimes to begin with, especially violent crimes.

A 1989 survey of almost 4,000 prisoners who were released early in Florida because of prisoner crowding found that nearly one in four were rearrested for a new crime at a time when they would have otherwise be in prison—one in four.

These 1950 people who were supposed to be in prison for earlier crimes were responsible for 2,180 new crimes including murders, armed robberies, rapes, aggravated assaults, burglaries, and drug offenses.

Our Nation ought to decide what kinds of criminal activity warrant incarceration to make sure we have the prison space to house those convicted of it rather than treat this issue as a matter of letting one criminal go in in order to imprison another one.

Criminal law enforcement should not become a zero sum game. Criminal law enforcement is important. Despite the clear length between incapacitation of criminals and crimes rates, some will argue that we do not need to build more prisons and would even go as far as to suggest that we release more prisoners early.

(Mr. DORGAN assumed the chair.)

Mr. HATCH. The Democrat crime bill actually permits the Bureau of Prisons to decrease the sentence of Federal inmates—violent offenders included—who complete drug treatment programs. Their bill also proposes that States be given grant money which can be used to implement home confinement and other alternative sanctions for violent offenders.

Recently, the administration has fought to rescind over $130 million in spending that had already been provided for Federal prison and jail construction. That is what this administration has done. I do not think the President really could have known about that with his call for a fight against violent crime. But his own administration, his own Director of OMB, the Office of Management and Budget, fought to rescind over $130 million in spending that had already been provided for Federal prison and jail construction. That may be a drop in the bucket, but nevertheless it is a step in the wrong direction.

Their crime bill demonstrates an inadequate financial commitment to prison construction, and their regional prisons are really treatment centers. It is one thing to want to treat people and one thing to rehabilitate them—and I want to rehabilitate them, too—but we are talking about violent criminals that are unlikely to be rehabilitated.

They need to be parked for a long time in jail where they cannot get out and do more harm to society. The bill would require that treatment on demand be provided to all inmates. That is the Democrat bill. It would require that treatment on demand be provided to all inmates. Stated simply, the bill's commitment to additional prison space can be summed up as limited, at best. Bear in mind that, in 1991, the Department of Justice found that 94 percent of all State inmates were either violent or repeat offenders, and over one-third of all inmates have been incarcerated before. Moreover, two-thirds of the violent inmates in State prisons had killed, raped, or injured their victims. Over half of the remaining 6 percent of State inmates had been convicted of drug trafficking or burglary. This is out of the Bureau of Justice Statistics, Survey of State Prison Inmates in 1991.

Another popular argument against further prison construction is that prisons turn nonviolent offenders into career offenders. Yet, contrary to this argument, the rate of criminal recidivism appears to decrease with longer prison sentences.

A 1983 Bureau of Justice statistics study shows that those who had served 5 years before release have lower recidivism rates than those who served less than 5 years. According to the study, recidivism rates are linked more closely with an offender's age when released and the number of prior arrests

than to the amount of time the offender is incarcerated.

A final note: The Democrat bill seems to stress expanded drug treatment as opposed to additional prison construction. It provides $1.2 billion for a drug court grant program to States and mandates drug treatment on demand for Federal prisoners. I do not quarrel with the need to treat those who are in fact treatable. Yet, I believe dollars should be spent on treatment only after we have ensured that the peaceful, law-abiding people of this Nation that we have adequate prison space to back up the sentences we impose.

Right now, we do not have adequate prison space, and we are not backing them up; we are letting them out. A large percentage go out and commit violent crimes again. We wonder why we are losing. Let us build these prisons and make sure they are going to stay. Let us get tough about it.

Furthermore, I do not believe that all criminals with drug problems are treatable. I have worked rather closely with addicts, as I know my distinguished colleague has, and I know that he agrees with me on some of these things. I have worked very closely with addicts and with drug-ridden offenders. I have to tell you that it is very, very difficult to rehabilitate them—first timers, young people, yes, sometimes we can; but when you get some of these people that are hard-core addicts, they are almost untreatable. I would like to do that, but I would like to first make sure that they are off the streets. I would like to first make sure that these people are not out there committing crimes again just because we do not have any place to put them. I have to say that the Democrat bill here does not adequately treat this.

I know the pressures on my colleague from Delaware, because I know he would agree with more moneys for prisons if he had total control over this. But we simply have to do this. I do believe there is a role for treatment in combating drug-related crime, but we have to bear in mind that such treatment's proven effectiveness is limited. Nearly one in four State prison inmates have participated in a drug treatment program before entering prison. So there is a limit to what we can do, and you can throw money down that hole pretty fast. We have to approach it in a very serious and intelligent way, but you approach it by making it clear that these terms are going to be served, prisoners are going to stay in prison, and they are not going to get out easily like they do today. Maybe they will think twice about real rehabilitation under those circumstances.

Mr. President, the problem facing our criminal justice system is not one of too much incarceration. Rather, the problem is too much crime, and the simple fact is that the best way to stop crime is to put criminals in prison.

In the past, Congress has given inadequate attention to our States' bulging prisons. The Hatch-Mack amendment—and I compliment my colleague from Florida—attempts to alleviate some of the problems by providing $6 billion for prisons. Half of this money, $3 billion, will be dedicated to the construction of 10 regional prisons to house up to 50,000 State and Federal violent offenders. The other $3 billion will be used for grants to States for operation and maintenance of jails, boot camps, and prisons. My colleague from Delaware, the chairman of the committee, would probably agree with that.

Importantly, our amendment also encourages the States to adopt greater truth in sentencing. It conditions participation in the $3 billion regional prison program on a State's adoption of sentencing guidelines which ensures that offenders will serve 85 percent of their sentences, reform bail laws, and provide adequate recognition of victims' rights.

The law-abiding citizens of this Nation demand that a 10-year prison sentence mean 10 years—not 2 years or less. It is time we provide the States with a greater incentive to adopt truth in sentencing. Many States have sentencing reform underway or have already done so.

As then Attorney General William Barr wrote in 1992 when he advocated the building of new prisons, "Revolving-door justice resulting from inadequate prison and jail space breeds disrespect for the law and places our citizens at risk, unnecessarily, of becoming victims of violent crime."

The Dole-Hatch bill appropriately ensures that additional prison space will be constructed to build the prison spaces we so urgently need.

Again, I use my home State of Utah to make the point one more time.

This is the Utah prison capacity here, the operational capacity, in the green. This is what Utah, from 1990 through 1996, can do. This is its operational capacity.

But this yellow line, which becomes a red line ultimately because of the fright to everybody in my State—and I suspect other States are similar—shows the incarcerated population. We have the capacity to take care of them down here, but you can see that the incarcerated population is going to be way beyond our capacity to take care of. That means that we have to continue to put more and more people out on the streets who are violent criminals when, in fact, they ought to be kept in jail where their violence will be muted.

I have spoken about Utah, but I suspect there are many other States that are even worse off than Utah. Throughout this country, our prisons are operating at approximately 123 percent of capacity now. We have to do this. We simply have to do this, and I hope that our colleagues will support this.

I hope my colleague from Delaware will support this because this will improve the bill we have before us.

Mr. President, I ask unanimous consent that my distinguished colleague and friend from Texas, the Senator from Texas, Senator GRAMM, be listed as an original cosponsor of this amendment.

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

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me respond to a few points that the Senator from Utah has made. Let me start off by saying that on page 276 of the bill I have introduced in the section relating to drug courts, line 6, page 276, it reads "violent first-time offender or violent offender with a minor criminal record who is 28 years of age or younger." That is an error on the part of the drafting of this amendment, and that is a staff error that I thought had been corrected.

It should read, "Young nonviolent offender means a violent first-time offender or a nonviolent offender with a minor criminal record who is 28 years of age or younger."

The points being made by my friend from Utah about violent offenders being in that drug court circumstance I think are accurate.

So I ask unanimous consent that I be able to change the language on page 276 of the bill before us to read insert the word "non" on line 6 before "violent."

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I have no objection to that. I think that is a good correction. I am very impressed by my colleague's willingness to do it. Still we would want to have another amendment to define "violent." I would still like to be able to file a later amendment that will clarify what "violent offender" is because I think it needs to be clarified even further.

That amendment change I think will be a good amendment change.

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

The Chair will ask the Senator from Delaware to send the correction to the desk.

Mr. BIDEN. Mr. President, now let me speak to the larger point raised by my friend from Utah. He has characterized the language in my bill relative to prisons in the first instance and why his amendment, the $6 billion amendment, is more appropriate.

Let me start off by saying that there are certain basic things unrelated to prisons we should understand here. No. 1 is a point raised by the distinguished Senator from West Virginia and the distinguished Senator from Texas

69-059 O—97 Vol. 139 (Pt. 19) 18

today and by me yesterday, and that is whatever we do we should fund. That is a generic statement applying to the whole bill.

The second point I would like to make here is let us identify where the problem lies. People listening to this debate will assume that the problem lies at a Federal level relative to prisons. I would point out that, if the Senator would allow me to use his own chart for just a moment, the chart that the Senator from Utah has put up here showing what is, in fact, an accurate projection not only in his State but in every State of the Union, of the increases in prison population, I want to point out what the chart at the top says. It says Utah Prison Capacity, not Federal prison capacity.

So one of the things that we deal with all the time, those of us who are here and with our constituents and the American public, sometimes, and it is the easiest target to blame for not doing their job is the U.S. Congress, and we deserve a lot of blame. But we are talking about here a State problem, not a Federal prison problem, because at the Federal prison level the Clinton budget oversees a 32-percent expansion of Federal prison systems over the next 5 years through the year 1998.

Today the Federal prison system houses about 84,000 offenders. The Federal prison system has made the following projections: By 1995 that will be 92,700; by 1996, 99,900; by 1997, 106,000; and by the end of the year 1998, 111,600. The fact of the matter is we, the Members of this body, provided for the expansion of the Federal system.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. HATCH. Is it not true that expansion was during the Bush administration and that since this administration came in OMB has called for a $130 million reduction?

Mr. BIDEN. OMB can call for what they want to call for. The fact of the matter is, and I will give everybody credit for it, the point is we do not have a problem in the Federal system.

So I want to make it clear here. We are here because, and I have great sympathy for them, the Governors and the State legislatures of the United States of America, whether it be in the State of Utah or the State of New York or Idaho or anywhere else, or any of the States represented here in this Chamber, because they have concluded, notwithstanding their herculean efforts, that they are not going to go and ask taxpayers in their States to spend more money on a State problem—I respect that—I am prepared to help.

When I used to practice law 100 years ago, I learned something from a very skilled trial lawyer in my State, a fellow named Sidney Bailey. Every time he talked to the jury he would say, "Now, ladies and gentlemen of the jury, they are going to tell you my client is," and he would go through a list of things. He would say: "I agree. My client is an ugly fellow. My client is not someone you would want your daughter to date. My client is not someone you would invite home to dinner. The issue is not whether my client is an ugly person who you will not want your daughter to bring home for dinner. The question is did my client commit a crime."

Then he would say, "So keep your eye on the ball."

The ball here is how much will the State system be helped by the Federal Government. That is what the debate is about. I want everybody listening to understand. It is not about the Federal system. It is about a State problem that under our separation of powers and the notion of federalism have historically left to States. Ninety-five, 96 percent of all the crime is committed in State jurisdictions, not Federal jurisdictions. So we have a State problem.

If you take a look at the chart—we are all big on charts these days ever since Ross Perot came on the scene—but if you take a look at the chart here, there are roughly 840,000 State prisoners in State prisons today, another 450,000 in jails—we do not call them prisons—State jails, city jails, county jails, people serving 1 year or less. So there is about 1,240,000 people incarcerated in the States, but 840,000 of them are in State prisons.

Of those States that have this many prisoners there, there are a total of 32 States that have court orders, either Federal or State court orders, relating to prison overcrowding.

The problem my friends from Texas and Utah, the Presiding Officer in the chair, and others, have pointed out to the Senator from Delaware is they are sick and tired, as I am, of seeing violent and repeat violent offenders pushed out the back door of a State prison because there is no room for that person in that State prison or because in order to make room they require them to only serve 40 percent of their sentence or less, and then they go out and commit additional crimes.

So, again, this is not being critical of anyone. I just want to make sure we keep our eye on the ball here. And the ball is States have a problem.

All those horror stories that we are hearing about, all of them—probably you can find some exception—but the vast majority of them that we hear, that I recount and others recount on the floor of this Senate, are State prisoners let out of State jails because State legislatures and State Governors, for very good reasons, conclude not to ask the taxpayers of those States to provide enough jail cells for all those prisoners to stay in for the entirety of the sentence. That is the bottom line.

Now, there is a third thing we should keep our eye on here. The Governors, Democrat and Republican, whom I wish very much to help and I think we have a need and obligation to help—I have been the one who has introduced, or at least I have been the major or minor cosponsor of, every crime bill since the early 1970's. I strongly believe the Federal Government has to enter into partnerships with the States because they are American citizens, rather than from Delaware or Texas or California or Utah, who are being brutalized by these thugs—I refer to them as predators—these predators we let out on the street.

But every Governor comes down here, and as recently as yesterday there was testimony in a committee of the U.S. Senate where Governors and legislators were testifying about unfunded mandates. The one thing they said was, "We don't want anymore unfunded mandates."

Let me make clear what they describe as unfunded mandates. They do not merely mean an order with no money—and I can see one staffer on the other side shaking her head "no." We will get the language from yesterday's testimony.

They also mean carrots and sticks that are unfunded, in fact. The Federal Government will give me $1 and require me to do something or ask me to do something that is going to cost me $3. They call those unfunded mandates, too.

So every Governor comes down—and I love them, God bless them—they come down and they say, "Now, Federal Government, do three things: One, balance the budget. Two, send us more money. Three, no unfunded mandates." It is like a dance.

Now, I understand it. I understand it.

Let us understand what we are doing here now, what we are doing with this amendment. In order for this amendment—and I will submit the details in the RECORD, or debate it with anyone who wishes to speak to it—in order for the States to get the $3 billion—access to $3 billion here in this amendment, the amendment of my friend from Utah and my friend from Kansas, the Republican leader, they can get a shot at a $3 billion pot if they spend $11.8 billion.

Let me translate that: Unfunded mandate, as defined by the National Governors Conference and State Legislative Conference.

So let us make it clear the favor we are doing these folks, OK? We are telling them that we will help you with your prison population in this amendment—not what is in the bill, but in this amendment—if you will change your sentencing requirements—which I think they should change, by the way—if you will change your sentencing requirements so, instead of your folks who are violent offenders serving roughly 40 percent of their time in jail,

they will have to serve 85 percent of their time in jail, which essentially doubles the number of jail cells needed to house the same number of prisoners.

That means that the States say, OK, I am the administrative assistant for the Governor of Delaware or North Dakota or New Mexico. I walk in and I say, "Governor DOMENICI, as your administrative assistant, I have such a deal for you. The Federal Government will give you $200 million to help house New Mexico's prisoners."

And Governor DOMENICI would probably say, "Hey, that is great. That is $200 million we did not have before."

And knowing Governor DOMENICI—as he is Senator DOMENICI, with the incisive mind he has in asking all right questions—he is going to turn to me and say, "But what do we have to do?"

And I say, "No problem, Governor. You just have to raise $400 million in taxes to get $200 million. No problem. Because then you will end up with $600 million, and we will house an awful lot of additional prisoners."

And then Governor DOMENICI or Governor BIDEN, or whoever is Governor, is going to say: "Let me see if I have this straight now. The Federal Government is going to give me more money for prisons—God bless them, such wonderful people that they are—but I have to go out and tell my legislators they have to find me twice that amount of money in order for me to get the money the Federal Government wants me to have."

It is a little like when you are talking to your son or daughter and they tell you they want to buy a car. They say, "Hey. Dad, I want to buy a car. I'm 18 years old. I can get a car. Can you help?" And I say to my son, "Now, what kind of car do you want?" And he says, "Awe, Dad, I saw this beautiful convertible." I say, "I will tell you what. Before you tell me the car you want, I will provide 50 percent of whatever you want."

All of a sudden, my son's appetite for cars goes from an $18,000 used convertible that he was looking at down to a $3,000 stable, little car, because he knows he has to come up with $9,000 as opposed to $1,500. Unfunded mandate. These are unfunded mandates.

So let us get it straight here. I want every Governor who is listening—and I am sure every Governor has this turned on in their office right now, watching; yeah, we would be lucky if there was one.

But at any rate, I want every Governor to know that my friends from Kansas and Utah are going to help them.

It is like that old joke. "I'm from the Federal Government and I'm here to help." And it is a joke. That old joke is, "I'm from the Federal Government." They say, "I'm here from the Federal Government. I'm here to help you, Governor I'm going to give you up to $6 billion in prison money. The only condition is you have to spend $11.8 billion to get the $6 billion," collectively, Governors all over the Nation.

Now, maybe we should do that. Years ago, we passed truth-in-lending. I think we should pass truth-in-advertising here, truth-in-legislation. That is a decision we can make here. And it would not be a bad decision.

But my worry is the effect would be—and I say to the Presiding Officer, who knows more about this than most of us—the effect of that would be that I am afraid the States will not participate; that the States will not build more prisons; that the States will not house violent offenders, because the States will say, "I have to come up with too much money to do this."

The truth of the matter is, they should come up with all the money, by the way, but that is another question.

I am afraid they will not do it.

What do we do? What do we do in my bill?

Well, we have a little thing here—and, by the way, that mandate of $11.8 billion—my staff just pointed something out very important. The mandate, as defined by Governors, to get any of this $6 billion, which the Republican amendment offers and which sounds wonderful over a 5-year period—by the way, it comes out over 5 years—in order to get that, the Governors of the Nation will have to spend $11.8 billion per year—per year.

So the more accurate comparison would be, they get $6 billion over 5 years if they spend roughly $60 billion over 5 years. Nice tradeoff, huh?

Well, Governor, welcome to the Federal Government. Welcome to the Federal Government.

So I say to my friends, let us take a look at what the bill says. The bill in the Democratic plan provides that—and by the way, let us take a look at what we are after here. Everybody is in agreement—my Republican friends, my Democratic friends who have a different view than me, me, and those who share my view on both sides of the aisle.

What we are trying to get at here is we are trying to get at this cadre of violent offenders who are presently in jail to serve out their term like they do in the Federal system. If you get sent to a Federal prison for a violent offense, you serve your time, no if's, and's, or but's. No judge can change it.

In a State prison we want them to do the same thing, right? We do not want to let out these violent offenders who make up, now, 49 percent of the State's population of criminal offenders, violent offenders with prior records of violence. They are serving, on average, roughly 40 percent of their time. We want them to serve 85 percent of their time, more like they do in the Federal system.

Then there is another cadre here, previous violent offenders who get arrested for a nonviolent crime. That is a robber or murderer who then goes and burglarizes. That is a nonviolent crime. Those are pretty bad actors by and large. That is 13 percent.

So you have roughly 62 percent of the present State population made up of people who have committed a crime of violence at least once, some many more times than once. We want those folks to stay in jail. We want to make sure they stay in jail.

Instead of telling the Governors they have to spend roughly $60 billion over 5 years to take care of those folks and the folks who never get into jail who are violent offenders, I respectfully suggest I have a better way to do that. It does not cost the States the money. Some States are not very enlightened in the way in which they deal with their prison populations, because of all those folks in the prison population of 840,000 persons, 160,000 of those people in jail right now are nonviolent, first-time offenders with minor criminal records. They are not the people we are worried about. We want them to pay the price to society. We want them to pay the price for their crime.

But how are we having them pay it now? They are taking up a maximum or a serious security cell with bars and clanking doors and guard towers and high walls, costing a lot of money. We have those people taking up prison space that, if that cadre were out of that prison in another prison setting, you would not have to release this 63 percent of the population that is violent. They could serve out their terms, and you would not have to build any new prisons, or only marginally more—fewer new prisons.

So it seems to me the smart way to do this is build boot camps. Why do I say that? We have a lot of Federal land out there that we are willing to give to the States in our legislation; Federal land they will not have to buy, abandoned military bases. I do not think these nonviolent offenders, committing a crime—they would not be in prison if it were not a serious crime —these nonviolent offenders should have to live in luxury. A lot of people going through basic training lived in quonset huts. Why should they not have to live in quonset huts? So I say send them to boot camps.

The boot camps cost one-third of, and some would argue as little only as one-fourth, but somewhere between one-third and one-fourth the cost of keeping a criminal in a boot camp for a year compared to the cost of keeping someone in a State prison cell for a year. I got the message of the Governors, in part at least, on their mandates. If you buy into our bill, there is $2 billion that the States can get, essentially with no strings attached. All they have to do is use that money to build boot camps.

They have to go out and build boot camps. They can say, "Look, Federal

Government, we are applying for a grant to house 12,000 of our State prisoners"—or 1,500 or 10,000—"in a boot camp setting. We would like to qualify for some of that $2 billion."

What happens in the State of Delaware when they do that? We allow, by the way, regional boot camps. Let us say there is an abandoned military base somewhere in the Delaware-Pennsylvania-New Jersey-Maryland area. The four State Governors can get together and say, "Let us get that base over here. The Federal Government will give it to us. Let us then uniformly apply for our share of that $2 billion." They apply for their share, and let us say it comes to $500 or $300 million for the four States. Then, based on how much money each of them put in, they get that number of prisoners in that area. So if it houses 10,000 prisoners and Delaware's share, based on the grant it gets, is 10 percent, Delaware gets to send 1,000 nonviolent criminals to a boot camp, where they work, where they stay in jail, where they serve out their sentence. They are not violent. They are not a threat to the community. They are not a threat to other people. They are not the people who are the predators out there.

What does it do for my Governor? Now, my Governor has received all Federal money to go out and build, all by himself or in cooperation with other Governors, a regional boot camp or a State boot camp. What does it do? Let us say he gets to put in 500 nonviolent offenders. Where does he get them? He takes from them from behind bars in the Smyrna, DE, prison or the prison in Georgetown, DE, or the Gander Hill Prison in the city of Wilmington. He takes them out. Guess what happens? Now you have room for another 100, 200, 500, 1,000—whatever the number is—violent offenders in the same cells that nonviolent offenders were in.

There are 160,000 of those folks right now. If all of a sudden we told the Governors of the States, you can take all your nonviolent offenders and we will find a place for them at one-third to one quarter the cost you are now spending for them, I think that is a pretty good deal. For a change, the Federal Government would be taking cost into consideration. For a change, we would be saying, "Let us be smart about this."

I know that is a rare thing around here. So my $2 billion in this bill does not sound as tough as that $6 billion that is being proposed. But the $6 billion is $60 billion. Governors are strapped already.

It is against the Senate rules to refer to the galleries so I will not refer to them but, if I were able to do that, if we took a vote in this Chamber of the non-Senators in this Chamber, I wonder whether or not in their home States they are willing to pass a referendum to raise the equivalent of their portion of the $60 billion that will be required for new prisons? I wonder how many would do that?

Maybe they would. In my State it is not that way because, if it were, it would already be done. Governors are very smart people. And legislators are very smart people. Their people are saying, "By the way, why are these predators on our streets? Why do you not put them away for a long time?"

The reason is it costs billions of dollars. So why do we not get started? If someone has an improvement, I have no pride of authorship. If someone has an improvement on how we can better deal with freeing up, up to 160,000—by the way my bill will not free up all 160,000. If we spend more money it will. But if you have a better way to do it that does not impose a mandate on the Governors, that means we will really do something about it, then I am wide open. But with all due respect, I do not think this $6 billion proposal over 5 years does it.

Let me tell my colleagues another part. I say to my friend who is presiding, who again came to me very early on and has vast experience as a Congressperson, his State is like mine, being a Congressperson in his State was like being a Senator because he represented the whole State anyway, if I am not mistaken, for a long time. We are "at large" districts, as we say in our States. He came to me early on. He said, "I want this thing to get tougher. I want to do more about these violent criminals."

Let me point out to him and others who are in the Chamber, of the $3 billion that is in here—I think the number is $3 billion; it has changed for regional prisons—for regional prisons. They are not boot camps, they are regional prisons.

By the way, I introduced a bill 5 years ago to establish 10 regional prisons where States could send prisoners.

In this bill they say we are going to spend $3 billion over 5 years to build regional prisons. How are they going to do that? They are going to say that once the prison is built it is going to be manned by, if I am not mistaken, Federal prison officers. It will be a Federal prison. Right? And 50 percent of those cells, or those beds in those cells, must be available for Federal prisoners. Is that what they are down to?

OK, they changed it. It is a little better. Twenty-five percent of those beds must be for Federal prisoners. I just went through and pointed out we do not need anymore Federal prisons beyond what we authorized and appropriated for. We do not have a problem. So why are we building more Federal prisons beyond what we are already going to build? The rationale is that, I guess, is the Federal nexus to justify getting 75 percent of those beds available for State prisoners.

Look, I have been taught, maybe incorrectly, by my dad that—my dad has an expression. Sometimes I would come in and I would say when I was a kid—even now—"Dad, I'd like to do something, I'd like to do this," and he would say, "Well, son, we can play this flat or round. We can do it the hard way or the easy way. We can do it simple or complicated. What do you want?"

He kind of taught me that usually flat is better than round in terms of getting something done. Usually easy is better than complicated and usually quick is better than a long time. In honor of my dear dad, I think this is making it nice and flat. Let us get it done now. Let us not complicate it. Let us give the States the ability to move and do it right now. Let us not complicate this thing.

Why do we need to complicate it? Why do we need to go out there and build regional Federal prisons when we do not have a Federal prison problem, when the Governors say do not give us mandates, when we are insisting that we need to take care of violent offenders and the easiest way to take care of violent offenders is to get smart?

I bet you if we polled the American people and said, "Hey, look, does it make a lot of sense to spend 30,000 bucks a year to have someone in a maximum security prison who is not a threat to society but who violated a law of society where they should be punished?" Give them the choice of whether or not you spend that, send them to boot camps, make them run, jog, do pushups, sweat their little ears off, make sure they actually understand they are paying a price for the crime they committed and where there is no incentive for them to escape because there is nothing in their background to indicate they are people who would be inclined to do that, I bet those folks are kind of like my dad: We can play it hard or easy.

Let us do it the easy way because the effect is to get violent criminals off the street serving their time in a setting that is a real live prison where they do not walk out the back door before their time is up, because they are shoved out the back door because of a prison-overcrowding court order and they are shoved out by one of these folks in yellow here, a nonviolent offender.

We did a little study in the State of Delaware about 5 years ago, and I am proud to say—I am not going to claim it is of my urging, but I suspect it is not in spite of my urging—we had a prison crowding problem in Delaware. I guess this was when Carlson was the head of the Federal prisons. My friend may remember. I guess that was probably about early 1982, 1983, somewhere in that range. We had this serious overcrowding problem, so I called to see whether the Federal prison system could help us to temporarily alleviate this overcrowding while we tried to work out our problem; could they take

a few prisoners into the Federal system—we would pay, the State would pay—while we got our thing squared away, if there were openings.

In the process, I then asked our then Governor to take a look at, do a little inventory of the people in prison. I will submit for the RECORD the precise numbers because I do not want to misspeak. It has been somewhere around 10 years ago this occurred. But I was astounded at the number of people who were taking up a prison cell, who were there for what we call a habeas, who were there awaiting trial for a nonviolent offense, who were there for nonpayment of their support—which they should be in jail for, in my view, but not in that circumstance—who were there for minor offenses. And yet we were letting out the back door of our prisons some real predators.

I may be wrong, and I do not want to cast aspersions on any State, but I will bet you those States are not unlike mine was. I will bet you there are a lot of nonviolent offenders who are not a threat to society who are in a cell, who could just as easily be in a boot camp behind a nice barbed wire fence setting, in a nice, comfortable, warm Quonset hut, getting up at 5 o'clock in the morning and running 3 miles and pretending like they are having fun.

I also think, by the way, we have to get smart. We have to get smart in terms of incarceration. The only thing we know about punishment for nonviolent offenders is certainty of punishment determines their likelihood to be recidivist.

So what is wrong with a nonviolent offender being confined in an area where they have to wear an ankle bracelet—nonviolent. Taxpayers have to be considered, too. It is like that old joke the kids have about another subject. Taxpayers are people, too. Taxpayers do not want to spend money, too, if they do not have to.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. BIDEN. I will be delighted to.

Mr. DOMENICI. I have listened attentively to your criticism of one bill and your support for another bill. But I wonder if it would not be fair to ask you if it is not true that there is no money for any of the bills?

Mr. BIDEN. I am glad you asked me that question. I just happen to have with me a fellow from West Virginia who has been working on how we are going to get the money for this whole bill. I defer to him on just about everything. But at the appropriate time, he is here prepared to speak to that. It is fully our intention, I say to my friend from New Mexico, no matter what we spend in this bill, to fund it. That is why the Senator from Delaware introduced a bill that instead of the bill that I would love to do if we had all the money in the world, which would cost $24.8 billion over 5 years, I introduced a bill that was $9.6 billion—instead of a bill that we could use the help on.

We could use 100,000 cops on the street tomorrow very quickly, very wisely and fully funded by the Federal Government but that would be $18.2 billion. We do not have that kind of money, so that is why the Senator from Delaware has 60,000 police in here phased over, and it is the same way with regard to a whole range of other elements in the bill.

So I would be delighted to speak in a moment in detail to the legitimate concern of the Senator from New Mexico about whether we pay for any of this.

Mr. DOMENICI. I would just ask if you are aware—I happen to know a little bit about it and it is not my budget past. The subcommittee that funds this is the one I am ranking on, so as has been said, I know a little bit about the budget. We had to put up the money in these various programs in their infancy.

I just wanted to ask if you knew the entire Department of Justice funding in appropriations this year is $9.6 billion for the Justice Department. I just did some quick arithmetic. The underlying bill, the Democratic bill says we are going to increase this by $10.2 billion over 5 years, which is over $2 billion a year, I just rounded that——

Mr. BIDEN. That is correct.

Mr. DOMENICI. If my arithmetic is right, we are going to increase this funding, while we do not have any new money anywhere that I know of, 27 percent for this little piece of Government. There are many things that I agree we ought to be doing to help and I want to be there helping. But, frankly, I think we ought to be a little bit careful about talking about one bill being better than the other without putting out a caveat that maybe we do not have the money to pay for any of it.

With that, I will be back this afternoon. The Senator was not finished. I had been waiting, and I did not want to take the Senator's time, and certainly I did not want to take the time of my friend from Texas and my friend from Florida, who have been waiting more time than I. I just wanted to make a point and ask the Senator about it. I appreciate the graciousness.

Mr. BIDEN. Mr. President, I think the point of the Senator is accurate as it relates to both bills, and I think it is something the sponsors of either of the proposals for the entire crime bill have to meet because the Senator is correct.

Mr. BYRD and Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I am prepared to offer an amendment to provide the money, and I shall offer it on behalf of myself and Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, and Mr. KERRY of Massachusetts.

Mr. President, I have listened with great interest as Senator after Senator has come to the floor and made urgent appeals for the passage of a crime bill and the creation of new anticrime programs. Make no mistake about it. I abhor the violence and senseless killing that is occurring daily in the streets throughout America as much as any of my colleagues who have stood on the Senate floor to demand community policing grants for local communities, construction of regional prisons, boot camps for violent juveniles, and gang prevention grants.

But, I want to take a moment to alert my colleagues to the fact that all of these new programs cost money—they will require discretionary appropriations to implement. And, unless the crime bill ultimately passed by the Senate includes a credible, accountable proposal to provide the means to pay for these new programs, the prospect of States and localities receiving the newly authorized assistance is unlikely.

It is for that reason, Mr. President, I shall offer an amendment as soon as I complete my remarks. This amendment will lock in place the 5-year personnel savings called for in the National Performance Review. It will then set aside sufficient funds to cover the 5-year cost of the pending bill. Funds would be placed into a newly created violent crime reduction trust fund in the following amounts: fiscal year 1994—$720 million; fiscal year 1995—$2.379 billion; fiscal year 1996—$3.168 billion; fiscal year 1997—$3.517 billion; fiscal year 1998—$2.492 billion.

The Appropriations Committee could make appropriations from the trust fund each year for the programs authorized in this act—the Violent Crime Control and Law Enforcement Act of 1993.

Finally, the amendment makes the necessary conforming adjustment in discretionary spending limits for fiscal years 1994 through 1998 to take into account the fact that funds have been set aside separately into the newly created violent crime reduction trust fund, as I have previously described.

In offering this amendment on behalf of myself and the other Senators whom I named, I am not unaware of the effect that this will have on the Appropriations Committee's ability to find sufficient resources over the next 5 years for other pressing national priorities.

The fiscal year 1994 budget resolution set binding discretionary spending caps for fiscal years 1994 through 1998 in both budget authority and outlays.

The caps will require large cuts below inflation for each of the next 5 fiscal years, 1994 through 1998, in both budget authority and outlays.

For fiscal year 1994, for example, discretionary budget authority had to be

cut by $24.7 billion below baseline, which is fiscal year 1993 appropriations plus inflation.

This level of budget authority, $501 billion, was also $7.9 billion below President Clinton's budget request and was $16 billion below a hard freeze—in other words, below the uninflated 1993 level.

The picture does not improve for the next 4 years. Further real cuts will be required each year under the binding caps that are already in place. The total 5-year cut below inflation will be $224.5 billion; and below President Clinton's request, cuts will have to be made totaling $59.7 billion.

Discretionary spending, therefore, has already contributed its fair share—and probably more than its fair share—of deficit reduction for the next 5 years.

Discretionary spending is the backbone of the Nation. It provides for our national defense; investments in our Nation's infrastructure; highways and mass transit; education programs; programs to assist the elderly, poor, and women, infants and children; research and development; health research and prevention programs; inland waterways; environmental cleanup; and law enforcement programs.

These and the rest of discretionary spending were cut to the bone during the Reagan and Bush years, and especially during the Reagan years. A little respite from the cutting was achieved under the 1990 Summit Agreement. But, under the 1994 budget resolution, we have voted to resume our cutting of these vital programs for another 5 straight years.

The Appropriations Committee will be unable to adequately address members' requests in the coming years if lower discretionary caps are adopted.

These are the reasons why I implore all Senators to resist the temptation to vote for amendments which will further cut the discretionary caps. Enough is enough. When we vote to end programs, as was done on the superconducting super collider, it is an easy vote to take those savings away from the discretionary caps. It will also be an easy vote to reduce the discretionary caps by any savings achieved from the upcoming rescission and so-called reinventing government bills. But, keep in mind as we weigh how to vote on such amendments, that we will need all of these savings and more in order to meet the caps that are already in place by the budget resolution that has already been adopted for fiscal years 1994 through 1998. We cannot meet those caps unless we are able to use savings generated from program terminations and from rescissions that will occur, not just this year but in every year. We will need those savings. If, instead of allowing the Appropriations Committees to use these savings, we are going to set 5-year caps which are extremely difficult to meet and then, to also cut those caps further on an ad hoc basis every time we enact rescissions or every time we terminate a program, then we will have succeeded, by 1998, in demolishing our Nation's potential for infrastructure growth in the immediate years to come.

We will have slaughtered our people's hopes and dreams at the altar of deficit reduction. Not because the deficit should not be reduced—we all know that it must. Not that we should not strive mightily to achieve a balanced budget as quickly as our economic and social well being will allow—we should. But because we will have taken the easy way out.

Mr. President, I have not quite completed my statement yet. But I ask unanimous consent that I may send the amendment to the desk and have copies made. I want to supply a copy immediately to the distinguished Republican leader, and then I will complete my remarks.

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

AMENDMENT NO. 1101 TO AMENDMENT NO. 1099

(Purpose: To fund the reduction of violent crime)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia, [Mr. BYRD], for himself, Mr. SASSER, Mr. MITCHELL, and Mr. BIDEN, proposes an amendment numbered 1101 to amendment No. 1099.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word in the amendment and insert the following:

B—State Prisons

SEC. 1321. BOOT CAMPS AND REGIONAL PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the programs, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carrier out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, and improving boot camp prison programs;

(B) developing, constructing, and operating regional prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to state and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such program in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the review required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years;

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—(1) 2,095,182 during fiscal year 1994; (2) 2,044,100 during fiscal year 1995; (3) 2,003,846 during fiscal year 1996; (4) 1,963,593 during fiscal year 1997; and (5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATIONS.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund," into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,379,000,000;

"(3) for fiscal year 1996, $3,168,000,000;

"(4) for fiscal year 1997, $3,517,000,000; and

"(5) for fiscal year 1998, $2,492,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be

excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.".

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $161,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,379,000,000 in new budget authority and $884,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $3,168,000,000 in new budget authority and $2,191,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $3,517,000,000 in new budget authority and $3,342,000,000 in outlays; and

(5) for fiscal year 1998, for the discretionary category: $2,492,000,000 in new budget authority and $3,470,000,000 in outlays.

Mr. BYRD. Mr. President, we will have taken the easy way out to emasculate discretionary programs which, except for the Reagan defense buildup, did not contribute to the massive deficits of the Reagan-Bush years—instead of facing up to the unconscionable growth in entitlement spending and the hemorrhaging in revenues that occurred under the 1981 Reagan tax cuts.

In conclusion, the war on crime is of such an overriding concern that as in the past the Committee on Appropriations must take extraordinary actions to confront this issue. In 1989, for example, I offered an amendment to the fiscal year 1990 Transportation approriation bill to fight the war on drugs. Unlike that year, nearly all of the appropriations bills for the current year have already been enacted. We took extraordinary steps then, and we are willing to take such steps again to meet this dire emergency.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. MURRAY). Who seeks recognition?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah, [Mr. HATCH].

Mr. HATCH. Madam President, the Hatch-Mack amendment, as we all know, attempts to alleviate some of the problems by providing $6 billion over 5 years for prisons. Half of that money will be dedicated to the construction of 10 regional prisons to house up to 50,000 State and Federal violent offenders. The other $3 billion will be used as grants to States for operation, maintenance, jails, boot camps, and prisons.

So we provide for boot camps in here. We want to save the money. The boot camps will do that. We do agree with that, whereas the Democrat bill provides for boot camps but they do not get much for prisons. Yes, prisons have been expanded, but because of the Bush administration.

One of the first things this administration has done, the Clinton administration, is cut back on prison construction moneys by $130 million or at least called for the cut back on prison construction funds. We do not think that is the right direction to go. We know this is the right direction based upon the facts, statistics, the actual worries of people out there, mothers worrying about their children, this constantly revolving door policy that we have in our prisons today running these violent criminals in and out, and in just very limited, short periods of time without making them serve as they should which is causing us problems all over this country.

I have to say that we condition these grants to the States on States enacting proof-in-sentencing provisions. That is the condition of participation in the $3 billion regional prison program, on a State's adoption of sentencing guidelines which ensures offenders will serve 85 percent of their sentences.

We require them to reform bail laws, and we provide adequate recognition of victims. They will have to require adequate recognition of victim's rights, law-abiding citizens of this Nation. We demand a 10-year prison term which means 10 years, not 2 years.

I am getting sick and tired of convicted murderers on the average being sent to jail for only 15 years of which they serve less than 6. We wonder why we have the problems we have in our society today. It is not hard to figure out, to be honest with you.

It has been suggested that the Federal prison system is not overcrowded. While it is true that we engaged in an unprecedented prison expansion effort during the Bush administration, the fact is that the Federal Bureau of Prisons is at 38 percent overcapacity. Those are the facts. We have 89,483 inmates for a rated capacity of 58,108. Do not tell me that we have extra prison space in the Federal prisons. And despite this overcrowding, the Clinton administration has failed to spend over $1 billion in prison construction money it currently has.

Furthermore, as I have mentioned before, it rescinded $130 million this past summer, money that was supposed to go to build a new District of Columbia jail. As well, the Department shut down a prison in Florida in September. The truth is we still need more prison space at the State and Federal level.

My colleague from Delaware has questioned the wisdom of providing the States with prison construction money. True, the States need to build more prisons.

Mr. BIDEN. If the Senator will yield, I do not question the wisdom of providing money. My bill does provide the money. I question the wisdom of doing it the way you are suggesting it as opposed to the way I am suggesting it.

Mr. HATCH. I stand corrected then. I question the wisdom of the way you want to do with only $2 billion when we clearly need we estimate $6 billion to provide the prison space for these hardened criminals.

The States need to build more prisons, and perhaps they have been also recognizing this. The Hatch-Mack amendment steps up to the plate and helps the States out. Some have asserted that State correctional facilities have some concerns with the Hatch-Mack amendment. That is not surprising, when you consider their view of the world.

The executive officer of the Association of State Correctional Administrators recently wrote:

If we have not properly identified our customer base—

Can you imagine customer base?

then it is not likely that we are making a difference. In our business—

That is, corrections—

the customer is not the public, not the legislature, elected officials, not our staff, and not the victims in the community. Our customers are our inmates, probationers, and parolees.

I do not know about you. But that makes me doggone mad. I think they ought to be a little more concerned about the public, the legislature, the elected officials, the staff, and the victims in the communities.

It is no wonder the States have been slow in building prisons with that kind of an attitude. But it is also no wonder because the States have plenty of problems in raising the funds to do it. This bill the way we have approached it would help them.

Our bill mandates the State's adoption of truth in sentencing. This is not the case. We encourage it by conditioning half of the money in this amendment on requiring that violent offenders serve 85 percent of their sentence. If the State is having trouble complying with this incentive, we also give the Attorney General a certain degree of waiver authority. So the Attorney General can make some exceptions to this. Look. It comes down to this.

Nobody can argue that our prisons are not overcrowded. I do not think

anybody can argue that with a straight face. Nobody can argue that when we put people in for more time, there is less crime and the crime goes down. I think the facts show that. I think the statistics show that. The Justice Department statistics show that.

I think nobody can argue with the assertion that violent criminals ought to be put away for a long time, and they ought to have to serve that sentence. If they are in jail, rather than going out a revolving door because we do not have the space, as new violent criminals come along, then they are not going to be on the streets committing more violent crime. We are overrun with that today, and both the distinguished Senator from Delaware and myself have been making that point from the beginning of this debate.

What I would like to do more than anything else is to get together and get the reasonable people on both sides of the aisle to sit down and come up with a consensus bill that will resolve these problems; that will get us more police in the streets; that will get us more money for prisons; that will establish boot camps, which I think the distinguished Senator from Delaware and I totally agree on; that would provide the moneys for antidrug efforts and get the DEA some money and get the FBI some money; upgrade Quantico, the police academy where at least a thousand top people go through every year and are trained all over the world—the best in the world, I might say; help the FBI to beef up its agents, in addition to putting police on the streets; do the work that we need to do with regard to safe schools; provide enough money for rural crime problems, because we ignore the rural areas in many ways.

We would provide $465 million for that and have antigang language, plus $150 million for that. All of us, I think, would probably agree with that. I can go along with the Democrats' drug courts, even though I would like to limit it to those most likely to be rehabilitated. We have both agreed quite a bit on child abuse issues, where we can resolve those problems. Of course, I think we have to do some things on counterterrorism.

We need to have the President and the Attorney General with us on this matter. Frankly, we want it paid for, too. The distinguished Senator from West Virginia has offered an amendment to pay for it. We have to look at that. We hope that it is something that can be supported. But we would like to pay for it. We would like to have this money appropriated, rather than just doing this reauthorization bill and having it ignored. We can fight on other issues that are buzz issues and difficult issues, but if we can put all that together, people in America would say: My goodness gracious, finally they have done something to really help us with crime.

It has been 8 years since we have put together a really good, comprehensive crime bill, and I think it is time we do that together, and I hope we can.

We are going to have to get those who are the few on each side to come along, but I would like to see it happen. I really would like to see a bipartisan approach to this that would really make a difference in all of our lives. It would lend credibility to the program and, of course, it would cause the people in America to realize that we can work together in the best interests of everybody. I encourage our colleagues to help do that if we can.

The second-degree amendment, as I understand it, is simply Senator BIDEN's $12 billion program, paid for by reductions in Government personnel. If that is all we are going to spend on this, and a lot of that is going to go for boot camps, I have to say that it is not enough. Those who really want to do something about this have a chance of voting down the Biden amendment and voting up the Hatch-Mack amendment, which will really make a dent in what is going on in our society.

So I am prepared to go ahead to a vote, but I understand there are others who would like to speak.

I yield the floor.

Mr. SASSER. Madam President, the amendment offered a short time ago by the distinguished chairman of the Appropriations Committee establishes a mechanism to fully fund the initiatives contained in the crime bill, and that is what I think everyone wants here. That amendment really ought to pass by acclamation. We should not even need a rollcall vote here to agree to fully fund the crime bill.

It does us no good to pass a so-called crime bill that is simply a shell, that does not have the funding to effectuate the actual crime control measures that it contains.

Some are saying, "Where are we going to get the money to pay for it?" Let me say to my colleagues that we do have the money to pay for the crime bill, and the savings are absolutely real. Let me just say this about the crime bill: You are either going to pay now, or you are going to pay later. You are either going to pay one way, or you are going to pay the other. You are going to put these policemen on the streets; you are going to try to enforce the laws of this country, or you are going to pay through having more people engage in criminality, which damages the economy, and you are going to have more people going to the penitentiary to the tune of about $25,000 a year to maintain each one of them; or we can go ahead and put the police forces on the street to control crime.

We are going to get the money to pay for the crime bill from an amendment to the unemployment insurance bill that the Senate passed last week. That amendment was offered by the Senator from Texas, and it enforced the savings that were proposed in the Vice President's plan to dramatically cut the Federal bureaucracy. Under the amendment offered by the Senator from Texas to enforce the proposal that the Vice President had proposed, over 180,000 executive branch positions were to be eliminated over 5 years. The Senator from Texas observed at that time that this would result in a cumulative savings of over $21 billion in budget authority.

Madam President, over $21 billion in budget authority was saved by effectuating the Vice President's proposal to cut executive branch positions. That is not just the chairman of the Budget Committee talking; that has been confirmed by the Congressional Budget Office. We in this body have already voted in favor of the relevant cap to discretionary spending by a massive majority.

Now, the amendment offered by myself and the distinguished Senator from West Virginia, Mr. BYRD, and the distinguished majority leader takes a healthy chunk of these savings and puts them into a purpose that 80 percent of the American people say they are willing to pay more taxes for, fighting crime. That is what we are trying to do—putting police on the streets and keeping the criminals behind bars where they cannot threaten law-abiding citizens.

Our amendment would establish a violent crime control trust fund, and this trust fund would ensure the funding for all of the crucial components that the Violent Crime Control and Law Enforcement Act of 1993 marries together. In other words, we are creating a trust fund to finance the crime bill, to hire the 50,000 policemen and put them on the streets, to build the prisons to hold the criminals that the police put behind bars.

In total, I think we ought to ask ourselves this question and be serious about it. Do we really want to do something about criminality in this country, or do we just want to talk about it? The American people are tired of the talk. They want something done about it. I want something done about it. I am sick and tired of walking the streets here of Washington, DC, and being apprehensive, and I am sick and tired of seeing my children go out for an evening to a movie or something and wonder if some criminal is going to kill them in cold blood before they can get home.

It is basic that a Government, if it is to be called a Government, must provide security for the lives and property of its citizens. And that is what this crime bill is all about.

The distinguished chairman of the Appropriations Committee and myself and the majority leader with this amendment are saying we are tired of talking about controlling crime. We

want to do something about it. We are going to put the financial resources behind this crime bill to make it work, and we are going to establish a trust fund to put the funds in there so they will be available and they cannot be pilfered for other purposes.

In total, the amendment would lock in $12 billion from the savings that come from reinventing Government. These funds would be placed in this trust fund to be used for the sole and exclusive purpose of combating violent crime. That is what the American people want to happen.

In addition, the caps in discretionary spending would be adjusted by the amount placed in the trust fund. By adjusting the caps, the Appropriations Committee can disburse the funds among the relevant law enforcement and crime control programs, but they cannot—and I want to make this crystal clear—they cannot use the money for anything else but fighting crime.

Just look at what they will be able to do. This trust fund will safeguard funding within the Federal budget to place an additional 100,000 police officers on the streets of this country; 100,000 more policemen will be walking the streets because of the funding we are putting in this trust fund to control violent crime.

The violent crime control trust fund will guarantee funding for the construction of additional prisons, to incarcerate violent criminals, and it will also build boot camps to try to teach first-time youthful offenders basic discipline and basic obedience to the civil laws of this country.

The trust fund will secure funding for the police corps program which I, along with Senator SPECTER, introduced, and this police corps will provide a very important addition to the police forces all across this country.

The violent crime control trust fund will put a padlock around funds to combat rural crime. Rural crime is growing much faster than crime in urban areas. The control of rural crime is very important to my State of Tennessee.

Now, we have heard other proposals, such as the one voiced by the Senator from Texas, to use some of the reinventing Government savings to build more prisons. There is nothing wrong with building more prisons. It is just that the proposal offered by the Senator from Texas simply does not go far enough. His proposal would pay only for prisons and ignores the need to guarantee funding for police forces, more police officers, and for rural crime initiatives.

If we just put the money in to build prisons, I think this is certainly a one-sided and shortsighted approach that is not going to do much to deter this Nation's crime problems. A prison deals with the end results of crime, and it does nothing to stop crimes that are occurring in the first place.

What we want to do is to put the police officers on the streets to protect the citizens of this country, to prevent the crime from occurring. We must have a comprehensive approach to addressing crime, and we must provide the resources to combat crime at all levels. And that is what the amendment that we are offering achieves.

Mr. President, I have heard a lot of rhetoric around here for a long time about being tough on crime. We hear the rhetoric, but the statistics get worse and worse and worse.

My amendment says, let us end the political games surrounding the crime issue and let us provide the real resources—the real resources—to wage the war against violent crime and to turn back this wave of criminality that is sweeping all across this country.

Mr. President, this amendment fulfills all of our colleagues' desires to fight crime, and it does it while being fiscally responsible and prudent. I believe that all of us can vote for this amendment, and certainly we all should vote for it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before he leaves the floor I want to commend our colleague from Tennessee. He is extremely credible on this issue, and this amendment deserves the serious attention of every single Member of this body.

The Senator from Tennessee over the past number of years has been the chairman of the Budget Committee and has spoken time and time again about the staggering problems we face in our economy and the association of those problems with the deficit issues and spending problems.

He is doing what ought to be done in any serious debate about crime, and that is coming up with some financial resources to do what everyone says they want to do.

Madam President, I ask unanimous consent to be added as a cosponsor to the amendment of the Senator from Tennessee.

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

Mr. DODD. Madam President, it also strikes me it always seems to be about in the months of September and October in election years we seem to hear more about this subject than others. The problems go on every single day. Young people are losing theirs lives in record numbers, but there seems to be an association with politics and politicians' interests in this subject matter.

Then we also are confronted with this gamesmanship of who is going to appear tougher. In my own view—and I say this with all due respect to those who have all sorts of various ideas in this bill—I happen to agree with the Senator from Tennessee. The best thing, I suspect, we can do in this body would be to give our communities and our States some resources to go out and hire the police officers and other equipment that they need to do the job. They do not need to be lectured by 100 Senators as to how they can do their job. They would like some help. Fewer speeches, a little less politics and a little more just dollars-and-cents help and then get out of the way and let them do their job.

Having said that, of course, we will now spend the better part, I guess, of the next 2 weeks competing with one area here as to who is more muscular when it comes to the issue of dealing with crime. Of course, most of us know that the crimes that our States and localities deal with are at the local level, State laws, not Federal laws. Nonetheless, it deserves our attention here. Obviously, the problem is monumental in scope.

I want to focus, if I can, on just one aspect of this, something that I spent some time on over the last few years, and tragically this morning in my own State the issue gets highlighted once again. I want to talk about youth violence that is sweeping our country and has been growing in staggering proportions.

Madam President, this very morning when we gathered in this Chamber, in front of the New Britain High School in New Britain, CT, 18-year-old Miguel DeJesus, about to enter the school building, was shot down.

This was not a shooting in the dark of night in an isolated alley. The shooting took place at 7 a.m. as students were getting off the school buses a few feet away. This was not a shooting in an enormous city—New Britain's population is 75,000 people.

Miguel DeJesus is now in critical condition with multiple gunshot wounds—shot five times, I am told. The police, of course, are investigating the shooting and whether or not it was gang related.

The story, Madam President, is horrifying because of its violence and even more horrifying because such incidents are becoming commonplace. Thousands of our children in Connecticut and across this Nation are now the casualties of an undeclared war, and there is no cease-fire within sight.

Schools, whose primary discipline problems used to be students chewing gum or running in the halls, now have to worry about whether or not their students are going to be gunned down in broad daylight in front of the school building.

On several occasions this year, I have come to the floor of this Chamber to speak about the rising tide of youth violence ravaging our Nation. Today, as we debate anticrime legislation, I want to focus on the dramatic rise of youth gang violence, the kind of violence that may have caused this morning's shooting in New Britain, CT.

Madam President, there are now an estimated 400,000 gang members ages 9—as hard as that may be to believe—ages 9 to 18 in this country, and gangs are spreading, as this first graph I put up here shows. It shows that gangs have fanned out across the country and are no longer limited to a few major urban areas.

But can you see the rise from 1960 through 1991. It sort of flattened out in the late 1960's, and then it just has gone in almost a direct straight-arrow approach up to where we now see the number of cities with gangs in this country. So it is growing at an incredible rate.

Along with this increase in gang membership—and I am going to put up a second chart here—there has been a corresponding rise in gang violence in the United States.

Again, you see, dating from 1987, not as far back as 1960, but 1987 through 1992, we just see, again, a dramatic increase in the number of gang violence.

Madam President, despite what many of us may think—and I think it is important to note this—gangs are no longer a problem that exists only in major urban areas. According to the Department of Justice, gangs have appeared in nearly every State of the Nation. From Kansas to Connecticut, from New Mexico to Hawaii, from Ohio to Montana, gangs are terrorizing our communities.

Recently, by the way, a month ago or so, the city of Hartford was literally paralyzed for several days as a result of open gang warfare in the streets, and with the police department overwhelmed by their inability to really respond to that in an appropriate way, it caught the national attention. But it is an example that the capital city of my State literally appeared as though it was in some Third World country as a result of gang violence.

Many Americans moved into the suburbs, of course, when this problem first began to emerge, to small towns, only to find that crimes had followed them.

My colleague from Tennessee just briefly talked about the problems of rural crime in his State of Tennessee. Any Member of this body can get up and talk about what is happening in smaller communities.

This is not, again, a problem of major urban areas just on the east or west coast. All across our Nation we find that urban drug-dealing gangs are migrating from large cities in search of untapped drug markets, less competition and greater profit margins.

It is often assumed that gangs are strictly made up of African-American, Latino and Asian males; next-to-no white or female youth in gangs, we are told. The fact is that gang membership cuts across all ethnic and racial and gender lines.

The statistics show that while there are various sizes and percentages, we are seeing a dramatic increase, for instance, in the number of white gangs. It has risen 61.7 percent since 1985. This represents the greatest percentage increase, I might add, of any racial or ethnic group. It is the white gangs in the country.

So people assume this is just a black or Hispanic or Asian problem.

The Department of Justice contends that female gang members, while small in numbers right now, represent a serious concern. Female gangs exist throughout the country. Forty cities now report having independent female gangs. Girls are increasingly involved in youth gangs, violence, and drug traffic.

Madam President, again we have a very good bill here that has been proposed by the chairman of the Judiciary Committee. There are a lot of good ideas in it to try to deal with some of these problems.

And I underscore, I think, the importance of what the Senator from Tennessee highlighted here: It needs to be comprehensive. We need to do what we can to provide resources to people, rather than lecturing people, because they are just as concerned in the communities of this country with gang violence as any Senator or Congressman is. They do not need to be told necessarily ad nauseam how bad the problem is. They would like us to take some of our resources and bring them to bear so we can begin to deal with the problem. And we are going to try to do what we can in our schools.

I mentioned the tragedy in New Britain, CT. We are trying to get some assistance to our schools because of the violence that is located there. Every single day, Madam President, 135,000 children bring a gun to school in America. One out of five brings a weapon of some kind; if not a gun, then a knife or something else, to defend themselves.

I mentioned earlier school disciplinary problems used to be relegated to chewing gum or running in the corridors. These children are bringing these weapons not because they intend to be the perpetrators of violence, but to defend themselves, in many cases, or in most cases.

And yet you see, even with that, the explosion of problems. Before today ends, 12 children will die because of violence in this country. And we know already one of them may be one of those statistics as a result of a gunning down in front of a school in my State this morning.

We had testimony a few weeks ago—I held some hearings on this issue—of what can we do about it. A principal of an elementary school in Bridgeport, CT, has to put bulletproof glass up in front of her kindergarten—bulletproof glass in front of her kindergarten—because of this.

The children of the Munoz Marin School in Connecticut get bused two blocks to school in the morning because of the violence.

In New Haven, CT, they spent $700,000 of the education budget for metal detectors and for cops in the corridors; part of the education budget of that city.

So the school violence is just staggering in proportion.

We have a couple of proposals, Madam President, that I will offer that take some of these resources and gives some assistance to these schools to try to deal with these problems. I do not mean just in the mechanical or technical equipment. We do that. But also if we can get some of these young people—if this case this morning was a gang-related incident, how do we get these young people to start thinking about alternatives to that as a way of finding some sense of belonging? How do we teach children that never learned because no one is at home about conflict resolution, resolving their problems? Can we do that?

I think, unfortunately, the schools are going to have to assume some of that responsibility. We are offering some help in that regard with some ideas that we will offer to the committee for their consideration in this area.

But, again, Madam President, it is a tragic irony that on the very day we begin the consideration of this legislation, the major story in my State this morning is a young student about to enter school is shot five times, creating pandemonium, I might point out, among the student body, since all of them were getting off their school buses. The pools of blood were there for these children to see and to watch as the entire incident occurred. That should not be a part of a child's life. It should never occur or, if it does, under the rarest of circumstances.

And yet, every single day, it is happening more and more.

So I commend the amendment being offered by the distinguished Senator from West Virginia, the Senator from Tennessee, and the Senator from Delaware on this particular aspect as a funding scheme. They are absolutely right to do so.

Madam President, I want to commend the Senator from Delaware for his efforts in this regard. He has been on this floor countless days over the last several years trying to get a crime bill passed. I hope this time he will succeed; that we will minimize the talk; that we will really try to provide some resources to people; and, as I said, earlier, kind of get out of the way and let the people who know what they are doing do their job.

To me, that is the best help the U.S. Senate might be to our local and State law enforcement officials. They need some official help, they need some resources from us, but they do not need a lot of the lecturing. These good people know the job has to done.

The Senator from Delaware said that here, and he was absolutely correct.

Mr. BIDEN. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. BIDEN. Let me say, the Senator, I know, at a later time, when he has an opportunity, is going to introduce several amendments. I just want to say to him that I think the thrust of his initiatives, several of which he mentioned in his brief talk thus far, are the heart of what we have to deal with.

Granted, this bill has 60,000 police officers in it for community policing; granted, it has a vehicle and a mechanism to get nonviolent offenders to boot camps and violent offenders behind bars; granted, it has money for drug courts to impact on recidivism; granted, it has money for drug treatment in prisons.

But the one thing that we have to focus on, which we have neglected, as a nation, for the past 12 years, is focusing on juveniles.

We have a cadre of young people—as my colleague knows better than I, because of all the work my colleague has done on juvenile issues and children's issues—who are literally being trained to be the predators of tomorrow, who literally are out there without any supervision or any reasonable prospect of supervision because of their family circumstance or even when they find themselves within the judicial system, the criminal justice system, without any reasonable prospect of guidance or control.

I pointed out yesterday there are 600,000 kids who are on probation for drug offenses, minor drug offenses, who have absolutely no supervision. They have gone into a court setting, they have concluded that, and they have either pled or the court has concluded they have violated the law for the first time relative to a drug offense. They have essentially been put on probation, not put in a cell, not put in a boot camp, not put on anything anywhere, but essentially put out on the street with absolutely no prospect that anybody is there, whether it is a drug program, drug testing, mentoring, or just reporting to a probation officer. There is no prospect of anybody being able to intervene other than the school system which is already overloaded, as the Senator points out.

When my colleague and I were going to school—can you imagine? I cannot imagine going through a metal detector having to get into an airplane—well, I never got in an airplane. But can you imagine going to school and having to walk through a metal detector? Focusing on juvenile gangs, gang killings, the juvenile justice portion of this bill, I respectfully suggest, even after we pass this crime bill—I want everyone to keep their eye on the ball here. This crime bill is only one of four or five major pieces of an attack that we should be waging on violent crime in America.

We are going to do this—God willing, and the creek not rising, and the Republicans not filibustering—we are going to do this bill. Then we are going to do the Brady bill and gun legislation. Then we are going to do the Violence Against Women Act, which the Senator from Connecticut knows a great deal about. Then we are going to do the drug bill, which is a major piece of legislation which we will get to the beginning of next year.

I sincerely hope, regarding the additional ideas the Senator has talked about throughout his career relative to the criminal justice system and the youth of this country, I hope he will do what he is doing here on that drug bill as well, because people want to ignore them. We tend to ignore this, but if we do not stop kids from getting into the crime stream and drug stream in the first instance we end up debating what we are debating now, whether we are going to find an extra 30,000, 50,000, 300,000 prison spaces at $25,000 to $30,000 a shot.

So I compliment him for that one thing. There are many things about the career of the Senator from Connecticut that are admirable; none more than his becoming the expert he has on the problems of the youth of this country, not only in terms of their education but in terms of how the devil we keep them out of the crime and drug stream.

I thank him and look forward to his amendment when we finish.

Mr. DODD. Madam President, I thank the chairman of the committee. I will leave these statistics up. I suspect that of 600,000 young people who are on probation because of some drug offenses, the overwhelming majority of them are included in our 400,000 figure that belong to gangs in this country. I suspect there is a correlation there.

So, with the chairman's permission I will leave these two charts over here for Senators who may wish to take a look at them just to show the dramatic increase that occurred in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, back on the specific amendment that is the underlying amendment here relating to prisons. I would like to, once again, reiterate a few things and speak to a few points made by my distinguished colleague from Utah.

The issue here is not whether or not we should help the States—we should, we must, and we will—the issue is how we help the States with their prison overcrowding problem. The reason I keep going back to the States here is I think the most important thing for us to do in this debate is not mislead the American public.

In the entire system of incarcerated persons, Federal and State, we have behind bars in the State and local prisons and jails 1,290,000 inmates. At a Federal level, we have behind bars 80,000 inmates. I put this up to illustrate two points.

No. 1, the States have a much bigger and more serious and more difficult problem to deal with than the Federal Government. It is not because they are better or worse. It is because under our system when the Founding Fathers wrote the Constitution, they did not want a national police force. They did not want the Federal Government to be able to use its police powers to, in fact, run the States.

So we have been fastidious as a nation to make sure that we do not have a national police force that has concurrent jurisdiction on everything with the States and/or superseding jurisdiction over the States in criminal justice matters.

So as I have been involved in this issue from the days back when Senator McClellan headed up the Subcommittee on Crime, to when Senator THURMOND was the chairman of the Judiciary Committee, and now with my friend from Utah being the ranking Republican on the committee, I have thought one of the serious mistakes we have made at the Federal level is we have, back as far back as Richard Nixon—when I entered politics I was elected in 1972 when he was reelected President—we have, beginning with Nixon, so vastly overpromised what the Federal Government can or cannot do relative to street crimes in our neighborhoods.

There is much we can do; much we should do; and much we do do in this legislation. But ultimately, 95 or 96 percent of all the crimes committed in this Nation are committed at a local level, within the total jurisdiction of a local police officer and beyond the authority of jurisdiction of an FBI agent or a drug enforcement agent or a Federal official of any kind, even if the Federal official wanted to exercise that jurisdiction.

So I want to make it clear in this crime bill, not merely that we want to help the States, but ultimately this is a State responsibility which we can impact on but cannot solve at a Federal level.

We have been declaring wars on crime and drugs to the point I think we have diminished and diluted our credibility, all these wars we have declared.

I would just like to win a couple of battles. I do not want to overpromise. I am tired of overpromising. But this bill has 60,000 cops that will go out on the street with State, county, or local police uniforms on, partially funded by the Federal Government and the Federal Treasury, to make the streets safer. One thing we know, if there is a cop on the corner, on that corner it is less likely there is a crime committed at that time when he is on the corner. There is not a lot more we know with certainty.

As I said yesterday, there are those out there who say, when I read the editorials and hear other people speak—not my colleague from Utah but others—that, you know, we have tried the cops and bricks and mortar routine.

We have not tried the cops, bricks, and mortar routine. I am reminded, and I see my friend from Maine—and he is my friend, as they say in this body—is on the floor. He is a close personal friend. I do not want to ruin his reputation by acknowledging that, but he is. And he also is a poet, seriously a poet, a published poet. And he will, as he does every time I quote someone or try to recall a passage from literature, and I do my best at it, he is always kind enough when I finish to wait until we are in the Cloakroom and say, "Joe, no, it was the following."

I am trying to recall from memory, I think it was G.K. Chesterton who said about Christianity, "It is not that Christianity has been tried and failed. It has been tried and untested." Or something to that effect.

That is about where we are on cops and crime. It is not that we have tried to put a lot of police on the street and provide the appropriate incarcerating circumstance for those who are convicted and have failed, it is that we have not tried.

The fact is, when I came to this body 20 years ago, in the United States of America, for every one felony that was committed, one crime, there were three police officers in America at the State and local level. Now for every one police officer at the State and local level, there are three-point-something felonies committed.

So it is not like we have kept pace. The top 10 largest cities in America have had in the recent past an increase in their total police population of only on average 1.8 percent. But yet when you listen to the editorial writers and you listen to the people who were looking for root-cause solutions, as I am, they always juxtapose that against cops, as if we are offering cops as the solution and we are offering prison space and boot camp space as a solution. We are not offering that as a solution, we are offering that as something to stem the hemorrhage.

We must take back our streets, not figuratively, literally take back our streets. With all due respect to all those initiatives that may or may not come forward as we debate violence in America over the next 6 months in this body, notwithstanding all of them, none of them can succeed unless we put a tourniquet on this now. One of the elements of the tourniquet is more police officers, more prison space and boot camp space.

But my plea to my colleague from Utah and all of my colleagues who very shortly will get to vote on this proposal is let us be smart about it. Let us use our heads. If you can, with one-third the number of dollars, accommodate the same total number of convicted felons, does it not make more sense to do that? It seems to me it does, and what the bill provides is $2 billion that States can do one of three things with, with no strings attached:

The States can take that $2 billion over 5 years and if they have a prison system—by the way, I will ask my staff to correct me if I am wrong because my staff really knows this material inside and out. I think I know it pretty well—I believe the cost of an inmate, the cost to the taxpayers for an inmate in jail for a year, 95 percent of that cost relates to things other than the cost of the prison cell; 5 percent goes to incarcerating a person in a prison cell, building the bricks and mortar and putting them behind bars; 95 percent is what we call an operating budget. It means the number of guards, and it means everything from the electricity to the pneumatic locks that are on the doors and the cost of operating them.

Some States—maybe the State of Washington, I do not know, the State of Delaware would be eligible as well—some States have built prisons, have the bricks and mortar all done, sitting there with empty prison spaces, but they do not have the money to operate those prisons.

Under our legislation, they would be able to take that money and they would be able to use it to operate their State prison systems that are there but not able to be run, and/or to supplement the operational cost of an existing system. But they also would be able to do what my State will do, I believe, and many will do. They will be able to go out and build boot camps. They will be able to go out there and take an existing piece of Federal property that is abandoned potentially and/or another piece of property they find and at a very low cost, essentially clear the land, put in a chain-link fence with some barbed wire at the top of the fence, instead of bricks and mortar, built safe and secure, Quonset huts or the equivalent, and put these people who are first-time offenders, nonviolent and basically under the age of 28, into those systems.

When they have them in those systems, they will be able then to make them drill like they do in the military; make them take education courses; if they have a drug problem, put them in drug treatment behind that fence, behind that barbed wire, serving their sentence.

For example, there are certain things I have learned in my years working on this, I say to the Presiding Officer. When I first got here, the general point of view was that only that person who had a drug problem who acknowledged the existence of a drug problem and voluntarily went into a drug program could be helped. Guess what? That is not the way it works.

The rate of cure and/or the number of months that they stay away from drugs, depending on any measure you take, is essentially the same for someone who says voluntarily I want to go to a Betty Ford clinic as opposed to someone to whom the judge says, "You're going to jail, and in jail you're going to have a drug treatment program you have to participate in." Same impact.

So why do we not—since we let out of the jails literally last year, the States released tens of thousands of people who were drug addicted. They served their time, they are back out on the street. It was 200,000 people last year. The State said, "Now you have served your sentence, we open up the clanging door, we let you out, and what do we let you out with? You served your time, but you are drug addicted."

So what are they going to do? They are going to go up and steal your purse, steal your car; they are going to mug the people who are here to watch the proceeding or the people speaking, like me. Why? Because in prison they are able to get drugs and in prison there is no drug treatment.

So you should be able to treat them. We are not coddling these people. Some of my barbed-wire friends, as I refer to them, "We're going to get tough on crime and all the rest." That is great; let us get tough. They characterize treatment in prison as somehow coddling prisoners. They are in prison, behind a barbed wire, but we would allow the States to use those moneys.

State corrections professionals who have built the existing boot camps, often called shock and incarceration programs to punish offenders harshly and intensely, have done this in marked contrast to the relatively easy terms of regular prison terms. These boot camps are not easy "pickins." The average 23-year-old would rather go into a prison cell with all his buddies.

By the way, one of the sad things about prisons, if you go into the communities—I will ask my staff to get me the number; I hope they are listening back there—but there is a startling figure; that an incredibly large amount, high percentage of those people who have been sent to prison in the last year have had a mother, father, brother or sister in prison. Prison is not new to them—37 percent; 37 percent of the people we have in the recent past and will in the near future send to jail, into a prison cell, have had or have a mother, father or sibling in jail.

When you go back into the neighborhood, by the way, and a lot of neighborhoods, black and white and Hispanic in this country—it used to be when I was a kid and you went to prison—I did not live in a real tough neighborhood, but I played a lot of ball in real tough neighborhoods—you go in and even in those neighborhoods, if anybody had been to prison, your brother, uncle or

somebody, everybody would say, "Where's Uncle Charlie?" "Well, he's on vacation." "Where is your brother, Harry?" "He got a job in Tuscaloosa."

Now when you get out of prison, you walk back home and say, "Man, I did my time; I've been in prison." Prison is a badge of courage.

So you let the kid make a decision, 18-, 20-year-old kid, do you want to go to prison where your brother Charlie is and, as I said, 37 percent of them have a brother in prison, or you are going to go to a boot camp and get up at 5 o'clock in the morning, run 3 miles, do pushups, go through a drug treatment program, you are going to have a drill sergeant stand over top of you and screaming at you, you are not going to be able to move. I promise you, most will pick the prison.

So I just want to make it clear, and I will end with this—I see two of my colleagues seeking recognition—Madam President, in the bill the $2 billion allowed for boot camps is not an easy alternative. It is tough. Second, it is not a mandate to the States. They do not have to come up with the total of $11.8 billion in State moneys that they do with the alternative being offered. And last, they work.

Mr. COHEN. Will the Senator yield?

Mr. DORGAN. Madam President, I wonder if the Senator will yield.

Mr. BIDEN. I will yield for a question from my friend from Maine, and then I will be happy to yield.

Mr. COHEN. I was just going to pick up on a point the Senator made. I have heard the Reverend Jesse Jackson give many speeches and, as the Senator pointed out, prison for many of those who are entering it is not a step down; it is actually a step up; that they in fact look forward to something more than they have currently on the streets.

Second, the Senator earlier indicated I am in the habit of correcting him with some precision. I believe he was quoting G.K. Chesterton, and as I recall the correct, precise quote the Senator is referring to is that "the Christian ideal has not been tried and found wanting; it has been found difficult and left untried."

Mr. BIDEN. He is absolutely correct, and I am glad, Madam President, that the whole Nation has observed the accuracy of my statement that my friend from Maine never lets me down. That is why I feel safe in attempting to quote people, knowing that ultimately before the day is over the RECORD will precisely reflect the quote. I sincerely thank him for it, and I yield the floor.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. BIDEN. I will be happy to yield for a question.

Mr. DORGAN. I thank the Senator very much.

I will refrain from using any quotes as long as the Senator from Maine is on the floor at this point. I appreciated that exchange.

I would ask the Senator a question about boot camps. The Senator made the point, and when I was in the Chair for an hour I listened intently to the point the Senator is making, with respect to the cost. The Senator was saying why do we not do it smart for a change.

When the Senator talks about boot camps, that term is more general than talking just about the boot camps that are now used for people with very short sentences to move them in and out for a couple of months.

My understanding of the Senator's proposal—and we are going to offer an amendment later that I have been involved in—is these boot camps or prison camps would be designed to hold nonviolent prisoners who are now taking up a prison cell with a thick door and a lockup. In an alternative incarceration facility, using Fort Dix, for example, as I understand it, Fort Dix is being built for about $20 million, converting a base to an incarceration facility, and it would have cost $100 million were they to build a regular prison, with all of the things that are encompassed in the construction of a regular prison. So for about one-fourth or one-fifth, you build an alternative incarceration facility.

The point of that is you have about 50 percent of the prisoners who are nonviolent you can move to a much less expensive facility, incarcerate them there, open up prison cells for violent people, and put them there and keep them there.

The solution then has been a solution that costs one-fourth or one-fifth of what others propose to spend, and you accomplish the same thing. You get violent people off the street because you now have a place to put them.

As I calculate what the chairman is talking about, the potential exists for putting 100,000 to 150,000 people who are violent criminals in regular prison cells, who are not now in prison, because you will have established at much less cost alternative incarceration facilities and moved nonviolent prisoners into those facilities.

So when the chairman talks about boot camps, my understanding is we are talking about something more than boot camps—alternative incarceration facilities.

Mr. BIDEN. The Senator is absolutely correct. Maybe I should call them prison camps with fences and wires and quonset huts rather than with steel doors and expensive cells and stone walls.

The Senator is absolutely correct. Not only does it do the things he suggested, but it does another thing. The States, if they choose, can take part of this money that they would get under our proposal, build a prison camp-boot camp, take someone who is a first time offender serving 2 years in jail for a nonviolent offense, put them in that facility and put them into a tough regime as well as drug treatment. And if the statistics hold up as they do with drug courts, which is a separate issue, people who are first-time offenders who have drug treatment followed on by drug testing, that is, released and at the time of their release they must be tested periodically, the rate of recidivism for those first-time offenders drops from around 35 percent to 3 percent.

So not only can we do it cheaper, if the States wish to do that, not only can we do it at less of a cost to taxpayers, not only can we free up prison space for hard, violent offenders who are now getting out, we can also, if we are smart, increase the prospect that the first-time offender will not be a second-time offender. You have a better shot at doing that in that prison camp setting than you do doing that in the big house.

And so for a whole range of reasons, it makes more sense. In addition to that, the Senator from North Dakota is not going to have to go back home and tell his Governor he has to go to the legislature and raise a whole lot more money to put no more hardened criminals behind bars than this will essentially do.

Mr. DORGAN. If the Senator will yield for one additional question.

Mr. BIDEN. Sure.

Mr. DORGAN. This is an interesting discussion because as I listened to it, in some respects I hear people saying well, if we simply throw more money at this, that will solve the problem. The question is not are we doing enough. The question is are we doing the right thing.

Mr. BIDEN. Precisely.

Mr. DORGAN. In this circumstance, what we are saying, at least a number of us who are interested in alternative incarceration facilities, is to take nonviolent people and put them there at much less expense. We are saying we can provide far more prison spaces, cells, regular cells for violent criminals at a fraction of the cost.

As I compute this, the potential exists to take 100,000 to 150,000 cells, empty them, make them available for violent criminals, and take them off the streets and put them there and keep them there; and that compares, even though we would spend only about 60 percent of what the alternative would spend, with probably 25,000 or 30,000 regular prison cells built under the other proposal.

So the point is you spend a third less and do three or four times more. That relates to what the Senator from Delaware said earlier. It is time for us to do things smarter. You do not have to spend more money to do more or to accomplish the right result. You can, it seems to us, if you do this more appropriately, provide far more prison space

for hard-core criminals at far less cost than we have thought about previously if we simply do the right thing. That is why I am impressed with this approach. We can really accomplish something; 150,000 cells available for hard-core criminals is not a small-time solution. That deals with this in a big way.

Mr. BIDEN. I wish to make clear to the Senator that is our goal, but the $2 billion does not buy 150,000 vacancies. It buys us 70,000 vacancies. I would be prepared to do that plus another 15,000 prison cells like the other team wants to build. If we doubled that money, we could get all 160,000 of these nonviolent, first-time offenders who are taking up hard-core space.

But the Senator is absolutely correct in the thrust of what he has said.

Again, one of the things that I know the Senator agrees with and that I wish to be real certain about—I have been doing this for a long time. We come to the Senate. We all get assigned certain responsibilities, minority and majority, and we allegedly are supposed to become, if not experts—like the old joke, an expert is anybody from out of town with a briefcase. Well, we do not get to be experts, but hopefully we get relatively well informed. We all get different assignments to be the person to whom our side tends to look for some of the detailed data when making up their minds. One of the things that I have tried to do in my job assigned to me by the Democrats, being the chairman of the Judiciary Committee, is to make sure that I do not overpromise anything, to make sure that whatever I am saying about the crime bill at the time that I am speaking to it is as accurate as I know it can be.

So that is the only reason I say in truth-in-advertising the $2 billion I have in the bill would get us 70,000 boot camp spaces and about 15,000 hard-core prison spaces. You can play with those numbers. If the State did not want to use hard core space you can bump it up to 81,000. I do not know the exact number. But that is the point. I think if in fact this works, as I believe it will and I think the Senator from North Dakota believes it will, we can come back here and do it all. We can do more of this.

One last point. I know the Senator and I also want to give credit where credit is due. The Senator from North Dakota and I spoke, and he indicated to me that he thought we were not even doing enough in the boot camp area. In the first bill I introduced on this because I did not think I could get the support to spend more money that I now have, since the chairman of the Appropriations Committee and the chairman of the Budget Committee have now signed on to in a major way to fund this, I only had $300 million in for these boot camps. I wanted to make the record clear. The Senator from North Dakota said that is not good enough. He wanted to see a lot more. So he deserves the credit for this being up significantly.

I also know there is one other thing he has a grave concern about, and I know it is his amendment. I hope we can work it out. That is that he is worried about the States, notwithstanding the fact that they will be able to have freed up spaces for violent criminals, that he wants to make sure those violent criminals serve their time; serve 85 percent of their time or more, like they do in the Federal system.

So I hope when his amendment is in order, when he decides to introduce it, that we can accommodate that. I want to give credit where it is due. This is really his baby. I appreciate it.

Mr. DORGAN. Madam President, I do not want to test the Senator's patience, but if he would yield for one additional question, I want to illustrate why I talk about 100 to 150,000 violent criminals. If we construct at Fort Dix the opportunity for $20 million to incarcerate 3,000 people, taking an abandoned military facility, if you do $700 million and the Justice Department or whomever is constructing these, could construct it as reasonably—and I should say that my friend from Ohio is going to join me in the amendment, Senator GLENN, he believes as, the chairman indicated a while ago, you can construct these camps with Quonset huts and other facilities.

We have had people living in those for a long time in bases and so on around the world. You can construct these in a reasonably effective way. If you could replicate the Fort Dix model, incarcerate 3,000 people in a facility that costs $20 million to construct, if you spend $700 million you are talking about 105,000 people. That is 105,000 people that can go from a prison cell to an alternative incarceration facility and you open up 105,000 cells. That is only $700 million. We can do it with $1 billion. Then you are up to a substantially higher number.

That is the point I was trying to make.

Mr. BIDEN. I think the point the Senator makes is absolutely accurate. My numbers that I have been using have been very conservative numbers. I have wanted to make sure that no one would be able to say to the Senator from Delaware that no, you are inflating these numbers. I have taken the most expensive end of the boot camp cost, and then divided the number of people I could get into them.

The Senator from North Dakota is absolutely right. And with a little bit of imagination you can even get that cost down further.

The irony here is some on this floor have characterized our boot camp proposal as somehow a less severe version of what should be done with criminals. The truth is when I first got here, and the Senator from North Dakota first got here, after having served in the House, if we had ever stood up and said we want to put up Quonset huts, they would have said, "Oh, my Lord. You reactionary people. What are you doing putting them out in quonset huts? You should have them in these expensive cellsthat meet all OSHA standards, and so on."

The truth of the matter is we are not talking about sending these folks to Boys Town. We are not talking about sending these folks to some lovely arrangement whereby they go to summer camp. We are talking about putting folks where they do not want to go, do not want to be, not going to like, going to have to work like the devil when they are there, and have to undergo education while they are there, including drug treatment if the States so choose while they are there, and increasing the prospect that they will not be repeaters significantly greater than they would have if they had stayed in the prison.

Mr. DORGAN. The main concern, Madam President, is finding space to put violent people. That is the main issue here. We had a lawsuit a while back in which a prisoner was suing the authorities that were imprisoning him because he was not getting variety tier cable television; not regular cable, he needed variety tier because he wanted to watch hockey. He did not get variety tier in jail; therefore, a lawsuit. The judge had the good sense to throw the lawsuit out.

The fact is people sent to jail, especially violent criminals, deserve it seems to me to be incarcerated for the period of time the judge intended that person to be incarcerated. We do not need to reward them with good time in order to find out how we can dangle incentives in front of them to make them behave while in prison so they can manage them better. The question is if they manage them better in prison on good time, who can manage them at midnight on the city street just before they are about to perpetrate the next attack or commit the next criminal act?

There is no management when they are turned back out on the street early. That is the purpose of all of this. It deals with security, victims, and safety. It is not trying to take advantage of anybody. It is just saying if you commit a violent crime in this country, if you are a violent criminal, and most of the violent acts are committed by the same people, 6 percent of the criminals commit about two-thirds of the violent crime in the country, if you are one of those, if you are a career criminal committing violent acts, we are going to find you, lock you up, and keep you locked up.

That needs to be the message of this crime bill. Then we need to find as best we can what are all the root causes, and how can we work on all of them at

once to try to deal with the other cultural and related issues that help create this.

But if we do not do something to make space available to lock people up who commit violent crimes, then we will have failed.

That is why what the chairman has brought to the floor, Senator BIDEN this year, is refreshing. This is different. If anybody says this is the same old thing, they have not read the bill. This is different. It is an alternative. It really does deal with violent criminals in a very productive and a very creative way.

I would say to the chairman that I think those who argue that this is sort of the same old debate just have not read the legislation. I hope in the coming hours and the coming day or two they will take the time to read what the chairman is proposing, and what others of us will propose with amendments.

I thank the chairman.

Mr. BIDEN. I thank the Senator.

Madam President, I see my friend from Florida is on the floor. I will yield to him in about 60 seconds.

Put it another way about boot camps, even if the boot camps did not provide a better chance at reducing recidivism, even if there were circumstances that made sense from a cost standpoint, even if there were not alternatives that made sense from the standpoint of the nature of the punishment that should be attached to a nonviolent crime, they make sense and should be built for one overwhelming reason. They free up hard-core prison space so violent criminals who are now not serving their full terms or serving any term will have a place in a space that the Governor and the mayor and the prosecutor in the State can put them behind bars, and have them serve their time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Madam President, I thank the distinguished chairman for yielding.

As we debate crime and our suggestions of what to do in response to the crime problem, I think it is important to understand that liberals and conservatives approach the problem from fundamentally two very different perspectives.

I know in some respects it must be confusing to people as they listen to this debate because it seems like they are hearing the same thing on each side of the aisle. And it appears that we are all headed toward the same objective and that we are merely arguing about the means to get there.

I would say again it is different from that. We each have a different approach to solving the crime problem.

Liberals believe crime is a result of the failure of society. That the actions of criminals are not their fault, but rather society's. And since society has failed, then it is society's obligation to rehabilitate these criminals.

Conservatives believe that crime is a result of the failure of the individual, that the individual chose to act, and the individual must accept the consequences of his or her action. Therefore, conservatives believe that punishment is the proper consequence. That is not to say that conservatives never believe in rehabilitation or that liberals never believe in punishment; rather, we approach the problem of crime from these two very different points of view.

When liberals look at a crime, they conclude that the real victim is the criminal, that the criminal is the victim of society. When conservatives look at crime, they see the victim as the one who has been robbed, raped, or murdered. The reason liberals put so much emphasis on rehabilitation is that they see the criminal as the true victim. That liberal philosophy has brought us to where we are today.

I have a blowup of the Miami Herald paper in which the headline is: "Suspect in Policewoman's Slaying Was Released Early From Prison Twice." I will get back to that particular crime in a couple of moments. I want to discuss a couple of others first.

As you probably are aware, there are many people around this country—and unfortunately around the world—that have looked at the crime problems that we have experienced in Florida. It has been highlighted; they have been very visible. The crimes that have been very visible and have received lots of attention, in fact, are symptomatic of what has happened in the rest of our country, not just in Miami, FL, but what has happened in America in rural and urban settings, as well.

I will pick several of these high-visibility crimes to make some points; for example, the murder of Michael Jordan's father. Like in the case of the slain British tourist in north Florida, James Jordan, the father of Michael Jordan, was innocently resting in his car on the roadside when he was murdered. The accused are two 18-year-olds with prior criminal records. One of the accused was paroled 2 months before the murder, after serving 2 years of a 6-year State prison sentence for assault with a deadly weapon and armed robbery. The prior assault involved the accused attacking a friend with an ax causing permanent brain damage to the victim. Although sentenced for 6 years as an adult, he only served 2 years.

The other suspect involved in Jordan's murder was indicted a year ago on armed robbery, accused of smashing a 61-year-old store clerk's head with a cinderblock. At the time of Jordan's murder, he was free on bond.

The point is: If they had served their time, Michael Jordan's father would be alive today.

There was a recent murder in Miami of a German tourist shot to death next to his pregnant wife after a van purposely rammed the rear of his rental car.

One of the individuals arrested for the shocking crime had been arrested five times since he was 17—he is now 19—five times in the last 2 years, on charges of aggravated assault, burglary, and grand larceny. Four of the offenses were handled by juvenile authorities and produced no jail time.

The second individual had previously been arrested for shoplifting while carrying a concealed weapon—the other person involved in this crime—but the weapons charge was dropped, leaving a misdemeanor theft charge that kept her jailed only until Saturday—a couple of days before the murder of the German tourist.

Again, if we had followed the concept of pursuing the idea of punishment, those individuals would have been in jail and that German tourist would be alive today.

There was a slaying of a British tourist by habitual youth criminals just outside of Tallahassee. Two British tourists were napping at a quiet rest stop when two youths tapped on their car window attempting to rob them. The British couple tried to flee, but their car was blocked. The youths then shot the couple. What began as a quiet rest ended in the bloody death of a male tourist and injury to his female companion. Four youths were arrested for this horrible crime, ranging in age from 13 to 17. Three of the youths had prior criminal records.

In another high-visibility crime, Barbara Jensen, back in April, was murdered in front of her mother and two small children after straying off an interstate highway into a northeast Miami neighborhood. She was brutally beaten and run over during the robbery attempt. Both men accused of the crime had prior criminal records, ranging from cocaine possession to kidnapping and armed robbery. One of the individuals who committed this vicious crime was on probation at the time.

With regard to the blowup of the Miami Herald article, I want to go through some of the record of this individual who was apprehended and arrested for this crime.

The first offense, November 1989, cocaine possession and obstructing police. Probation.

Second, January 18, 1991, possession of cocaine and marijuana and carrying a concealed gun. Sentence, 1 year minus 1 day. Released April 18, 1991, after successfully completing a counseling program.

Third, September 3, 1991, auto theft, sentence 1 year and 1 day, released December 10, 1991.

Fourth, May 26, 1993, car break-ins, sentence 1 year and a day. Released August 24, 1993.

For his two State prison sentences of 2 years and 2 days, on the first offense, 3 months and 7 days was what was served. On the second, it was 2 days short of 3 months; released early due to prison population. If he had served his full sentence, detective Evelyn Gort would be alive today.

My point is probably obvious for going through all of that. It was to make the point that we must take those individuals who are violent, repeat criminals, off the streets of America. I honestly do not believe that the alternative that has been proposed by Senator BIDEN will do that. I believe that there is way too much emphasis on this concept of counseling, aftercare, and drug treatment. There are evil people who are on our streets, and they need to be removed from our streets and kept off of our streets.

The amendment that was offered by Senator HATCH forges a Federal-State alliance to help States deal with their violent crime problems. It creates regional prisons that will allow us to lock up violent offenders for the duration of what will be a very long sentence. That is good news for the citizens and bad news for the criminals, and that is what Americans want.

We are serious enough about this program to cut $6 billion from the Federal Government elsewhere, in order to spend it on prisons to house these vicious things.

This amendment will open the door to a safer America, a place where criminals who rape, rob, or murder, will be stiffly sentenced and will serve every day of the sentence they are given, a place where we can rely upon our criminal justice system to dispense true justice, and a place which favors innocent victims over brutal thugs.

If this legislation is passed, gone will be the days of the revolving door where vicious criminals are back out on the street within a matter of months of their third or fourth offense.

Each time, their crimes strike a little closer to home, and each time, they wound us all. To make matters more disturbing, institutional disregard for the rights of the innocent pours salt in those wounds. A careless parole board, an overly sympathetic judge, an unsupervised halfway house—they all commit the same wrong, and that is favoring expedience over safety. They just keep letting these criminals go. The revolving door is just spinning out of control.

Every time we hear one of these terrible crimes, it is followed by a listing of the thug's criminal record—and every time, the criminal has a record as long as my arm. Inevitably, the culprit was in prison and released early, on parole or simply out on bond—only to commit another crime, maybe a murder, and another crime, maybe a carjacking, and another crime, maybe a rape. This madness must stop.

Americans are sick and tired of a criminal justice system that is not working. They want to know why a murderer is on the streets and not in jail. They want to be sure that the criminals who rob people at gunpoint in their driveways, actually do their time.

And in fact, Americans want the criminals to serve every single day of that sentence—no parole, no leniency, and no time off because of overcrowding. They want these people punished. They believe that too much emphasis is on rehabilitation and not enough on punishment.

Americans want to be certain that people who are likely to go out and hurt somebody while they are awaiting trial are kept locked up and off the streets. They also want some assurance that the parole board won't release a bunch of vicious criminals because they have no better place to put them—Americans say we have had enough and we want some answers.

Here is our answer: A Federal/State criminal justice partnership. It is both simple and innovative. We in the Federal Government want to form an alliance with the States to actually do something, in a tangible way, about violent crime. This legislation offers the incentive of much more prison space to States dedicated to housing violent and repeat offenders, as well as illegal aliens who commit serious crimes.

In exchange, the States must pass real criminal justice reform. We will authorize $6 billion over 5 years for a regional prison system, devoted almost entirely to housing these State prisoners. We are also authorizing grants for the construction and operation of new State prisons, which can include boot camps for nonviolent juvenile offenders.

In exchange for our fiscal commitment, any State wishing to participate must do the following:

First, enact truth-in-sentencing laws, equal in effect to what is present in the Federal system, so that parole is eliminated and Americans will know that the criminal will serve every single day of that sentence. Criminals will be confronted with a true deterrent for a change—a full sentence.

Second, States must pass tough bail laws that will keep criminals likely to commit violent crimes in jail pending the outcome of their trial.

Third, States must ensure that criminals using guns, sex offenders, violent repeat offenders, and child abuse offenders, all go to jail for a long time, and again, at least as long as what is provided for in the Federal system.

Fourth, finally, the States must be sure to include the victim at all stages of the proceeding, so they are actually a part of the criminal process instead of a footnote or an afterthought.

Taking these steps is tough medicine for some States. But, the time has come to focus our resources on protecting innocent people by keeping violent offenders off our streets.

We can spend hundreds of millions of dollars on more cops and it won't make a bit of difference if we have no place to put the people they arrest. While this legislation is a big step for the States to take, they need not take it alone. We are all in this together, and those of us that are serious about dealing with violent crime should step up to the plate and vote to enact this program.

Again, I am very grateful to all those who have helped formulate this program, especially Congressman BILL MCCOLLUM and my colleagues Senator HATCH and Senator DOLE and I am confident we can pass this amendment with bipartisan support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I thank my friend from Florida for his comments. I found his explanation of his amendment interesting.

I particularly found most interesting the point that liberals and conservatives have a different view on crime.

Maybe at one time that was true. I must admit when I first got here in 1973 and I introduced a bill that called for flat-time sentencing, that, as you know, ended up being the Sentencing Commission, although the real work on that had been done by an unholy alliance of Senators KENNEDY and MCCLELLAN who had really done spade work on that. I was just one of the fellows who came along after the fact.

It is true some of the more what I refer to as the sixties liberals thought that I had I used to be referred to as a iconoclast. which I thought was always fascinating, but at any rate the truth of the matter is for the past 10 years I have not seen any of that. Nothing in this talks about failure of society. This is just hard-nosed stuff. I think we should talk about at some point the failures.

Maybe I would define the difference between the approach of the liberals and conservatives to this issue is that conservatives do not want to take a look at the root cause of these problems; therefore, they are going to live forever with the impact. They do not look at the systemic cause; they just look at the impact, the systemic problem and try to deal with it at the other end. That is one way to do it.

And liberals, that is true, used to be the first to say before if you do not deal with the systemic problem you do not deal with any of it.

What we have been saying for the last 10 years and what I say today is we

should do what we did in the Federal system. We should say: Hey, look, we have a problem. It is unsafe for my mom to walk out into the parking lot of the shopping center in my middle-class neighborhood, and I have to do something to change that. I do not care whether or not the person who attacks her is mentally ill, whether or not they are the product of a broken home and a terrible environment, or whether or not they are a sociopath. It does not matter. The effect on my mom is the same. She gets hurt.

So, I want to make sure we do something about taking that person off the street.

This bill attempts to do that, not only take them off the street by putting more cops on the street to get them off the street but once we get them off the street use our head as to what we are going to do with them. It used to be when I first got here we used to say, well, we put people in jail based upon how long it will take them to be rehabilitated. As I said yesterday, we found out although people do get rehabilitated we do not know when it happens and we do not know why it happens. So we should not rest the system of incarceration based upon a notion that we cannot identify even when it occurs.

That is why I was the author of legislation to not make sentences based upon the time it took to rehabilitate because that turned into a way for conservative judges to put black folks in jail and keep white folks out of jail for the same crime. They always could look at that white middle-class guy and say he can be rehabilitated in 2 years; I can tell; or maybe he can be rehabilitated just by making sure he gets probation and goes home to his daddy. And they look at this black kid who did the same thing and say: Oh, I do not think that kid can be rehabilitated. That kid may need 10 years to get rehabilitated.

That is the other reason we changed the law.

So I would like to think of it to end this whole conservative-liberal malarkey and let us agree we are going to do two things: Deal with the problem as it exists on the streets now, and try to take back the streets, but understand that will not be enough. Once we do that, let us try to figure out what we can do to keep the kid from becoming a criminal.

There is an overwhelming number of studies, not done by liberals, done by hard-core, tough cops. As a consequence on the streets, as a former Federal prosecutor, I say to my friend from Illinois, the Presiding Officer, and you ask them whether or not they would rather have more cops or drug treatment for these first-time offenders, they will tell you they want drug treatment because they know what happens. If you do not treat them when you incarcerate them, or give them no alternative but treatment, they are back on the street again with these folks.

So I think we have to do both. Again, I am raising this as one piece of a five-part plan we Democrats have and some Republicans have to deal with violence in America, just one piece.

This is the cops-and-robbers piece. This is cops, prisons, hard-core, nuts and bolts, stuff. Let us pass it.

Then we will get to deal with guns, the things that cause big problems, and deal with the problem of violence against women, rape, and abuse of women in our society. Then we can deal with drugs. We have a continuum we have to deal with here. This will not solve it.

I hope we stop the liberal-conservative malarkey, get more cops on the street, free up more hard-core prison space, and get on with the business of making it safe for my mom, your mom, and everyone's mom. And as the Senator from Texas says, "No one is going to take my momma's gun." I do not want to take his momma's gun or blame him. We want to make it safe, where moms, dads, aunts, uncles, brothers, and sisters can be a little safer when they walk out of a store after making a purchase in broad daylight than they are today. That is what this is about.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I support the pending Byrd amendment. The amendment which I am pleased to cosponsor sets aside in a trust fund $12 billion to be used solely on the crime prevention programs and activities authorized in the underlying legislation.

This legislation authorizes many provisions which will help the Federal Government, the States, and local communities combat crime. But these provisions will do no good if they are authorized and not actually funded. The budget bill passed earlier this year makes that a difficult task.

For the 5 years authorized in the budget and in this bill, discretionary spending is frozen even at 1994 levels. With many valuable programs competing for a shrinking pot of money, it could be difficult to secure full funding for these new anticrime initiatives, despite the compelling need. This amendment ensures that the anticrime initiatives authorized in this bill will, in fact, be funded. It takes savings achieved from the personnel cuts proposed by the President and previously approved on other legislation by the Senate and puts $12 billion of those savings into a violent crime reduction trust fund. Those funds are then available for use on the programs authorized in the underlying crime bill that is now before us. In effect, we will reduce the number of Federal employees and increase the number of police on the streets of America.

The Congressional Budget Office has estimated that the reduction in the Federal work force will yield the savings necessary to fund the $12 billion trust fund, and the spending caps which fund other discretionary programs will be reduced by the same amount.

Crime in America is a serious problem. If we are serious about combating it, we must provide sufficient resources to the effort, not just authorizing programs but funding them as well. This amendment sets aside $12 billion to fund the effort.

I urge my colleagues to support the amendment.

Who yields time?

The PRESIDING OFFICER. Who yields time?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Madam President, I hope that we could get a vote on this amendment.

I am advised we have one other Senator on the way. But I hope that, if any Senator wants to address this amendment, he or she will do so, because it is my hope that we can proceed to vote on the amendment and begin to process other amendments as soon as possible on this important bill.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Madam President, I rise to support the leader's amendment which would fully fund the crime bill over 5 years, I think funded in a way that many people believe is necessary.

Where people want their government, it is my belief, is on the local level. They want police to stop crime. They want firefighters to put out fires. They want transportation employees to move them. They want it on the local level. And what has been increasingly clear to me is that the more remote the bureaucracy becomes or the bigger it becomes, the more difficult it is to control.

Essentially, what this amendment does is say to each of the department heads in the Federal Government: You are going to, over this time, take a cut

in personnel and we are going to use that money to put police on the front lines, to build the boot camps, to build the prisons that we need to house the criminals, and do something about crime in this country.

Madam President, I cannot tell you how serious the crime issue is in the largest State in the Union. Whether you are talking about Sacramento, or Fresno, or San Francisco, or San Jose, or Los Angeles, or San Diego, or Orange County, people's number one concern is their personal security.

Our ability to get police directly on the streets of our cities is going to impact that security. I know that. I know that if you can get a squad car to an A-priority call that you can make a good arrest much more likely than if you get that car there in 15 minutes. If you get it there in 2 minutes, you have a chance of making the arrest, you have a chance that evidence is not destroyed, you have a much better chance that you get your witnesses and, therefore, that all adds up to a better conviction. We need these police.

Los Angeles has the highest citizen per police ratio in America.

Last night, I was talking to a citizen from Los Angeles. He pointed out that there was a large employer with 7,000 employees who was going to move out of the city because every truck that left his factory had to have an armed guard. You cannot do business this way in America.

What the full funding of this amendment means is that it is not pie in the sky. It means that it is going to happen and it is going to happen in a way that not only winds down the Federal bureaucracy, but sees to it that the police and the boot camps and the cadet program—the prevention programs that are in this crime bill—are truly funded.

I think it is a real breakthrough. I congratulate the majority leader. I thank the distinguished chairman of the Appropriations Committee for effecting this agreement. It is major in scope. It puts there—it adds the funding mechanism to the crime bill.

The PRESIDING OFFICER. Who yields time?

The minority leader, the Senator from Kansas.

Mr. DOLE. Madam President, let me say I think, first of all, Senator DOMENICI is taking a look at the amendment offered by the distinguished President pro tempore, Senator BYRD. He will have some information on that soon. But I do think we really have to pay for these things. I am not certain we are going to get any savings out of a national performance review, but we might. It might be a start. I think that is one big difference between the Republican approaches and Democratic ones. We paid for ours. If Senator BYRD has a better idea, that is fine with me, and as soon as we have time to analyze it we will be happy to proceed to a vote on it.

I think sometimes the best ideas are the easiest ones to understand.

Here's a good example: A convicted violent criminal should serve the full term of this prison sentence. Not one-half or two-thirds of the sentence, but the full sentence. No exceptions and no parole.

This idea, known as truth-in-sentencing, was first embraced by the Federal Government during the 1980's when it instituted pretrial detention, and eliminated parole and probation. The basic principle underlying these reforms is that incarceration works, that a criminal kept behind bars will not terrorize a single law-abiding citizen.

Under today's Federal system, a violent felon, once apprehended, can remain in prison from the moment of arrest until the full sentence has been served.

Unfortunately, truth-in-sentencing is one area where the States have not followed the Federal Government's lead. They have in a lot of areas but not in this area—but they ought to follow our lead. At the State level, for example, a typical murderer is sentenced to 15 years, but serves only 5½ years. A typical rapist is sentenced to 8 years, but serves only 3 years. A typical mugger is sentence to 6 years, but serves just slightly more than 2 years. The list goes on and on and with tragic consequences. People are back on the street committing more rapes, more murders—whatever it may be.

Take the case of Walter McFadden. McFadden was convicted in Texas of two rapes and sentenced to two 15-year sentences. Paroled 5 years later, he kidnaped and raped a third victim. McFadden then served 4 years of his new 15-year sentence. Less than a year after being paroled again, he raped and strangled an 18-year-old honor student.

There are thousands of other similarly tragic stories, as vicious killers enter our criminal justice system, only to slide through its revolving doors—legally. They are back on the streets, committing these violent crimes and people are saying, why do you not do something about it? I hope we can do something about it.

The problems associated with State prison overcrowding have made this revolving door spin even faster and faster. According to a 1989 survey, nearly one-fourth of the 4,000 prisoners released in Florida that year because of overcrowding went on to commit new crimes during the very period in which they otherwise would have been in prison serving out their full sentences. That is about 25 percent; we could have avoided 25 percent of those crimes committed. These repeat offenders wreacked havoc on the law-abiding citizens of Florida, committing 2,180 new crimes, including murders, armed robberies, and rapes. All that could have been avoided had they kept these people in prison under a truth-in-sentencing law.

With State prisons now operating at 123 percent of capacity, other States are resorting to early-release programs patterned after the Florida example.

Should we try to put more cops on the street? Maybe. "Of course," some would say.

"Maybe," others would say because by the time you spread out 100,000 policemen, 100,000 cops in the United States of America—I am not certain whether any are going to get to the rural areas, and if so it would not be very many. How many are going to get to each of the urban areas?

But as Georgia's Democratic attorney general, Michael Bowers, has explained:

> All of the police officers in the world aren't going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, this is a waste of time.

So you hire more policemen, sentence more criminals, hire more prosecutors and they are back on the streets because you do not have a place to keep them.

Attorney general Bowers is right. That is why I urge my colleagues to support the amendment offered by my distinguished colleagues, Senator HATCH and Senator MACK.

This amendment proposes to spend—and pay for—$6 billion to help build and operate new prisons; $3 billion of this total would be used to provide direct grants to the States.

The remaining $3 billion would be devoted to building and operating 10 new regional prisons at the Federal level.

We are not just going to build these prisons so the States will have a new dumping ground and eliminate some costs for the States. They are not going to be able to send any prisoners there unless they adopt truth-in-sentencing reform.

Kansas would be allowed to send its most violent criminals to these regional prisons, but only if it keeps up its end of the bargain by adopting the truth-in-sentencing reform. No reform, no prison space.

There are those who will say that the Government does not need to build more prisons, that the best way to find more prison space is to release all those nonviolent, nonrepeat offenders who are taking up scarce prison beds and who could better serve their sentences elsewhere. I wish this solution would work, but it will not because it ignores the realities of the State prison population.

According to a 1991 study conducted by the Justice Department's Bureau of Justice Statistics, 94 percent of the inmates in State prison either had been convicted of a violent crime or had a

previous sentence to probation or incarceration. In other words, only 6 percent of the total State prison population are nonviolent offenders with no prior sentence. The bottom line is that the overwhelming majority of those in prison have committed horrible crimes, and have done so repeatedly.

Alternatives to prison, like boot camps, halfway houses, and drug treatment centers may have their merits, but when it comes to the security of the law-abiding public, they are no substitute for prisons. In fact, when introducing the administration's anticrime plan, my colleague, Senator JOE BIDEN, made this curious pitch in defense of alternative sanctions.

A criminal, a cocaine addict, and a heroin addict commit roughly 175 crimes per year. You know if that addict is in treatment for a year, even if (he) never get(s) cured, the number of crimes (he) commit(s) while in treatment drops by about half. They would drop altogether if he were in prison. He would not commit any. That is what the American people are suggesting.

I think we should have gotten some little message out of what happened on Tuesday. You can turn a blind eye to election returns if you want. Any survey that anybody takes, I do not care, politics, business, whatever, No. 1 is crime—it is in Chicago, it is in rural Kansas, it is everywhere you go— when people are prisoners in their own home, they cannot leave; they are afraid to get out on the streets after dark; they are even afraid to get out on the streets during the daytime.

It does not happen just in urban areas, it happens in rural areas. Drive-by shootings, things we had not heard about in places like Wichita, KS, are occurring now sort of commonplace. We have gangs with 11, 12, 13 teenagers in Kansas—not just in California, but in States like Kansas where we did not think we had the problem.

There are not any easy answers. We are being told in this bill it is not going to solve all the problems, we should not try to oversell it. It is going to be a short-term help, maybe. Maybe a tourniquet, maybe bigger than a Band-Aid, but it is not going to solve the problem. This is short term. The long term gets back to family, church, a lot of other things—schools, a lot of other things we have to address—job opportunities. You cannot really fault some young people who grow up without parents, any jobs, any opportunities, never knowing anything but crime.

So we have some long-term problems that have to be dealt with when it comes to young people. But I am talking here about hardened criminals who commit violent crimes. They ought to be in jail. If they are sentenced to 10 years, it ought to be 10 years; it should not be 2½ years or 3 years or 4 years and it ought to be paid for. We pay for it with real money in the Hatch amendment. This is real. It is going to be paid for.

We can adopt all the amendments we want and make all the great speeches, but if we do not pay for it, it is never going to happen. We are not going to build any more prisons.

I am not certain whether the amendment of the distinguished Senator from West Virginia sets aside money for prisons or not. It goes into a violent crime trust fund. Who is going to decide how that is allocated and how much will be spent for prisons? I think I read the amendment fairly carefully.

So there are some questions we need to answer if that is the route we want to go. But we do pay for ours. It is paid for.

I think everybody in this body is willing to take the next step. I know the distinguished Senator from North Dakota is because he has had the experience himself and his family members have had the experience, so he is prepared and we are prepared. We come from small States but we are not exempt in North Dakota or Kansas from crime, criminal activities or drugs. So I think you will find a lot of bipartisan support.

We have to get tough in the right sense—not mean, but tough. We have to mean what we say. So if we pass a law, we know we can go out and say, looking somebody in the eye and say we have done something, and if somebody commits a crime, if somebody is going to go to prison, they are going to serve their time. My view is that certainly will give a lot of assurance to a lot of people who are having a lot of thoughts about criminal activity in America today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, first I want to commend Senator BIDEN for putting together a serious crime bill under very difficult circumstances. I do not think that perhaps many of our viewers understand the very difficult budget limitations that Senator BIDEN is forced to operate under.

Let me just say in working with the chairman of the Judiciary Committee that I have come to respect his real commitment to doing something serious about crime. I have also come to share his frustration, because as he has pointed out to me, it is difficult to pass legislation on this subject through both Houses of Congress, get the President's signature and stay within the limitations of the Budget Act.

Let me just say that I, as one Member of this body, who I think is known among my colleagues and certainly among my constituents as a deficit hawk who is very committed to reducing the budget deficit in this country, believe that the crime wave in this country is so serious, so threatening to the security of America that I would be prepared to support a Presidential declaration of an emergency so we could go beyond the restrictions of the Budget Act to do what needs to be done.

I believe the No. 1 threat to the security of this country is the unprecedented increase in violent crime that is being seen in every part of America. We all understand what is happening in the major cities. We all understand what is happening in the population centers.

I come from the State of North Dakota. We have the lowest crime rate of any State in the Nation and the lowest, by far. Yet, we are seeing in North Dakota increased incidents of kids coming to school with guns. In our wildest imaginations when I was growing up, no one ever would have thought about bringing a gun to school. They are doing it now, in Fargo, ND, in Grand Forks, ND, in Bismarck, ND.

Madam President, we just had an incident in my hometown of Bismarck, ND, a town of about 40,000 people, in which a grandmother who had been in town for meetings was abducted from a hotel parking lot. That woman, who was getting ready to return to her family, went out to get in her car. A couple got her into her car, they locked her in her trunk, and for 4 days they took her across the country heading West, using her cash, using her credit cards, driving her car with her in the trunk. Ultimately, it ended in tragedy with her being murdered in Nevada.

People are no longer safe in Bismarck, ND, where I grew up in such a secure environment—we never locked the doors to our house. When I finally left the apartment in a building I owned, I had to go to my brother to get a key because I did not have a key to my own apartment. I never locked my apartment door in Bismarck, ND.

Something has changed. It has changed dramatically and it has changed for the worst. It is affecting Bismarck, ND; it is affecting Boston, MA; it is affecting Los Angeles, Chicago, and, yes, it is affecting our Nation's Capital.

I prepared this collage—more accurately, my staff prepared this collage, and they did a good job. It shows some of the headlines from the Washington Post in the last several weeks.

These headlines scream out at us about a societal nightmare. Here is a headline: "It's Like War." This is the Nation's Capital and they are talking about killings day after day, night after night; shootings, day after day, night after night; rapes, day after day, night after night; burglary, assault.

"Mother Waits for Answers, Family's Struggles Seems To Mirror the District's." A little child, "Wounded for a Lifetime." In fact, this child died.

"The End of Business as Usual, Brutal Robberies Shatter Merchants' Universe."

Here is a story about the Mayor of the District seeking to call out the National Guard because the situation is so out of control in the Nation's Capital.

Here is a story that ran just recently: "Of 1,286 Slaying Cases," in the District, "1 in 4 Ends in Conviction." One in four ends in conviction.

"Halfway to Freedom, D.C. Inmates Escape." The subhead line is: "One-fourth Flee Transitional Houses."

One of these people who fled a transitional house attacked my wife eight blocks from where we are meeting today on the steps of our home. A fellow with a .45 automatic put a gun to my wife's head and said, "We're leaving in your car." Thank God my wife had the presence of mind to say to him: "I locked my keys in the car," because that befuddled him. That put him off his game plan.

And so he dragged her for two blocks with a .45 automatic at her head threatening to kill her repeatedly until they came to a busy intersection and she was able to elude him, to get away.

As I saw my wife being dragged down the street, I called 911 in the District of Columbia and I got a busy signal—I got a busy signal.

I am ready, as one Member of this body, to do something very serious about crime. I think if we are honest with ourselves, we know that requires many combined strategies. Some say we have to get tough, and they are right. We have to get tough. People who commit violence need to be caught, need to be punished, need to be put away, and need to be separated from the rest of us. Society owes that to the vast majority of people who are not violent—society owes that to the vast majority of people who are not violent.

That is a prerequisite for any kind of civil order. That is a prerequisite for any kind of civilized society. And if society fails in that most basic responsibility, then society will soon find a backlash that will strip away the veneer of civilization and of basic decency because people will not stand for a situation in which they are prisoners in their own homes. They will not stand for it.

Very recently, a headline in the Washington Post read, "I'm Scared To Come Outside."

"I'm Scared To Come Outside." They were quoting an 8-year-old girl who was afraid to leave her apartment. She said:

> I wish to come outside and play and just run around but I'm scared to come outside. I can't go to the park. I just stay in the house.

Something is radically wrong when an 8-year-old child is afraid to go outside, is afraid to go to the park, and has to just stay inside.

Too many Americans share that feeling. They are afraid to go outside. Freedom in many places of America means freedom to walk only in the daylight hours, and in some places not even that is safe.

President Clinton referred to the children of the Middle East as having, "A great yearning for the quiet miracle of a normal life."

Madam President, we do not have to go to the Middle East to find children who have a great yearning for the quiet miracle of a normal life. We can go four blocks from this Chamber and find children who have a great yearning for the miracle of a normal life. As I said in the Chamber yesterday, we recently had a 12-year-old child raped at 7:45 in the morning, four blocks from this Chamber. At 7:45 in the morning, four blocks from this Chamber, a 12-year old was raped.

Madam President, something has to be done. There must be a response.

We do not need to look far to see the specific areas where the system is breaking down. Last month, Michael Wright, age 22, was charged with first-degree murder in the slaying of a Korean businessman in Washington, DC. This young man had previously been charged with assault with intent to rob while armed and was released while waiting for trial. He was arrested again in July 1988 on assault charges and was ordered confined until trial. He pled guilty to assault with a deadly weapon and was sent to a halfway house for young offenders. He left that halfway house after a month to get a birth certificate. He did not return. He was caught 19 days later selling cocaine and pled guilty to this charge and the assault charge. He was sentenced to 2 to 6 years in prison in August 1989, and on December 18, 1992, after serving only one-half of that sentence, he was moved to a halfway house that he left on January 15, never to return.

Madam President, take the case of Kirby Chastine, 23, who was recently convicted in Florida of killing Marc Nadeau, a Canadian tourist who was visiting his father in Florida. In 1992, Nadeau was shot twice in the head after returning from a trip to the corner grocery store. Since turning 18, Kirby Chastine has been convicted of selling and possessing cocaine, robbery, and battery. The longest jail sentence he served was 7 months. This was a repeat offender who should not have been on the streets.

Last month, in Washington, DC, a District of Columbia man was convicted in the September 1992 sexual assault and beating death of congressional aide Abbey McCloskey in a Capitol Hill alley. She was robbed, sodomized, beaten, and left unconscious under the parked car of one of my legislative aides. Two of my staffers were witnesses to this crime. In fact, they were the chief witnesses against the perpetrator. The man was eventually convicted of the crime. He had previously served 7 years of a 4-to-12-year prison term for assaulting and robbing two women in 1984. At the time of the crime, he was living in a halfway house near the crime scene. Thankfully, that man has now been sentenced to life in prison without parole, the first time such a penalty has been imposed in D.C. Superior Court.

I could go on and on and on with example after example from around this country of criminals who are out early; criminals who have been given parole, preparole, criminals who have a record of violent crime as long as your arm who are out to commit crime again. We have an obligation to stop this.

Madam President, this chart shows the increase in violent crimes from 1988 to 1992 in this country. You can see we have seen nearly a 25 percent increase in just that period of time in violent crime.

The examples that I have cited are not, unfortunately, the exception. They are beginning to look more and more like the rule.

We now have a revolving door in the prison system of America. People are sentenced but they do not serve anywhere near the sentence that was imposed. They are released and able to commit crime once again.

I just talked to a Federal judge, a Federal judge who told me, day after day, I sit on the court and I impose mandatory minimum sentences on nonviolent offenders and they take prison spaces from violent offenders who ought to be locked up and have the keys thrown away. But we have such a screwed up system, we impose mandatory minimum sentences on nonviolent criminals and put the violent criminals back on the streets to prey on the people who are innocent.

Sometimes when we seek to be tough, it backfires, and we wind up being tough on the people we need to protect. We need to think very carefully about mandatory minimum sentencing for nonviolent offenders. If we are talking about violent offenders, that is a whole different story. I am for locking them up and throwing away the key. But when it comes to nonviolent offenders, I am afraid mandatory minimum sentencing has actually forced the violent criminals out on the streets because there is not sufficient room in our jails for the violent offenders that are preying on society.

Madam President, the time is right for more aggressive action against violent criminals. This bill takes real steps in that direction. Let me be the first to say I would like to do more. I know the chairman of this committee would like to do more. I know he is frustrated by the limitations of the Budget Act he faces. I know he believes we ought to do more. I am hopeful that before we are done with this bill we will do more.

I believe deeply that violent offenders, especially those who are repeat offenders, ought to be locked up and

serve at least 85 percent of their sentence. That is not happening. In many cases in this country, people are serving about a third of their sentence. And when they get out, they are desperate. They fall back into the old pattern of committing violence against those who are undeserving of such violence.

Madam President, I want to show my colleagues and others who might be listening part of the reality of what we confront because a minority of adult offenders commit the majority of violent crimes. This study from California found that of the convicted adult offenders, only 4 percent committed 56 percent of the violent crimes. Four percent committed 56 percent of the violent crimes. We need to target that 4 percent. We ought to focus in on those folks like a laser. We ought to say to those folks, you commit violent crime in this society, you are going to be caught, you are going to be punished, and you are not getting out for a very long time. That ought to be one focus of our efforts.

Another chart I thought I should show tells us something about the crime committed by repeat offenders on parole or probation.

This shows that 88 percent of repeat offenders who are on parole or probation commit new crimes—88 percent. Thirty-three percent of them commit violent crimes.

This is not rocket science. This is not something difficult to figure out. We have a population of people who are violent criminals, who are repeat violent criminals, who we ought to lock away so as to not endanger the rest of the folks in this society.

As we go through this process, I want to indicate to my colleagues that I will support amendments and I will support more aggressive spending in order to accomplish those goals.

Let me close by once again thanking the chairman of this committee for an extraordinary effort in trying to pull together the various opinions in this body. It is not an easy job, but it is a job we must accomplish.

I also want to salute the Senator from Massachusetts, Senator KERRY, because as we have gone through this discussion behind the scenes on what needs to be done to seriously address this issue, I do not think, other than the chairman of the committee, there has been anyone more outspoken or more dedicated to doing something serious and effective about crime in this country than the Senator from Massachusetts. He knows the dimensions of the problem, and he knows we are going to have to do more than what is in this bill if we are going to be serious about reducing the incidence of crime in this country.

He also knows that, frankly, no crime bill is going to solve this problem because the underlying root causes of what is happening are far beyond what any crime bill will accomplish. That is not to diminish what a crime bill can and should do, because we have to get tough in the short run. We must send a very clear and compelling message to perpetrators of crime that the jig is up in this country. You commit crime, you are going to be caught, you are going to be punished, and it is going to be tough punishment.

But that is not enough. We have to do more than that. We also have to say to those who have lost hope and feel they have no stake in this society that there is a chance, that there is hope, that there is opportunity, that this is a chance to better yourself and to find a way out. That, too, is our obligation. And anyone who is serious about changing the conditions in this country has to deal with both.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I want to congratulate our colleague from North Dakota for an excellent statement. I think his personal experience is a stark reminder to all of us in this very special place that, while generally we are isolated from most of the tragedies that befall the people of our country, we are not totally isolated. As someone far wiser than I once said, until those of us who are not victims of crime are as outraged about it as those who are victims, we are not going to solve this problem.

Our dear colleague from North Dakota has been a victim, and I think his experience—I thank God that he has a quick-witted, tough wife, and maybe a guardian angel in addition—I think his experience is something that reminds all of us that our Nation demands that we do something about this problem.

Madam President, I want to talk a little bit about where we are, and what the issues are. And I will offer a proposal that perhaps could bring us all together to move forward on funding a major crime initiative; in fact, the most significant one, I believe, that we would have ever adopted.

First of all, let me remind my colleagues that 3 days ago I offered an amendment to enforce the President's Reinventing Government Initiative by freezing the level of Federal employment and by reducing that level, in compliance with President Clinton's objective to reduce the number of people in the Federal bureaucracy, by 252,000 over the next 5 years. That amendment was adopted here in the Senate overwhelmingly. Over 80 of our colleagues voted for it.

It then went to the House, and today in an extraordinary vote on a motion to instruct conferees by the ranking Republican on the Ways and Means Committee, Mr. ARCHER, the House, by an overwhelming vote, voted to instruct conferees to accept the amendment. And, something equally important, the Congressional Budget Office scored the amendment today as saving $21 billion over the next 5 years by setting into law a mechanism whereby any time we exceed the employment caps set out in the President's Reinventing Government Program, we have a freeze on hiring until we are in compliance with the provisions of the amendment that was adopted last week.

That produced the $21.8 billion that Senator BYRD offered as an amendment to fund the crime bill. So I wanted to begin by reminding my colleagues that the source of the cornucopia of money that we are now talking about using to fight crime was the amendment that was adopted here last week which put a cap on the Federal employment and mandated a mechanism that will save $21.8 billion.

We have two different approaches to crime and punishment. One is the Democratic approach, which basically is an approach that says let us treat people up to 28 years of age as youthful offenders; let us have boot camps; and then let us put into our prisons a lot of social services.

Madam President, I am not opposed to those things. I think, obviously, given our ability to fund them, they are an important part of the puzzle; but they are only part of the puzzle. What is missing is what is contained in the Republican amendment, which says let us build 10 regional prisons; let us fund those prisons; let us build them now; let us enter into a partnership with the States whereby we say that the States can put violent repeat offenders into these prisons that will be operated jointly by the State governments and by the Federal Government to get violent criminals off of the streets.

There has been a movement by the administration that I believe we are going to reverse here on the floor of the Senate today. The President came into office, offered a budget to cut prison construction by $580 million, and then immediately the administration and the Attorney General started talking about prison overcrowding.

We are not going to reverse minimum mandatory sentencing here on the floor of the Senate today. In fact, we are going to adopt more minimum mandatory sentencing. We are going to adopt minimum mandatory sentencing for gun violations. I want 10 years in prison, without parole, for possessing a firearm during the commission of a violent crime or a drug felony. I want 20 years in prison for discharging the firearm with intent to do bodily harm. I want life imprisonment, without parole, which means for the rest of your life, for anybody who kills somebody with a firearm during the commission of a violent crime or a drug felony, and I want the death penalty in aggravated cases.

I believe we are going to adopt an amendment that I will offer with others, which is a "three-time loser" provision. That is, if you are convicted of three violent crimes, or three major drug felonies, or any combination of three violent crimes or drug felonies, you have become a predator criminal and the time has come to protect society against you, and you are going to get life imprisonment. And we are going to put you in jail and keep you there.

We open our newspapers every day, and we turn on our television sets every night, and it is the same story: Some violent, brutal murder is committed by somebody who should have been in prison, somebody who has been apprehended, convicted and sentenced; yet, they are walking the streets because we have a revolving door in virtually every State prison system in America.

I believe that our bleeding Nation demands that we lock up this revolving door; that we provide the resources to put violent criminals in jail and keep them in jail. When you are talking about the lady who was brutally murdered in a carjacking near here and dragged for a mile and a half, or whether you are talking about Michael Jordan's father, or any other of a thousand violent crimes that we read about every day and see on television every day, they all have one thing in common: All of these people should have been in jail. If they had served out their terms, these people would have been behind bars, and the people that we love and care about would have been alive.

I support our Democratic colleagues in getting drug treatment for people in prison—who could be against that—and for having a boot camp for violent offenders. I do not call a criminal who is 28 years old a youthful offender. They are some of the most violent people in our society. But that is their approach.

The distinguished Senator from West Virginia has proposed using the mechanism of my amendment to fund that. I do not object to it. My proposal is that we adopt the Byrd amendment. I am hoping that I can convince people on my side to adopt the Byrd amendment and then to offer our amendment to build real prisons, so that we have a place to put violent criminals.

Under our bill, we would build these 10 regional prisons. They would house violent repeat offenders. For the States to participate in this program, they would have to adopt truth-in-sentencing provisions so that in my State, Texas, if somebody is sentenced to 20 years in prison, they would have to serve the sentence—not 4 years, not 20 months, not 5 years. In order to participate in the program, we would require that the States apply this to all violent criminals, and we would allow them to jointly use the Federal regional prisons. I believe that that is the kind of provision we need.

So my proposal—and I will be talking to the Senator from Utah and others—is simply this: Given the willingness of Senator BYRD to, in essence, adopt my amendment which cuts existing spending by $21.8 billion, my proposal is that we fund both the social approach of the Democrats, where we treat people in prison for drug abuse, where, as an alternative to incarceration for first time, nonviolent offenders, we have boot camps. But in addition to that, we need to build real prisons for real criminals. Someone who kills somebody in this country at least ought to go to prison.

Today, the average murderer is serving 5 years and 6 months. Is it any wonder that we have violent crime in America everywhere when someone who goes out and brutally rapes somebody spends only 3 years in prison because of prison overcrowding and because of a lenient court system?

We need minimum mandatory sentencing. We need to grab these violent criminals by the throat and not let them go; we need to get a better grip. The way to do that is to build prisons and put people in them. That is what I think we need to do, and I urge my colleagues to allow us to take both approaches. We have the capacity to do it. The problem is big enough. Let us use the carrot of rehabilitation that our Democratic colleagues have offered, but let us use the stick of minimum mandatory sentencing and guaranteed incarceration for violent criminals and the death penalty, which is what we offer. I think a combination of the two will allow us to break the back of violent crime in America—and God knows we need to do that.

I yield the floor.

Mr. DOLE. Madam President, I understood the Senator from Massachusetts was going to be recognized. He has no problem with my taking 1 or 2 minutes.

Mr. KERRY. No. I am delighted to yield to the Republican leader.

A PICTURE THAT IS WORTH A THOUSAND WORDS

Mr. DOLE. Mr. President, we have all heard the old saying that "A picture is worth a thousand words."

Well, there is a photograph on the front page of today's New York Times that says a great deal more than a thousand words.

The picture is of New York City Mayor David Dinkins, and New York City Mayor-elect Rudy Giuliani laughing together in Mayor Dinkin's office.

First of all, this picture says a great deal about America's political system. There are still some places in the world where those in power refuse to leave office, or where the losers of campaigns are put in jail.

Here in America, however, our campaigns may be hard-fought, but they are conducted in the open, and when someone in office is defeated, they do all they can to ensure a smooth transition.

We saw that last year with President Bush, and we are seeing it now with David Dinkins.

And in the final analysis, the picture says a great deal about the type of person that David Dinkins is.

Let me be clear in saying that I campaigned for Rudy Giuliani, and think he will make an outstanding mayor.

But my support for him does not lessen the respect that I have for Mayor Dinkins.

Mayor Dinkins can take great pride in the history he made as New York City's first African-American mayor, and in the difference he made throughout his public service career.

No matter if you agreed with him or not, there was never any doubt that David Dinkins was a decent man who loved New York City, and who gave it his best in very difficult times.

And the words that Mayor Dinkins spoke in his concession speech, urging his supporters to unite behind the new mayor, are an eloquent tribute to his legacy.

"You see, my friends," said Mayor Dinkins, "Elections come and go, candidates come and go, mayors come and go, but the life of the city must endure."

Mr. President, I am confident that in the years ahead, David Dinkins will have much to contribute to the life of the city he loves so much, as well as the life of America.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

Madam President, it is my understanding that the Senator from California also has a brief statement, I think of about 6 minutes. If I could ask unanimous consent to retain the floor after her comments I would be happy to yield such time as she needs.

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

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair and thank my gracious friend from Massachusetts. He has I think quite a brilliant proposal to put forward, and I have a far briefer statement. I would appreciate it if the Chair would let me know when 6 minutes are up, and I will wind up at that time.

CRIME IN AMERICA

Mrs. BOXER. Madam President, I rise to talk about the epidemic of crime and violence in America.

A seventh grader should not have to choose between getting an education and staying alive. A woman should not have to look fear in the face every time she walks from her car to her house at night and you and I understand what that fear is like. And, no one should have to worry about deranged individuals wielding military-style assault weapons, outgunning our police officers and turning our communities into war zones.

After more than a decade of neglect, we have a President who is willing to meet these problems head on. And, we have a chairman of the Judiciary Committee, Senator BIDEN, who is willing to work as long as it takes to make America a safer nation.

The epidemic of violence has sent shock waves of fear throughout my Golden State of California. In Fresno, CA, 65 percent of the residents are afraid to walk alone at night in their neighborhoods. Fifty-six percent of the residents in Orange County, CA, said that they frequently worry about crime.

The people of California are right to worry. According to the California Department of Justice, California saw violent crimes increase by 19 percent between the years of 1987 and 1992. Last year, the U.S. Department of Justice documented 345,000 acts of violent crime in California and the U.S. Sentencing Commission reported almost 4,000 murders.

As a woman, I can personally testify that almost every girl or woman I know is continually living with fear for her future every single day.

But the people of California have help on the way with this crime bill, thanks to the very hard work of the committee on which you serve, Madam President, and which is chaired by my dear friend from Delaware, Senator BIDEN, because this legislation gives our police officers, our judges, and our community leaders the tools they need to take our streets back, and that means tougher penalties for violent crimes.

For example, we know what arson has done to the people and communities in southern California. I am analyzing Federal law and jurisdiction on this issue and am looking into provisions that will beef up and give teeth to these penalties.

Taking back our streets means forging a partnership between the community and the police by increasing the numbers of police officers on the beat.

The crime bill will put 50,000 more police officers on the streets. Californians understand the importance of community policing. Just look at the success story in East Palo Alto, CA. With 42 murders last year, this small city of 24,000 had, per capita, become the murder capital of the Nation.

Did they simply wring their hands? No. They brought in more police officers, both on the beat and in their cars and they got results. They saw their arrest rate almost double and their homicide rate drop dramatically—from a high of 32 at this time last year to five so far this year. The East Palo Alto police captain summed up the change in his city by explaining that the criminals "don't own the streets anymore."

But, if we are going to take our streets back, we cannot continue to allow our police officers to be outgunned. According to the California Justice Department, firearms contributed to almost three-fourths of California's homicides in 1992 and to two-thirds of our armed robberies that same year.

We cannot forget the 21 people who were gunned down at a San Ysidro McDonald's in 1984. Or the five children who were killed at that Stockton school yard in 1989. Or, just this past summer, the deranged gunman who killed eight people at 101 California Street in San Francisco. How many more people must die, how many more families destroyed before we act? We need to get serious and enact tough measures that tighten licensing requirements, create tamper-proof gun licenses, and take these dangerous assault weapons off our streets and out of the hands of children and felons.

Nowhere are the effects of gun violence more horrific than in this nation's schools. A U.S. News and World Report story noted that 270,000 guns go to school every day. Our children used to be scared that the school bully would pull their hair. Now, the class bully has an assault weapon in his locker and too many of our eighth graders are scared to go to school. They have every reason to be scared and its a disgrace that we, as a society, are not protecting our children.

Since 1984 gangs have spread into 187 cities—big and small. Chris, a 17-year-old gang member from Fresno, CA, was quoted in the Fresno Bee saying, "We try not to shoot the innocent, but if it happens, it happens." Madam President, that statement is appalling.

During a recent townhall meeting in California, 15-year old Dion Brown told President Clinton what it was like to watch his brother die from a gunshot wound at Los Angeles Dorsey High School. "Now, I am afraid to go to any school. Mr. President, what can you do about guns and violence in our schools?"

And, what about the child in the D.C. area who, at age 11, has already laid out plans for her funeral. She does not expect to live. Madam President, enough is enough.

We must start by giving our schools back to the students, their parents, and their teachers. Doing this means removing children who bring guns to school from the school until they are no longer a danger. It means enacting the Safe Schools provision of this crime bill, addressing the escalating gang problem, and instituting policies that protect our children and teach them how to solve their problems without violence.

Not only do children find it easy to obtain guns and join gangs, but increasingly, they are expressing a disrespect for human life and a willingness to pull the trigger. Tulane University researchers asked suburban high schoolers when they would endorse shooting someone else. Twenty percent of them said it was OK to shoot someone who had stolen from them. And, a shocking 8 percent said that it was OK to shoot someone who had done something to upset or offend them. Listen very carefully. These children are growing up thinking that it is perfectly all right to exchange a bullet for an insult.

Children are not the only ones who need to learn to solve their problems and express their differences without violence. There is a pervasive culture and disease of violence in America. It cuts across communities of every size and reaches into all of our institutions—both public and private. While this bill will attack many of the components of crime in America, I believe that it is time to tie the pieces together and examine comprehensive solutions to this deadly epidemic. It is time to put forward a national strategy to make America safe.

That is why I am—will introduce—an amendment urging the President to convene a Presidential summit on violence in America. We clearly have a crisis of violence in America that is eating at every fabric and soul of this Nation. This summit will help us put our heads together—community leaders, health professionals, law enforcement, young people, the media and others—in order focus attention on this incredible problem.

I believe that this national summit will spark smaller forums all across the country. This is an American problem that requires American solutions. We can and must find them. The crime bill before us today is a start; the summit will provide us with a long-term strategy so that once again we can feel safe and secure in our homes, in our schools, and in our communities.

So, Madam President, I thank you for your indulgence. I thank the good Senator from Massachusetts. I look forward to hearing his remarks.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Under the previous order, the Senator from Massachusetts is to be recognized at the conclusion of the remarks of the Senator from California.

Mr. HATFIELD. I did not understand that.

Mr. KERRY. Madam President, I have been in process of ceding here. I

want to tie up the floor a while. I will yield to our colleague if he did not have a long statement.

Mr. HATFIELD. I have 5 minutes.

Mr. KERRY. I am happy to yield to the Senator for 5 minutes because I will be longer than that.

If I could have the understanding, Madam President, that the floor would revert to me I would appreciate it, and I so ask unanimous consent.

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

The Senator from Oregon.

Mr. HATFIELD. Madam President, I thank the Senator from Massachusetts. I must confess I did not understand we were under a time agreement at this time.

The PRESIDING OFFICER. There is no time agreement. That was the previous order agreed upon before the Senator from California started to speak.

Mr. HATFIELD. I would be happy to defer back to the Senator from Massachusetts to await my turn to have the floor, but I only want 5 minutes.

Mr. KERRY. Madam President, as I said I am happy to let my colleague go for 5 minutes unless he feels he wants to wait.

Mr. HATFIELD. I appreciate it.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1101

Mr. HATFIELD. Madam President, I just want to speak briefly to the proposition of a trust fund being proposed as a way to fund the crime bill.

Madam President, I cannot be too emphatic to say that I oppose creating new trust funds outside of the normal budget process unless such funds are funded by non-Federal sources or some independent sources.

As important an issue as crime prevention is, and I applaud the committee for its efforts not only this year but in years before, I believe that crime prevention programs can compete successfully with other discretionary programs in the normal budget and appropriations process.

We can get up here on the floor, in my view, and we can argue for a trust fund for funding child nutrition—setting aside discretionary funds within our budget for this worthy purpose. We could argue for a trust fund for Border Patrol needs or for mass transit or for assisted housing or for tax collection or any other vital Federal function. We have many vital Federal needs.

If we create enough special trust funds we can put our entire appropriations process on automatic pilot, pack up and go home.

I do not believe we should do that. We have many tough decisions to make in the appropriations process, but we should not shirk from them just because they are tough decisions.

Let us consider the funding requirements for violent crime and all the needs for its reduction, along with all other demands for Federal discretionary dollars and not create a special trust fund which would fall outside the constraints of the Budget Act, unless the funding would also fall outside of the Federal Treasury.

Now, Madam President, I would like to remind my colleagues of an interesting vote which occurred on this floor on October 27. The Senator from Texas [Mr. GRAMM] had proposed that we take the money dedicated to the superconducting super collider, instead apply it against deficit reduction.

Madam President, it is very interesting. On a Budget Act point of order, there were only two Republicans that voted against the question—Mr. STEVENS of Alaska and myself. Thirty-seven Democrats voted against it. The proponents got only 58 votes. The budget waiver was denied by two votes.

The arguments used were simple. The appropriations process ought to be able to make priorities across the board and to reallocate those dollars saved from the superconducting super collider, rather than earmarking them against the so-called budget deficit, an objective which we all think is very important.

Today, we are hearing the arguments being made from that same side of the aisle that somehow we ought to take these savings made from the President's reinvention of Government and put them in a trust fund for crime prevention.

Madam President, the principle is the same as that we defeated by an interesting combination of 2 Republicans and 37 Democrats on October 27.

Now I just think it ought to be clearly established here that we are talking about a fundamental principle that has been tested on this floor for a worthy cause within the last few weeks. And yet, today, we hear the whole proposition being put to us again, because of the importance of crime—and I do not disagree with the vital importance of crime—but the proposed approach is wrong.

I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank the Senator from Oregon.

I must say, I am glad I let him speak before me, because everything that I say will be an effort to try to contradict the reservations that have been articulated by the Senator.

I well understand his concerns about trust funds. But this is an issue unlike any other issue that confronts us today.

The argument that I will make is an argument that this is a national emergency, similar to those we have met in many other ways.

I would point my colleague's attention to this chart, which I ask colleagues to focus on. That book that was written, "Keep Your Eye on the Prize", well, let us keep our eyes on the prize.

We are a nation that was willing to spend $120 billion in a couple of years to bail out the savings and loans; a nation willing to spend $100 billion for the Department of Energy weapons cleanup; the Stealth bomber, $44 billion; the space station, $37 billion over 5 or 6 years.

You can run down the list of items.

We just spent $6 billion in a couple of hours of debate to bail out people from the floodwaters of the Midwest. And now we are unwilling to say that we are going to declare a national emergency for the flood of crime which is ripping at the fabric of this country.

Our bill currently has, what, $9.6 billion, up from $5.6 billion last week, and now it is contemplated to rise to $12 billion over 5 years. That is about $2.4 billion a year, when Americans are dying at a rate that is faster than GI's died during World War II.

Madam President, I read to my colleagues the Constitution of the United States from the Senate Manual: "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility * * * do ordain and establish this Constitution" of this country.

Our entire Constitution is founded on the notion that we will ensure the domestic tranquillity of this country.

Mr. HATFIELD. Will the Senator yield for just one question?

Mr. KERRY. The Senator would be honored to yield for a question.

Mr. HATFIELD. The Senator, I think, makes an excellent point. I could not disagree with him one iota on the significance and the national character of this terrible issue.

But is the Senator not aware that in the Budget Act we have provisions for emergencies of this kind? All the President has to do is to declare an emergency. And, as a member of the Appropriations Committee for over 20 years, almost without fail, we have responded to those emergencies and we have handled it without establishing a trust fund.

I will respond as a member of the Appropriations Committee, as ranking Republican of the Appropriations Committee, to the money required to fight the war against crime that we consider in this authorization bill. But I will say to the Senator, I do not see where he feels that it is so vital and necessary to establish a trust fund, merely to separate funds from the pool of domestic discretionary moneys for a special purpose.

Mr. KERRY. Madam President, I say to the distinguished Senator, who really, I know, is as committed to doing something—I am not trying to suggest he is not—but who understands the budgeting process very well around here. I wrote a memo to the President

the other day suggesting he declare a national emergency. And I have talked with the leadership about it, and others.

There is obviously the dilemma that, when we are trying to live within certain budget constraints, we want to send all the right messages. You do not want, hopefully, to have to come back and declare a budget emergency each year, because we are talking about outyears in the effort to fund here.

So the establishment of a trust fund is a way of guaranteeing to Americans, as well as to the police forces, to the prison construction process, to the guards, to those who are part of what we call the criminal justice system, that, in effect, we are not relying on the vagaries of American politics to come up next year and the next year to meet the need of the deficits. The fund is there; this is for real.

Now I would like to make the argument to the Senator from Oregon as to why I think this is so important. I ask my colleagues to try to strip away what cloaks us so quickly around here, which is this horrible partisan mantle.

I applaud a lot of what the Senator from Texas said a moment ago. I would like to see if we could get both sides together and find the best of a legitimate approach so that we defuse the rhetoric and so that we take the partisanship away and respond, because, while there are differences among us, there ought to be a consensus that this problem—I do not even want to call it a crisis, it is a horribly overused word—that this problem has now reached a level in this country that demands of us a different kind of response. Not a Democratic response, not a Republican response, but, frankly, just a fundamental approach of common sense and downright, sort of back home plain talk that Americans expect of us here.

I would like to suggest to my colleague, the only way you can measure what the approach ought to be here is to put in context what is happening in this country.

Madam President, I want to congratulate the Senator from Delaware, the chairman of the Judiciary Committee, because he has been one of the prime advocates of this. He has pushed and cajoled through all of his years here, and he has brought to the floor year in and year out a bill that has tried to do more than we, his colleagues, were willing to do.

And now we are at a point where we have had a bill that, just in the last week has gone from $5.9 billion to $9.6 billion, now to $12 billion. Something tells me there is something cooking here where people are beginning to make a measurement of what is really at stake.

Madam President, if we are going to decide whether or not to create a trust fund, and if we are going to think realistically about how much money to put into that trust fund, then we need to take a few minutes to try to strip away the politics and think in reality about what is happening to this country of ours, as a consequence of not just crime but a whole set of circumstances that have their own momentum, that have really broken loose and now have a life of their own.

I think the first place to start is to understand that this is not a problem of the last 5 years. It is not a problem that is George Bush's problem, it is not Ronald Reagan's problem, it is not Jerry Ford, Jimmy Carter, Richard Nixon, Lyndon Johnson—it goes back 30 and 35 years.

In point of fact in that entire period of time there really has not been what you would call a serious response, in all of those 35 years—there truly has not been a serious response.

That is what I suggest to my colleagues. I ask my colleagues to please think about what we call the criminal justice system. It is today not truly a system, because we have not empowered it to be a system.

There are many components of it. You cannot just put cops on the street who may make arrests, who will then send people to a court system that does not have the judges and clerks and probation officers and the courtrooms and capacity to process the cases. You cannot process cases rapidly under a speedy trial law if you do not have the prisons to put the people in who deserve to be incarcerated. And we all know we do not today.

Why do we not have them today? It is not a great mystery. It is because you have to ask Americans to pay for them and nobody really wants to do that. Or has not until this moment.

I suggest respectfully if we come to this floor in the course of this crime bill discussion, and all we do is whip out a few billion dollars and say slap it onto prisons here, slap it into the police here, we will absolutely guarantee several things.

No. 1, crime will go up. We will return to this floor next year and have to have a new level of hysteria about crime. And we will guarantee the American people will diminish even further their assessment of what the U.S. Congress understands and what it is willing to commit to do. Those things will happen 1 year from now, 2 years from now, unless we try to stop ourselves in our tracks right now and define: Is this an emergency? Is it really all that our rhetoric suggests it is? Is it less? Is it more?

If it is what our rhetoric suggests it is, then it is an emergency. And it demands a response that is commensurate with the level of rhetoric. Personally I do not think it ought to take us very long to make an assessment of what we ought to do here today because the reality is screaming out at us from every single corner of America today. It is a hysteria, I might add, that really demands a real response, not the half-hearted election year responses that have characterized so much of what we have done in the past. All you have to do is look around.

The Senator from North Dakota [Mr. CONRAD], for whom I enormously am grateful for the comments he made regarding my efforts, but he is somebody who has helped to move members of the caucus and others because of his own personal experiences. It should not take a U.S. Senator to come to the floor and tell us what happened to his wife, or what happened to staffers up here, to begin to even comprehend what the average American is seeing on a daily basis in so many parts of this country. If you look around the United States of America today you can see violent drug-ridden realities. It is a reality in which the institutions of civilized social life are breaking down, where you have disintegrated families, boarded-up store fronts, schools that have become armed camps, and crack houses that are replacing community centers as the focus of neighborhood life.

An honest appraisal will show you that we are now a country where young men die, particularly young blacks die, at a rate exceeding that of the Vietnam war and generally exceeding that of any other American war, a rate that is unacceptable. We see a country where, literally, far too many of our kids are carrying guns to school instead of lunch boxes. We see an America where the quality of our life and our capacity to build community is literally devastated by what is happening in some of these communities. If you are not impacted by crime directly, we are all impacted by the fear of crime. Increasingly, Americans have been asked to put up with a tragic, inescapable degradation, a scale that is going like this, downwards, in the quality of life of our fellow citizens. That day-to-day degradation of the quality of our life is ripping away at our identity, our national identity—who we are and who we hope to be. In a sense, I think it is fair to say it is changing the character of the American soul.

We have always had poverty in the United States of America and we have always had violent crime. You can go back to the days of the first Pilgrims who came to Massachusetts, or the Chair's State, Virginia. We have had problems with alcohol. We have had problems with drugs through our history. But we have never seen an America with the kind of problems that we see today in our urban and rural neighborhoods. We have never seen children talk matter-of-factly about blowing each other away or about living in a world where guns are as common as water. Or about going to bed at night with the notion they may not get up the next day except to face a hail of

bullets. We have never had an America where children are talking about planning their funerals, as we read in the Washington Post just a couple of days ago, rather than planning their careers, or their vacations. We have never seen an America where a 2-year-old girl could be found at a day care center with 11 vials of crack in her pockets, thinking they were candy. Or where a kindergartner could find a gun in a stroller and use it to kill his little sister.

We have never tried to raise children in an environment where the glorification of violence is as great as ours is, and where there is such immediate relevance to so many of that violence. Where our media tend to try to prove once and again that they can outshock reality, never truly doing so, and where some musicians even celebrate murder in cold blood of our police officers. So, we find ourselves today in a very different United States of America from what any of us want or from what any citizen has a right to expect.

We have an incarceration rate in the United States of America that is already higher than any other nation in the world. We imprison black males at five times the rate of South Africa and we have more black young Americans in jail today than we do in college.

Mr. President, 42 percent of the young black males in Washington, DC, are in the court system of this city. So, for too many people, for too many of our fellow citizens, what we know as the land of opportunity has become a land of forbidden zones, a land where you see whole parts of our so-called community deserted by working people, deserted by businesses, deserted ultimately by families, and certainly deserted of children's laughter, deserted of hope. And it has changed the way we live. We spend money on locks. We spend money on insurance rates. We up the amount of money we spend in our hospitals for trauma.

(Mr. ROBB assumed the chair.)

Mr. KERRY. Mr. President, we are an armed camp. We have more private police in America today than we do public police; 1.5 million private police officers versus 535,000 public police officers in our States and localities.

Some people want to believe, believe it or not, that somehow this will take care of itself. Some people want to believe that if you close your eyes and you kind of go through your sheltered life, if you are lucky enough to have one, that you might just be lucky enough to avoid this reality. But I will tell you something, the FBI statistics tell you that is not true either, because the FBI statistics now tell us in 1993 that 83 percent of all Americans can expect to be the victim of a violent crime in their lifetime—83 percent of all Americans.

I have had my car stolen three times. I have had my house broken into. I was walking down the street in Washington the other day right on 15th Street, a block and a half from the White House. A car came screaming out, recklessly driving around, threw a beer bottle out and it broke at my feet. I yelled at them and realized I made a mistake. They drove around the corner, stopped and started backing up. I walked into a restaurant, I got on the phone. The car drove up and I saw them glaring at me. I am confident if I stayed out on the street, I might be a statistic today.

There is not an American today who is not walking out of a home deciding where to go that is not impacted by what is happening. I was talking with people in Massachusetts the other day in one of the richest communities in the State. They were telling me how their whole life has changed. Parents do not allow their kids to walk in the aisle next to them in the supermarket alone for fear that there might be a stranger there to cart them off. Parents do not let children go to certain places based on the threat of crime. We make decisions as to where we will go to eat at night based on the threat of crime. We make decisions as to whether or not we will let our kids travel here, there, wherever.

One parent told me the other day in Massachusetts that when the doorbell rings, in their fairly affluent communities in one of these suburbs, their instant reaction to the children is: "Don't answer that, I'll get it," because they fear the stranger at the door.

This has changed the way we look out the window. It has changed the way we live in our homes. It has changed all the perceptions of America, and no one should think that they can just somehow wish this thing away that has been 35 years in the building.

Mr. President, I believe that the rhetoric we have heard in the 9 years that I have now been here has only undermined the willingness of the American people to believe that we are ready to do something about this or that we understand what needs to be done. The bill that is on the floor, for $12 billion, is the first real beginning that I have seen in all the years I have been here, but it is not enough. It is not enough, Mr. President. It is simply not enough. We need to examine the reality of what is happening to understand why it is not enough.

Look at this level of fear that I am talking about across this country. That fear affects all the conduct that we care about when you are talking about these words: "Domestic tranquility." And that fear, candidly, leads to more evil.

In the end, the great generosity that we know that normally comes from the American spirit falls in the face of that fear. So we abandon homes, we abandon communities out of fear, we abandon downtowns. We abandon public squares. We stop fighting for our own liberty in these places because of our fear and because we have been unwilling to put the resources into the battle.

So what happens? We start by witnessing the invasion into our public places of thugs and punks and they begin to take over those public places so that senior citizens or law-abiding citizens fear to move there because they have a perception that these people may be a little wild, a little crazy. Maybe they are out for a wilding, maybe they just want to rough them up, maybe they want to take their money, jostle them. So you divert, you walk the other way around the sidewalk and you have lost part of your liberty. You have lost something that we are supposed to have in this country.

So it is today, as I said, Mr. President, that there are more private police, and that is well and good for those who can afford them. But not everybody can afford to live in a gated community or in a private preserve.

Last year, the New York Times reported that much of the middle class was moving out of Philadelphia. More recently, the New York Times reported that much of the middle class appears ready to move out of New York. And tomorrow, they may write about Boston, though much of it has already moved out of parts of Boston, or any other city in the Nation. Almost every single city in this country has areas that are virtually abandoned, buildings that are disfigured, gutted, stores and businesses shattered, their night streets empty and menacing. There are schools from which all learning has almost died, where a quarter of all the students report that they carry weapons to school—a quarter of all the students carry weapons to school for protection, and now even more adults in America pack a weapon for protection on public transportation. So we lose the freedom of travel; we lose the freedom of choice; we lose part of who we are.

Mr. President, in a certain respect, because we now live our lives where we have to make these constant, constant conscious choices about the potential impact of being hit in the head, or a member of the family being raped, because of that, we literally walk around with a new sense of terror about a confrontation, an unwanted confrontation. In a sense, that has become a prison that we all carry around with us in this country.

I do not think there is anybody here who is soft on crime. We should get away from this whole arising that tries to suggest that one person or another—there is not a U.S. Senator who is soft on crime. There are differences of opinion, however, as to what will make the difference in fighting crime. When we are stuck, as we have been for these

last years, in a fiscal box that does not treat this as an emergency, we reduce our capacity to reach a compromise because we hold out a pot of money that is so minimal that everybody is fighting to grab their piece for their idea of what will make a difference and, in the end, nothing significant gets done that will make a difference.

That is our own fault because we do not understand the full ramifications of what is happening, so we do not hold out enough money. The result is we do not do the job and the result is all the rest of what I just talked about.

I think we have to acknowledge that and I think we have to understand the degree to which we hold in our hands the ability to be able to address this. I do not believe that we need to be losing. I do not believe that we do not understand what to do. I do not believe that there are not real choices that we could pick one by one that will address this issue and have an impact and affect the lives of Americans.

Lest anybody have any sort of doubts about this system and what is happening, I want to run through just a few charts very quickly that articulate it.

This is the murder rate and this is only the percentage of change from 1988. Since 1988, murder went up 19 percent, by 1991, slapped down a little bit to 15 percent but it is back up right now. So that is the murder rate. That is one measure of crime.

Violent crime as a whole, since 1988, it is up 23 percent.

Robbery, up 24 percent from 1988, and I will go through the individual kinds of robbery that are up.

Aggravated assault, it is up 24 percent from 1988.

Forcible rape, up 18 percent from 1988.

When you start breaking down the robberies, you see that commercial and house robbery is up 27 percent; bank robbery, up 44 percent; convenience store robbery, up 10 percent. It dipped down just last year. I suppose people have found a better target than convenience stores, which seem to be arming themselves nowadays. Gas station robbery, up 12 percent in 1991, 7 percent in 1992; street robbery—that is to say, citizens just walking down the street trying to live like a decent American—29 percent street robbery is up; residence robbery, 15 percent.

Now, some people might say well, hey, it is OK, crime is up. We have the police out there; they are going to do the job.

Let me just show my colleagues what is happening with respect to murder. If you do not think it is not a national emergency after you begin to see what is happening to murder and to our ability to clear, I do not know what is a national emergency.

These are hard statistics to see, but I will read them. These are the age, sex, and race of murder offenders. Let me just share the age of murder offenders in the United States in 1992. The largest numbers of murders are now being committed by kids aged 15 to 19 years old. That is the largest single category of murderers in the United States, kids 15 to 19. There were 4,249 murders by kids who are 15 to 19; 3,929 murders by kids 20 to 24; and 2,614 by young adults the age of 25 to 29. It drops down markedly to 1800, 1200, 800, 500, 300, 200, as you go up into the higher age categories.

What is also dramatic, Mr. President, is the age and sex and race of those being murdered. The victims of the 15- to 19-year-old pack, where most murders are 15- to 19-year-olds, there were 2,851 of them. The next highest category is 20- to 24-year-olds who are being murdered by people 20 to 24 years old and 15 to 19 years old.

So we have lost a generation of young people, and there are reasons for that. I believe we can understand some of those reasons, not all of them.

Mr. President, there are many reasons for crime, but anybody in the court system will tell you today, when they talk to these kids, they come from broken homes, some of them broke after they were born but many of them never had a father around or a mother or both. In fact, when you go back to the words of our colleague, Senator MOYNIHAN, in 1965, in this country, he talked about what happens when kids are born without parents around, without people to suggest there is a difference between right and wrong, between one form of behavior and another form of behavior, that there is a difference when somebody is there to inculcate a value system. We have kids growing up today in America who grow up without any human ties and at an alarming rate, Mr. President.

In 1965, the rate of illegitimacy in the black community it happens was then 27 percent, in the white community it was about 4 percent. It is up everywhere, incidentally. This is not a chart that somehow pins the problem at one people or another. This is across the board—white, Hispanic, black. This is an American problem. It went up in 1970 to 37.5- percent illegitimacy. In 1975, it went up to 49.5 percent, 7 percent among whites. In 1980, we began to see Hispanics enter the picture—11 percent white illegitimacy, 25.5 Hispanic, 56.1 in the black community, and in 1990, 3 years ago, 20.4 percent among whites, 66.5 percent among blacks, and 36.7 percent among Hispanics.

These kids who in 1970 were born without values inculcated became 15 and 16 in 1985, and the kids born in 1975 became 15 and 16 in 1990. You can turn to the charts of how crime has gone up among young people in those same cycles and you will see, as we have had a generation that has had no attention, no input, reduced resources, reduced focus on values, reduced ability to distinguish between right and wrong, indeed, crime has gone up significantly.

So we can ask ourselves what will happen when we hit the year 2000 and the kids who are born today are 10 and 12 and increasingly violent because we have not attempted to intervene or do what is necessary.

Now, Mr. President, I mentioned a moment ago the increase of each kind of crime in America. Let me share with my colleagues, who may think that the police or someone is there to protect them, some stunning figures. These are called the clearance rates by arrest. We measure whether or not a crime has been taken care of by measuring clearance rate of the crime by arrest or by conviction.

For burglary, in 87 percent of the crimes we do not even make an arrest. We only clear 13 percent of the burglaries by arrest. And you know that when you arrest you do not convict everybody. So the number of burglars in America who pay a price is minimal. Larceny: 80 percent of the people who commit larceny are never caught. Motor vehicle theft, 76 percent of the people are never caught. No arrests. We do not clear the case. Then, when you come to violent crime, it is equally disturbing.

Of the murders, 35 or 36 percent of the murders committed in America we never even make an arrest. And for the 65 percent that are cleared by arrest, we get a conviction rate that is such that for more than 50 percent of the people murdered in America, there is no price paid. We do not catch them.

For aggravated assault, it is a higher number—40-some percent that do not get caught; 48 percent do not get caught for forcible rape; 76 percent for robbery do not get caught.

Now, why is this? Why do we not catch people in America today?

Mr. President, there is a good reason for that. Because we have been busy disarming in the face of an increased threat. Twenty-five years ago in America, there were 3.3 police officers per violent crime. In 1993, there are 3.3 violent crimes per police officer. So each police officer in America is 10.56 times more likely to confront a violent crime than his predecessor 25 years ago. And if we do what this bill wants to do, even at its increased level of funding, we will merely reduce that 10.56 percent down to 9.5 percent.

So incrementally, do you think a police officer is going to feel safer knowing that instead of being 10.5 times more likely to hit a violent crime, he is only 9.5 times as likely? Do you think the American citizen is really going to feel safer from what we have done because now, instead of 3.3 violent crimes per police officer, we have gone down to 3.1 violent crimes per police officer? This is incrementalism. And the problem is that unless we put a sufficient number of police in our streets

who can literally restore order, we will not do anything except once again send a message that we have played politics; once again send a message that we are not really that serious, and that the criminal justice system cannot respond.

Mr. President, there are other aspects of this that we could look at to indicate why we have a problem. The Senator from Delaware has very articulately, again and again, tried to remind colleagues on the floor. The problem is not at the Federal level. If we come to this floor and all we do, for instance, is pass another form of the Federal death penalty, then we are mocking what is happening.

Do you realize we have some 47 new Federal death penalties in this bill? That is OK. If we are going to have more, that is fine by me. But we have a new Federal death penalty in here for genocide. The last time I noticed, there was not a lot of genocide prosecutions in the United States. We have a death penalty in here for people who kill Senators. Again, not of those murders either.

But what we do not have in here, Mr. President, is sufficient money to help 95 percent of the battlefield to get the weapons and the strategy it needs. I repeat: 95 percent of the battlefield is State and local. It is the State prison system that is overcrowded. It is the cities and the rural communities that do not have the cops. And nowhere is this more clearly evidenced than in this chart which shows what has happened over the last years.

When I was last prosecuting—it seems a long time ago, and it probably is now—in 1980, we had the Law Enforcement Assistance Administration. I see the former attorney general from Connecticut, the Senator from Connecticut [Mr. LIEBERMAN], is here now. He remembers the LEAA. It was what empowered us to prosecute.

When I came into office, we had 12,000 backlogged cases. We could not deliver justice. But because we were able to get grants for a major violator unit, for priority prosecution, for extra clerks and judges, we whittled that down to zero backlog, and we could try any serious felony within 90 days from arrest until conviction. And we had a place to put them.

But that is not true today. We had $2.3 billion from the Federal Government going to the States to assist them to make the criminal justice system work. Here is the chart. That was 1974, 1975, 1976, 1977, and then beginning in 1978, down, down, down, and in constant dollars, up slightly in the last couple of years. We are not even close to the level we were at 13 years ago, and the crime problem is 10 times worse.

We are spending in constant dollars about $756 million today to help the States versus $2.3 billion a few years ago.

So that is an indicator, Mr. President, of how we have not treated this with anything except really rhetoric.

Let me show you what is happening in the prisons themselves. If you are going to have a criminal justice—oh, everybody comes to the floor, and says," What we need are mandatory sentences." OK. Let us have a mandatory sentence. But let us understand. If you are going to take the discretion away from the judge and have a mandatory sentence, that means somebody is automatically going to go away for that crime. That means you need a bed. And you need a guard. You need all the other personnel who service that. We have not been willing to do that.

The result is today that for all our talk of tough sentencing and being tough, we are at 137 percent capacity in the Federal system. In the Northeast, the only State below capacity is Rhode Island, the smallest State in the country; Connecticut, 113 percent; Maine, 112 percent; Massachusetts, 144 percent; New Hampshire, 153 percent; and so forth: 131, 149. You go out in the Midwest, and here is Nebraska, 150 percent capacity; Ohio, 177 percent capacity; Wisconsin, 139 percent capacity.

You go down to the South. Well, in the State of North Carolina, it is 95 percent; Mississippi, 155 percent; Virginia, 139 percent.

These are the States and local communities, State for State for State. If we were going to pass mandatory sentencing somewhere, we do not pass them for the States, obviously. We only pass them for the Federal government. So we can create some kind of carrot in this system to bring the States in. But if we do, with all the other mandates that we have been busy passing and not funding for the States, we had better think about what kind of system we are building.

I respectfully suggest to my colleagues that you cannot go on this way. You cannot come to the floor of the Senate and say that we have to do something about crime. You cannot say we are going to have tough sentences and that will do it, without having a probation officer to handle the kid who deserves to be handled by someone on a personal level; without having a clerk to take the court papers and move them from the courtroom to the jail; without having the jailer and the transportation necessary to get them from here to there. And there is not a criminal justice agency in this country that is not groaning under the weight of our rhetorical mandates that do not do the job.

People sit here and say where do we start? This is a big thing. It is a big thing. It has been 35 years in coming. You certainly do not start by ignoring it. I think we all accept that. You do not start by doing nothing. That is not acceptable. So, OK. We have to decide where we start. And the first and foremost place, I respectfully suggest, to begin is the police. It is the police.

Some people say, "Senator, you are crazy. We don't need more cops on the street." In some communities that may be true. But I know that my police commissioner in Boston tells me he wants 350 more cops for community policing. And I know that here in the city of Washington, in the most extraordinary statement of the utter bankruptcy of this system, the Mayor asked for the National Guard, for 3,000 people, and then backed off and said administratively, we only want a few because the concept of the military in our streets, policing, obviously raises hackles in America.

But what the Mayor of Washington was saying is we do not have the front line. We do not even have the capacity to keep the peace. She threw up her hands in utter despair, and said, "Help me."

You can go to cities all over this country where we do not have sufficient cops.

I will tell you something. A police officer on the street makes a difference. People do not just walk up and hit people right under the nose of a cop. People do not tend to lie around in the doorways and force you to make a detour to get where you are going if there is a cop there. A cop is literally the front line of the defense for this country.

That is what the Constitution says we ought to be paying attention to. Gangs in the streets cannot run wild. They know they do not have to wait for someone to buzz a 911 that does not even answer. So a couple of guys will come by in a car, drive through, not see them, and disappear around the corner. That is not policing.

A lot of good people have come to understand that in the police structures of this country. Lee Brown understands it. Bill Bratton up in Boston understands it. The mayor down in Houston, Mayor Whitmire, understands it. He put more cops on the street in Texas recently, and crime has gone down 20 percent.

In East Palo Alto, CA, they struggled to get extra money. They put some cops on the street. And, by gosh, crimes started to go down. Civil order began to return.

I want to suggest respectfully that there is a means in this bill to deal with this problem. Crime creates poverty. We do not think about that very often. But if you look in a lot of the centers of our country which are poor, crime helps create that poverty because each murder, each rape, each burglary, each mugging makes it a lot more likely that a business is going to close.

It makes it more likely that somebody who does earn a decent living is going to get out of there just as fast as they can. They are going to skedaddle

the moment they can economically make it. So controlling crime is a precondition to any serious attempt to try to deal with the social or economic reform that we need to deal with in the United States.

I might add that urban crime, although much of it is interracial, is also the most deadly poison there is to improved relations between blacks and whites, Koreans and whites, and Hispanics and whites, because it is critical in shaping opinions and defining behavior, and fear will defeat fairness every time.

So I say to my colleagues that Albert Schweitzer reminded us that the truth has no special time; its hour is now. This is a time of special urgency for this country. It is a time for us to tell the truth, Mr. President, and it is time for us to deal with the truth with a special urgency. We have allowed to grow in our midst in this country a deadly and menacing criminality. Now we need to strike back in the ways that we know we can.

Another part of the truth is that more and more of the crimes that are reported to the police are simply going unexamined because they do not have time. And for each failure to arrest, Mr. President, there is a spreading of the fear, because there is a network there; there is the victim, the victim's family, the cops, and there are the people brought into the system, all of whom understand what is happening. And for victim for victim for victim, for year for year for year, they are spreading the tentacles of that fear through this country. They understand when there is no police officer to go to court with them as they came to court for the third time and the case is dismissed, they understand that the system is failing. They understand when they realize after 2 years that they can barely get the detective or inspector to answer the phone for their crime that is now 2 years old because they are swamped underneath the crime that is a week or 2 weeks or 2 months old. That spreads from community to community to community.

Mr. President, I think it is obvious to all of us that Government is not the whole solution. I do not want to come to the floor and remotely suggest that. We have to deal with questions of values, questions of parenting, problems of education. We have the problems of lack of available resources for those incredible Americans who are on the front line of really being missionaries in this effort, who are trying to reach out to kids as part of the ABCD programs, or other efforts, and who monitor, so they are struggling upstream. They deserve support. These people are battling to save these communities.

Where are we? Squabbling over habeas corpus, which has absolutely nothing to do with crime in the street. These are people already in jail. Habeas corpus is about people already in jail. We ought to be worrying about the people who are not in jail and who ought to be in jail.

I might add, on the other side of the fence, I am going to vote for the Brady bill. We ought to have that because I do not think people ought to get guns for nuts or felons. We ought to check it out for 5 days. It is not really a big deal in doing it. I might add, while candor is in the moment, it is also not a big deal in terms of fighting crime. It is a first step. I do not even know what kind of step, because it will not change the fact that there are more privately owned weapons in America than there are by the police, Army, Navy, Air Force, Marines, National Guard, and Coast Guard altogether. If you want to try to get the police out there collecting that or managing that when they cannot even manage the rest of these crimes, then we are doubling and tripling our problems.

The first line of defense is police, because they are a symbol, and they are the force of Government authority: they are the indispensable foundation on which the life of a community becomes possible to build. Frankly, the greatest crime against disorder today, against ourselves, is the fact of what we have done to our police by not giving them the capacity to be in the community, to walk down the streets, to know who the thugs are, to be able to build relationships with people in the community, to prove to people that they are there in the moment of need, that you do not have to wait for 911 not to be busy, that you can reach these folks. And it says that society cares.

What does it say to a woman huddled in a housing project who watches us find police for Somalia or some other country, but we cannot find police for her? What does it say to her about what we care about in the United States of America, or how much we care about her? What does it say to somebody in a suburb somewhere who just heard about the teenager dragged out of a car a couple of days ago or carjacked? What does it say to them when the cops are not even able to pursue it, or we do not have the ability to pursue it?

A generation ago—which is the last time this country can be said to have truly enjoyed civic peace—there were three times as many police officers as there were violent crimes. That is exactly reversed today.

The message to any criminal is: I probably can commit this crime and not get caught. If I get caught, I probably can tie up the system long enough that I may be able to fake it out. And if I cannot do that, I may not be able to be convicted. If I am convicted, I know pretty darn well that I am probably not going to spend a lot of time in jail because they do not have enough space for me. So I am going to take the risk.

The whole concept of deterrence has been blown out of the window by our own indolence, our unwillingness to give it some impact. So we have destroyed deterrence, and in doing that, you start to rip away the core not just of the criminal justice system, but the core of the belief system of what builds community and what begins to say to people there is indeed a way to behave and a standard by which we live as Americans, a standard of expectancy about what you do and do not do. We have destroyed that.

Mr. President, I know the police are not the whole answer, because I can go through this piece by piece and give you what I think is the answer. But the police are the first place to start to send the message that we are beginning to take back our streets and that we are serious.

We could put 80,000 police on the street in 4 years if we were to adopt and put in the police corps, which we have passed before, which has been through the Senate, and we would invest in the young people of this country.

The Senator from Virginia, who occupies the chair, like many others here, put on the uniform of his country and went to serve his Nation. He came right out of college and went into the Marines and fought. No one can tell me that it would not be a good idea to take our young out of college, with the capacity to have their college paid for in return for 4 years of service here in this country as a police officer. Then they might choose to go on into life as a banker, lawyer, doctor, who knows what. But they would have invested in this country. They would understand what it means. They would be citizens with a different stake in the future of this Nation. We would have educated people. We would have given people an opportunity to serve. We would have given them a stake in their community. Most importantly, we would have created a new concept of citizenship, 80,000 cops in 4 years, 20,000 a year; cost, $5 billion for 5 years.

Mr. President, that is what will determine whether or not we are real here in these next days. I agree with the Senator from Texas. I personally would be willing to make a deal with the Senator from Texas. If he will accept creating the $12 billion and help us find that money we should be building that additional space regionally. We should be creating the capacity to not just build permanent large new institutions where the overhead burdens us forever. We have to make a presumption that if we put adequate police in the streets, if we begin to make the system work, if we pay attention to those kids who early on indicate a propensity to get into trouble—and, incidentally, talk to any DA in America. They will tell you in their communities that they can identify the troublemakers. They know who they are.

They know who they are going to be. They see their brother get into trouble. They see their father in trouble. But they do not have the ability to reach out to that kid and do something to divert that kid.

So we need to build that capacity into the system by dealing with boys clubs, girls clubs, keeping schools open in America after hours. What are we doing in the United States of America lamenting gangs, worried about the Bloods and the Crips, and we shut the doors of our schools at 4 and 5 in the afternoon. We do not have anywhere to go. We are shutting our libraries. Is it any wonder?

I suggest, Mr. President, that we were to start with those 80,000 and 20,000 on top of it, the President talked in his campaign about 100,000 police. Senator BIDEN in all of his reports from the Judiciary Committee has said 100,000 police is the starting point. But for reasons beyond the control of the Senator from Delaware, he is on the floor now with a bill for 60,000.

Let me just ask my colleagues: How can we come to the floor knowing that everyone really believes you ought to have 100,000 but we are here for 60,000? Are we going to go back home and tell what we did was necessary? Are we going to go back and say we met the need of this Nation? Impossible, when we do not even meet the level of our own rhetoric, and we are not.

Mr. President, I believe, and I think others share this, that the overwhelming cause of the kind of ugly racial incidents that have disfigured an awful lot of communities in this country is fear. I talked about that a moment ago, but it seems to me that we have to really measure that as we think about this response.

I read in the newspapers, in the Wall Street Journal, the other day Louis Farrakhan was quoted as saying that the gangs are going to play a role in the future but the Bloods and the Crips are not really directing their energy against red and blue, which is there respective colors. They are going to direct it against white, because white is the enemy, and the gangs are going to settle the score.

It is already tough enough in this country to talk about problems of race, but fear of crime, fear of stranger, fear of those you do not know, fear of the stereotype is a large component of what is dividing people in America.

I believe that if we begin to reestablish the domestic peace and order, then we can begin to break down the stereotypes, and we can begin to restore our sense of confidence in one another—so we could resume our historic march toward the fulfillment of the American promise of equality for all people. That is something the police could help to bring about in America, particularly with young Americans being part of that effort.

Moreover, I might say that police do have a proven ability to deter crime. Some people say to me if you just put more cops on the street, all we are going to do is put more people in prison. That is not true ultimately, because it has been shown where there are more cops on the street, crime goes down. There is less crime ultimately. So we can obviate the need to build lots and lots of permanent large institutions if we are responsible enough and adequately treating this issue systemically.

I asked my colleagues to sit down together, to come together to think about the adequate amount of prison space, to deal with the problem of overcrowding and deal with the problem of making sure that someone who deserves to go away goes away, and goes away for the period of time they ought to go away. But simultaneously, we need to understand that you need the other components of the system that manage that. We have components of our criminal justice system that cannot even talk to each other today.

I met with the district attorneys and the police chief in Boston the other day. They were telling me they still do not have the computer capacity to do the warrant checks to know that someone may be wanted in another State unless they do certain sort of backup check procedures for this. Here we are with supercomputers and extraordinary capacity for the flow of information, and we are not even empowering our system to hold the people we have, because we do not give them the money for the computer system, among other things.

I do not want to go on and on, except to say that we must come at this realistically. If you take the money that the Senator from Delaware, [Mr. BIDEN] in his own reports has suggested we should be spending, it is more than the $12 billion that the Senator from West Virginia is now offering us.

I am a cosponsor, and I will vote for, and I think indeed, if we can get $12 billion that will be the most significant leap we have made in years to begin to be realistic. But everybody ought to understand that is not an emergency response. We should be spending at least $5 billion a year for the next 5 years, and that should be divided between prison construction and policing so we can put 100,000 police, minimum, on the street, adequate facilities for our courts and the justice system to deal with the processing of additional personnel, adequate capacity to the juvenile system to do real diversion boot camps and other programs. And we should be dealing with safe schools, dealing with boys and girls clubs, midnight sports leagues, and the other efforts that are so critical to really changing the dynamic that has superseded most people's sense of capacity to order.

I think, Mr. President, that we ought to care enormously about reducing the total amount of crime, or about restoring order to those communities that sense today the impossibility of our ability or capacity to be able to respond to their needs.

But we should remember as we do this, Mr. President, that we are today holding 76 percent more people in our prisons than 10 years ago, and crime did not go down. That is a very important figure to focus on. With all the rhetoric of the last 8 years, the drug bill, et cetera, we have 76 percent increase in our prison population, and crime has gone up. Why? Because we did not create a systemic approach that tried to deal with the other components of the criminal justice system. We did almost nothing for gangs, for youth gangs, for kids, for the people who absolutely, predictably, will wind up being the inhabitants of the adult population because we have neglected them at that earlier stage.

Mr. President, I know the Senator from Delaware would like to do more. I know the Senator from Delaware believes that this is an emergency. I know the Senator from Delaware believes we should be spending the kind of money I just articulated, $5 billion a year, and I come back to the chart that I started with, which shows how many other things we have been willing to spend $5 billion a year for.

We spent $5 billion a year for the strategic petroleum reserve. We spent $5 billion a year for the B–1 bomber. We spent about $3.5 to $4.5 billion a year for SDI.

Are we really not willing to spend $5 billion a year to ensure the domestic tranquility of the United States of America and send a message to people in this country that we are, once and for all, serious about this issue?

I would say to my colleagues that the bills that are on the floor at this point in time, while they advance—one of them, the bill of the Senator from West Virginia is the one that now advances this more than it has been previously.

But let me just share another point that is missing.

Drug addicts. Most of the people in our prisons are on drugs or are there because of a drug-related offense. We are not testing them. We release them out into the streets of America with the same condition that they went in with.

Moreover, there are about 6 million hard addicts in America today. These are people who use dirty needles and spread AIDS. These are people who hit people over the head and rob to support their habit, that which is not supported, conceivably, by the money they get from the Government that supports them anyway. These are people who will go out and kill themselves, or become a trauma problem in a hospital, adding to the cost of hospitals anyway.

And only 20 percent of them are currently getting treated, even though the U.S. Senate voted for treatment on demand several years ago.

Again, why is that not happening more? Because we did not want to put the money there. That is the only reason.

I hope as we approach this debate, and as the rhetoric grows heated and heavy about crime, we will understand our culpability. It is our cowardice in our irresponsibility and our unwillingness to put resources into this issue.

Resources are not the whole thing. I understand that. The Government is not the whole thing. The crime problem will not be totally eliminated by virtue of this effort. But it is the place to begin. There is no question of that.

I hope my colleagues will come together and find the resources that are adequate and that we will begin by putting the police into our communities.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER [Mr. LIEBERMAN]. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, we are about to have votes on this bill. I believe that we can do that after the distinguished Senator from Texas makes her approximately 12 to 15 minutes of remarks, because she has been waiting all afternoon.

I ask unanimous consent that she be permitted to do that.

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

Mr. HATCH. After she makes her remarks, my suggestion is—and I hope the majority will go along with it—that we move immediately to vote on the Grassley-Roth-Hatch antichild pornography resolution, then allow for at least 15 minutes for the distinguished Senator from North Carolina to speak with regard to the Feinstein amendment. And there should be some flexibility. He will only give a speech. There will be no amendment. And he has some questions of me, I believe.

Then, hopefully, we could go to the Feinstein vote as soon as Senator HELMS is completed with his remarks and his questions of myself. I am not sure whether he will question Senator BIDEN, but I think he will question me.

Mr. BIDEN. If the Senator will yield, I am sure he will not pass up the opportunity.

Mr. HATCH. I think I am the one who is going to be questioned.

But that may be a way of letting our colleagues know.

What I have suggested is, Senator HUTCHISON will take 12 to 15 minutes to complete her remarks, then we move straight to the Grassley amendment, if it is acceptable to the majority, move straight to the Grassley amendment for a vote, allow Senator HELMS enough time to make his remarks and ask any questions he has. That would be about 15 minutes, but whatever it takes, and then go straight to the vote on the Feinstein amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. If the Senator would yield, I think that is a positive way to approach it, as long as we do not get ourselves in the untenable position of the Senator from North Carolina not just asking questions, but once we adopt the amendment that is now an amendment in the second degree and clear it——

Mr. HATCH. I think we can get a unanimous-consent agreement that he will not have any amendments; that it will be strictly a speech.

Should we try to get that agreement?

Mr. BIDEN. Yes.

Mr. HATCH. Should I ask or do you want to do it?

Mr. BIDEN. No, you go ahead.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following the 12 to 15 minutes of remarks of the distinguished Senator from Texas [Mrs. HUTCHISON], we move to a vote on the Grassley-Roth-Hatch amendment on child pornography; that immediately following the vote on the Grassley amendment, Senator HELMS be given the floor to speak with regard to the Feinstein amendment, without any intervening amendments; and that, as soon as his remarks and questions are over, we proceed to a vote on the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object. I do not expect to object, but I want to be sure this is agreeable to the majority leader.

Mr. BIDEN. Yes.

Mr. BYRD. It is.

I have no objection.

The PRESIDING OFFICER. Is there further objection?

Mr. BIDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Reserving the right to object, this does include Senator FEINSTEIN'S time to respond to Senator HELMS?

Mr. HATCH. Of course.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Under the previous order, the Chair now recognizes the Senator from Texas, [Mrs. HUTCHISON].

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, for the next several days we are going to hear statistic upon statistic depicting horrifying increases in crime, particularly violent crime. And we are going to engage in lengthy debates about the legal nuances of habeas corpus and minimum sentencing and parole policy.

My State certainly has statistics I can recite: Violent crime has doubled in the last dozen years: prison overcrowding and lenient parole policies result in the releases of thousands of convicts who have served less than one-quarter of their original sentences.

But these facts should not be the focal point of our debate. The only fact that matters is that Americans are frightened—frightened by what is happening in their neighborhoods, on their streets, in their schools, and in their communities.

As illustrated powerfully at the ballot box this past Tuesday, the American people want action. They do not want dry, dispassionate debate about theories of constitutional interpretation. They do not want to hear politicians talk about hardened criminals that have been victimized by society.

The American people want real action to protect families in their homes, to protect children at school and at play, and to protect the most vulnerable members of society.

Mr. President, we cannot allow the debate about this crime bill to degenerate into a litany of statistics and long sermons. We can ensure real justice for our fellow citizens only if this debate is first and foremost about the human costs of crime and the terrible suffering of innocent victims, and about how we can stop the criminals and make America safe again.

It is easy to gloss over the only daily and gruesome evidence of carnage. There are case histories in every State, every county, city, and town in the Nation. Take the recently publicized case of a Texas man who was paroled in 1990 after convictions for burglary and indecency with a child. He was charged recently in the murder of a 7-year-old little girl from Plano, TX. Every day, such sick, remorseless criminals are turned loose from prison. Is it right that unsuspecting citizens should be exposed to such risks, because their Government cannot or will not keep the criminal behind bars?

Do our constituents, our fellow citizens, expect too much? I do not think so.

Our constituents want to increase the length of time violent offenders actually serve in prison, so that those who kill and rape and brutalize cannot repeat their crimes, as did Charles Wooten, paroled in 1992 for killing and robbing two service station attendants. In July of this year, police say Wooten and an accomplice killed Wooten's father and then doused his body with gasoline and set it on fire.

The tragic, scandalous fact is that most violent offenders who are sent to prison serve only a small fraction of their sentences. According to the Bureau of Justice Statistics, violent offenders receive an average sentence of 7 years and 11 months, but they served an average of 2 years and 11 months in prison—about one-third of their imposed sentences. The convicts go free,

but innocent citizens pay the price for this kind of liberal sentence reduction.

A Texas court recently threw out a murder conviction and granted a new trial for a man for the carjack slaying of a young woman at a Houston intersection in 1990. According to his taped confession, he killed the young woman because his car was nearly out of gasoline. He was arrested in the victim's car, sitting in a puddle of her blood.

Two years ago, another criminal was released from prison, and on that very day he went to a parking lot at a shopping center in Houston, TX. He strangled my college classmate and friend, threw her in the trunk of her car, and drove it to Colorado.

On the way, he stopped, opened the trunk, threw her out dead in the field. And when asked why, he said, "I just had to have her beautiful car."

Mr. President, no body of law that permits outrages like these can be considered just. No criminal justice system that allows thugs and murderers to evade punishment and prey repeatedly on law-abiding citizens can be considered fair. And yet, we must acknowledge this is increasingly the kind of justice our system metes out—certainly not the kind of justice Americans can rely on to protect themselves, their loved ones, and their possessions, but the kind of injustice criminals can and do rely on.

In the next few days, we can do something to help. We can pass a criminal reform bill that makes our homes, our streets, and our communities safer. We can pass a bill that will make just punishment swift and guaranteed. We can pass a bill that puts thugs and murderers where they belong—behind bars.

We must take action. We must be vigilant. We must win this senseless war that is occurring on our streets. Let us put teeth in this bill and take the first step.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order now is to return to the amendment offered by the Senator from Iowa [Mr. GRASSLEY] numbered 1098.

Mr. BIDEN. Mr. President, I ask unanimous consent it be in order at this moment to ask for the yeas and nays on the Feinstein amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1098

Mr. BOND. Mr. President, I support the Grassley-Roth amendment. There are many issues on which people of good will may disagree, but the importance of protecting our Nation's children is not one of them.

The Clinton Justice Department brief in Knox versus United States departs from the common understanding of child pornography in two different ways. First, to be considered pornography under the new standard, the material must show a child lasciviously engaging in sexual conduct. Second, the Department contends that to qualify as pornography under the Federal law, nudity or visibility of the child's private parts is required. Thus, the new standard would focus on the presence or absence of lascivious action by the child, rather than the pornographer.

This is no way to safeguard the well-being of our children from the exploitation, abuse and degradation that stems from child pornography. Children may not even understand the meaning of the word "lascivious"—but this interpretation could make them the victims of those who understand the word all too well. Under the loopholes created by the Department's new standard, children could be photographed and videotaped while sleeping or occupied so that they do not know they are being sexually exploited. Frankly, I am appalled that an administration that has often stressed its interest in children's well-being could espouse this new standard even for a moment.

American criminal law has traditionally focused on the intent of the criminal, rather than that of the victim. This is not the time to alter that tradition, when the welfare and the safety of our Nation's children are at stake.

Mr. COATS. Mr. President, I join my colleague from Iowa in sponsoring his amendment because I believe the Clinton Justice Department's action in Knox versus United States has tragic consequences for our Nation's children.

Earlier this year when President Clinton announced his nomination of Janet Reno to be Attorney General, Ms. Reno stated:

I would like to use the law of this land to do everything I possibly can to protect America's children from abuse and violence.

Seven months later the Justice Department, which Ms. Reno heads, reversed its position on child pornography in a crucial case before the Supreme Court. This does nothing to protect our children from abuse. In fact, it leaves our children more vulnerable to abuse and exploitation.

In September, the Justice Department filed a brief in the Supreme Court which changes the standard for what constitutes pornography and provides child pornographers wide latitude in exploiting children.

In November 1991, Stephen Knox, a graduate student at Pennsylvania State University and previously convicted child pornographer, was convicted of receiving through the mail and possessing child pornography. Knox appealed his conviction to the Third Circuit U.S. Court of Appeals on the grounds that the videos did not constitute pornography because the girls featured were not nude. The court of appeals dismissed his appeal and upheld his conviction. Knox then appealed his conviction to the Supreme Court.

The tapes that Knox had in his possession contained vignettes of young girls, aged 10 to 17, wearing underwear, bathing suits, and other minimal clothing, striking provocative poses for the camera. According to the court of appeals, "* * * the photographer would zoom in on the children's pubic and genital area and display a close-up view for an extended period of time. Most of the videotapes were set to music. The films themselves * * * clearly were designed to pander to pedophiles."

Federal law makes it a crime to distribute or receive any visual depictions of minors engaging in sexually explicit conduct. The brief that Solicitor General Drew Days filed in the Supreme Court in September, in a reversal of the position held by the Bush Justice Department, argued that the conviction should be vacated because the child must be nude and engaged in sexually explicit conduct.

This interpretation of the law ignores the intent of Congress to protect children from the lascivious motives of pedophiles. Under the Justice Department's interpretation, pornography involving the most vulnerable children could never be punished because an infant or sleeping child could never engage in lascivious acts.

So, Mr. President, we have a Justice Department, supposedly concerned about protecting children from abuse, going to great lengths to make it more difficult to prosecute child pornographers.

In the debate on crime, we talk frequently about the rights of victims and the rights of criminals. The administration's reversal on this issue is another assault on the rights of victims. In this case, it is an assault on the rights of children who are most in need of our protection.

VOTE ON AMENDMENT NO. 1098

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 1098, offered by the Senator from Iowa [Mr. GRASSLEY].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 100, nays 0, as follows:

69-059 O—97 Vol. 139 (Pt. 19) 19

[Rollcall Vote No. 350 Leg.]

YEAS—100

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boxer	Grassley	Murray
Bradley	Gregg	Nickles
Breaux	Harkin	Nunn
Brown	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durenberger	Mack	Wofford
Exon	Mathews	
Faircloth	McCain	

So the amendment (No. 1098) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is to be recognized.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Utah has suggested the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, it had been anticipated that a colloquy would now take place with respect to the amendment by Senator FEINSTEIN, but I am advised that all of the participants are not available at this moment. I understand the Senator from Alaska wants to just make a brief statement and put something in the RECORD. Then the Senator from Illinois wants to speak on the amendment.

Then as soon as the Senators who participate in the colloquy are here, I understand we can then proceed to have the colloquy, and then vote on the Feinstein amendment.

Mr. President, I suggest that we proceed in that fashion.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

The Chair recognizes the Senator from Alaska [Mr. STEVENS].

RUSSIA'S NEW MILITARY DOCTRINE

Mr. STEVENS. Mr. President, today's edition of the Washington Post reports that Russia has adopted a new, more assertive, military doctrine.

Among other details, the doctrine renounces the Soviet pledge of no first use of nuclear weapons, and exempts the armed forces from laws currently limiting the size of the Russian military to 1 percent of the nation's population.

I have long been concerned about conservative elements in the Russian military which continue to pose a significant threat to United States national security. For this reason, I offered an amendment to the fiscal year 1994 Department of Defense appropriations bill which would have denied Russia access to $400 million in so-called Nunn-Lugar moneys unless the President certified that Russia was not currently engaged in the production of new MIRV'd intercontinental missiles.

I offered this amendment after reviewing a growing body of evidence, from Russian and American sources, that Russia is continuing to modernize its nuclear arsenal.

My concern remains that while the United States provides Russia with assistance to destroy its weapons consistent with the START treaty, the Russians divert their own funds to construct more capable, new nuclear weapons that have MIRV'ed capability.

Today's news provides further evidence of Russia's intent in these matters. For a better understanding of what is motivating Moscow, I would bring my colleagues attention to a recent article in USA Today by Susan Eisenhower. Ms. Eisenhower is the director of the Center for Post-Soviet Studies, and a preeminent Russian scholar known to many in this body. I ask unanimous consent that a copy of the article be included in the RECORD. I believe this article will be very interesting to Members of the Senate.

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

[From USA Today, Oct. 18, 1993]

WATCH OUT FOR THE RUSSIAN MILITARY

(By Susan Eisenhower)

Since the constitutional crisis began in Russia more than a year ago, the West has consistently backed Boris Yeltsin, giving him virtually a blank check for dealing with his opposition. Although this may have seemed like the right course at the time, the international community could pay dearly for failing to encourage a compromise between the feuding sides.

Although the smoke has stopped billowing from the Russian White House, the question remains: What outstanding debts does Yeltsin have to the military for siding with him during the bloody confrontation?

In the course of the year-long constitutional crisis in Russia, there has been an apparent shift in Russian policy toward the other republics of the former Soviet Union. Last winter, the Russian military high command published a draft of a new military doctrine which, among other things, reserved the right to intervene on behalf of the Russian minorities in the republics of the former Soviet Union. Although it has not yet been adopted, it represents a political/military mind-set which could potentially lead to Bosnia-like confrontations.

Then, at the beginning of this year, Russia violated the security provisions of the agreement governing the Commonwealth of Independent States by declaring sole ownership of the nuclear stockpile and such important assets as the Black Sea Fleet in Ukraine and the Baikonour Space Center in Kazakhstan. By midsummer, Russia had officially and unilaterally disbanded the XIS joint command over former Soviet strategic assets.

Just months later—before Yeltsin dissolved Russia's parliament—his regime announced Russia's intention to exceed its allowable military force limit in the Caucasus, as agreed upon in the Conventional Forces in Europe treaty. Even though Turkey issued a protest against Russia's declaration, Yeltsin's foreign minister, Andrei Kozyrev, addressed the United Nations and asserted Russia's special role (and influence) over the former Soviet republics, including the Muslim countries in the south.

Within the same time frame, Yeltsin went back on his agreement to allow Poland and other Eastern European countries to join NATO. Russian military involvement also escalated in ethnic hot spots such as Moldova and Tajikistan. And, Russian military support of the Abkhaz separates in Georgia last month dealt a devastating blow to peace in the Caucasus and the fortunes of Georgian leader Eduard Shevardnadze.

These developments, and their timing, were likely part of a direct or indirect deal Yeltsin made with the military. As one Russian progressive I know told me, "Yeltsin was making his down payment to the military for their support during last week's showdown with the parliament."

We should be concerned that Yeltsin, who gained control over the country courtesy of the military, may now have to deliver on other items on the military's "wish list," including more money for personnel and weapons systems and a freer hand in the former Soviet republics. Such developments would be unpleasantly destabilizing for U.S.-Russian relations. But even more, they would be embarrassingly ironic.

In a tangible way, Washington bears some responsibility for the newfound power of Yeltsin's military.

If we had encouraged Yeltsin to compromise with the parliament—early on, while such a thing was possible—the military and internal security forces would not have been called on to weigh in and take sides in the political struggle that eventually ensued. By using the "military card"—for the first time since the early '20s when Soviet Russia used the Red Army to reconquer the non-Russian republics—Yeltsin has placed himself dangerously in their debt.

In the coming months, we will have a better idea of what the costs of our policy have been and what sum has been written on Yeltsin's blank check. But I, for one, worry that the absence of institutional frameworks will leave an opening for a long-suffering and more powerful military to redress some of its accumulated domestic and international grievances, many of which are directed at the West. In such a case, we will regret that we encouraged confrontation and not conciliation during this post-Soviet power struggle.

Mr. STEVENS. Mr. President, in this piece, Ms. Eisenhower writes that President Yeltsin owes his political survival to the Russian military. Because of this debt, she concludes that

Yeltsin may now have to deliver on a military wish list including more money for personal and weapons systems. It seems that her writing could not have been more timely.

I urge all of my colleagues to read this thoughtful and forward-looking article. It is imperative on all of us to ensure that Ms. Eisenhower's predictions do not come true.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1624 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, very much, Mr. President.

AMENDMENT NO. 1097

Ms. MOSELEY-BRAUN. Mr. President, I would like to address brief remarks to the Feinstein amendment, the hate crimes sentencing enhancement amendment.

I am proud to be a cosponsor, with my colleague, of this legislation because it addresses the subject that troubles me very deeply. I am speaking, of course, of the growing problem of intolerance and hatred in our society, and, indeed, in the world, but specifically with regard to what happens here in America.

Who among us is not aware of recent incidents of violence directed toward minorities? In Florida, an African-American was doused with gasoline and set on fire; in Los Angeles, white supremacists plotted to bomb the First A.M.E. Church, which had been nothing but a beacon of racial tolerance and reconciliation during that city's most difficult hour.

Allan Schindler, a gay Navy seaman and a resident of my home State of Illinois, was beaten to death while honorably serving his country in Japan because of his sexual orientation.

And in Sacramento, CA, an unidentified white supremacist claimed responsibility for firebombing the home of an Asian-American city council member.

But the evidence is more than anecdotal. According to the Southern Poverty Law Center, the number of white supremacist hate groups has increased by 27 percent, from 273 groups in 1990 to 346 in 1991. The Anti-Defamation League reported 1,879 anti-Semitic crimes in 1991, an increase of 11 percent over the previous year. And the national gay and lesbian task force reported a 31-percent increase in violence against gays and lesbians in 1991 in five major U.S. cities.

Of course, Mr. President, every act of violence is reprehensible. A lot of our conversation today is directed toward having a real war on crime to stop violence based on any number of different reasons for criminal acts. But hate crimes are especially troubling, because they impact not only the victim, but the victim's entire community. When a member of a minority is singled out and targeted for a crime, other members of that community feel isolated, vulnerable, and unprotected by the law. Hate crimes send a message to all members of a community that they are not free to walk the streets, to own property, or to enjoy the fundamental rights of all Americans simply because of how they look, or what they believe, or who they are.

Throughout my career, I have worked to build broad coalitions among people of all races, creeds, and sexual orientations. I have always believed that the forces which unite us as Americans are greater than the forces that would divide us based on our differences. It is important that we act to deter those criminals who target their victims on the basis of their race, their gender, their ethnicity, their religion, or their sexual orientation. The Hate Crimes Sentencing Enhancement Act does exactly that. That is why it is such an important piece of legislation.

Finally, Mr. President, one of the arguments that was made earlier was that enactment of this Sentencing Enhancement Act singles out acts based on the motivation of the criminal, of the person who perpetrates the crime.

I will point out that there are any number of places in our criminal law where motivation becomes significant. The difference between murder and manslaughter can very well be the motivation of the actor, and the difference between an assault and an aggravated assault can very often be the motivation of the actor.

I think that it is important for our Nation to send a signal that we will not tolerate the victimization, we will not tolerate violence, and we will not tolerate crime perpetrated simply because of the race or color or ethnicity or sexual orientation of an individual.

That statement is important not only to the individual and not only to minority group members of a specific community, but I think it is an important statement for all Americans. It says that we are Americans, that we will not tolerate those who will divide us, we will not tolerate those who inject hatred and fear and intimidation based on specific ethnic and racial differences into our community.

So I am delighted to support Senator FEINSTEIN on this amendment. I want to congratulate her for her fine work in this regard.

I think that she has talked to probably every Member of this legislative body on behalf of this amendment. I want to congratulate her, and to urge my colleagues from whatever side of the aisle to support Senator FEINSTEIN in this effort.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I rise in support of Senator FEINSTEIN's amendment to the violent crime bill, S. 1607, which directs the U.S. Sentencing Commission to promulgate or amend guidelines regarding hate crimes. I am a cosponsor of this important amendment, and I urge all my colleagues to support it.

Just last Sunday, I gave a speech expressing my concerns about the increasing incidents of hate crimes in this country at an Anti-Defamation League dinner in my home town of Tucson. Since my remarks describe in detail my views on this issue, I respectfully request that they be included in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR DECONCINI ON HATE CRIMES, ANTI-DEFAMATION LEAGUE DINNER, OCTOBER 31, 1993

It is unfortunate that our struggle against racial and religious intolerance in this country is still not without violence and ugliness. We have an overriding responsibility to protect the civil liberties of our citizens by establishing policies which will prevent bias-motivated crimes.

Clearly, there is a difference between freedom of speech and the expression of bigotry through violence and hatred. The former is a right. The latter violates that right and the laws which protect it.

I am a strong supporter of the Hate Crime Statistics Act of 1990. This law provides our criminal justice system with the practical information it needs to address the serious problem of bias motivated crimes.

Specifically, this law provides for the collection of data about "crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity." The data are collected by the FBI and made available to Federal, state and local governments to help law enforcement officials document trends and develop programs to combat crimes motivated by hate.

I commend the ADL for its efforts and leadership not only in passing this legislation, but also for providing information and statistics on the occurrence of hate-motivated crimes. As we all know, none of us is immune from becoming the victim of such despicable crimes that permeate our communities. I was particularly disturbed to learn from your reports that in 1991 and 1992 you documented 1,879 and 1,730 incidents of hate crimes respectively.

With the Hate Crime Statistics Act and reporting from other respected groups like the ADL, we have a better understanding of the scope of such crimes. Tragically, there has been an alarming increase in crimes committed against individuals solely because of who they are.

To combat this problem, 46 States and the District of Columbia have enacted laws addressing hate-motivated violence. Recently, the U.S. Supreme Court ruled unanimously that carefully drafted laws that enhance sentences for those who commit hate crimes are constitutional. Since the Court's decision, the House passed legislation last month to

direct the U.S. Sentencing Commission to establish sentencing guidelines in Federal criminal cases that provide sentencing enhancements for hate crimes. My colleague on the Senate Judiciary Committee, Senator Feinstein, has introduced a similar bill in the Senate. I expect this issue will be addressed when the full Senate considers an anti-crime package as early as next week.

As the House report accompanying the Hate Crimes Sentencing Enhancement Act of 1993 states, "Violence motivated by hatred of one's race, color, religion, national origin, ethnicity, gender or sexual orientation strikes at the very heart of the American conscience. It seeks to deny our most basic freedom: the right to be who we are."

Together, we must devote our utmost attention to combating such violence. Legislators, law enforcement, courts, community leaders, and parents each have a role in this effort.

Toward this end, I have sponsored legislation to create a National Commission on Crime and Violence in America. The primary purpose of the Commission is to develop a comprehensive crime control and anti-violence plan that will serve as a blueprint for the 1990s. I am also a strong supporter of the Violence Against Women Act which creates a civil rights remedy for victims of gender based crimes.

Once again, I commend the ADL for being in the forefront of educating the public on the prevalence of hate crimes in our society. No one knows more about discrimination than those who have been victims of discrimination for most of their lives.

It is incumbent upon each and every one of us to set an example for others that anti-semitism, racism, and intolerance have no place in our multi-ethnic society. Hate feeds on ignorance and fear. By teaching our children the virtues of respect, tolerance and diversity, we are investing in a better future for all Americans.

I would like to conclude my remarks with an inspiring quotation by Franklin Delano Roosevelt that was made almost 53 years ago to this day:

"We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality. Whoever seeks to set one nationality against another, seeks to degrade all nationalities. Whoever seeks to set one race against another seeks to enslave all races. Whoever seeks to set one religion against another seeks to destroy all religion."

Mr. DURENBERGER. Mr. President, I rise today in strong support of the Hate Crimes Sentencing Enhancement Act, an amendment which was offered to the crime bill by my friend and colleague from California, Senator FEINSTEIN.

As several of my colleagues have noted, it is modeled after a Wisconsin State law that was upheld unanimously by the Supreme Court last term.

A hate crime is defined as a crime in which the defendant "intentionally selects a victim * * * [or property] because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person." For a defendant to be found guilty under this amendment, the trier of fact must find that an act is a hate crime "beyond a reasonable doubt."

This legislation would direct the U.S. Sentencing Commission to increase the penalty for hate crimes by at least 3 offense levels.

I believe that increasing penalties for criminals motivated by bigotry and hatred is both reasonable and necessary to deter further attacks based on hate and prejudice. Those attacks have no place in America.

This amendment does not create new Federal crimes. It takes crimes that are already Federal and increases penalties if a jury finds, beyond reasonable doubt, that such crimes were motivated by bias.

Because this problem is national in scope and may involve the planning or carrying out of "hate crimes" across State lines, the Federal Government is justified in acting. The following statistics demonstrate that hate crimes is a problem of national proportion:

According to the most recent FBI figures, a total of 4,558 hate crime incidents involving 4,755 offenses were reported in 1991, Minnesota reported 225 total incidents in 1991.

According to the FBI, racial bias motivated 6 out of 10 hate crime offenses reported in 1991—36 percent of those crimes were committed against blacks—religious bias accounted for 2 of 10 hate crime offenses, and ethnic and sexual-orientation bias each accounted for 1 out of 10 crimes;

The klanwatch project of the Southern Poverty Law Center found that the number of white supremacist hate groups increased by 27 percent, 273 to 346, in 1991;

The National Gay and Lesbian Task Force reported a 31-percent increase in anti-gay and lesbian violence between 1990 and 1991 in five major cities: Boston, Chicago, Minneapolis/St. Paul, New York, and San Francisco;

The Anti-Defamation League's 1991 national survey of anti-Semitic attacks showed 1.879 incidents of vandalism, harassment, or violence, an increase of 11 percent over 1990.

In light of these statistics, the national scope of the problem, and the real fear among women and minorities across America about violence motivated by intolerance, I urge my colleagues to join me in supporting the Hate Crimes Sentencing Enhancement Act.

I know there are some in this body who do not want to increase penalties for crimes motivated by hatred or bias against people based on "sexual orientation." I would simply urge my colleagues to reject any amendment that would remove sexual orientation as a category under this bill.

Preliminary figures from the FBI indicate 425 total crimes motivated by sexual orientation occurred in 1991 in 32 reporting States. This represents 8.9 percent of the hate crimes reported during that year.

The National Gay and Lesbian Task Force has more complete statistics on hate crimes motivated by sexual orientation. They report that, in 1992, 311 incidents of crime motivated by sexual orientation occurred in Minneapolis/St. Paul alone.

This amendment does not extend any special privileges to homosexuals. Instead, it promotes tolerance, despite one's personal views.

I urge my colleagues to send an important message—that the Senate will not tolerate crimes motivated by bigotry and prejudice by anyone against anyone. America should be a place where we live and let live.

Mr. WALLOP. Mr. President, I voted against the amendment offered by the Senator from California to provide enhanced sentencing for offenses which are deemed to be hate crimes—that is crimes in which the defendant intentionally selects a victim or property because of the race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

My reason for opposing this amendment is simple. The fact that a crime has been committed is, to me, intolerable conduct and I don't believe that society is well served by dividing victims into categories that determine the fate of the offender. Nor is justice achieved when one victim is made to feel less protected than another because of the motivation of the attacker. I do not believe that it is more serious to be brutally attacked in New York City than it is in Wyoming where we have a smaller population with less diversity. All such violent or offensive conduct is equally reprehensible to me and therefore I oppose this amendment.

The PRESIDING OFFICER. Under the regular order, the Senator from North Carolina is recognized.

Mr. HELMS. For how long, Mr. President?

The PRESIDING OFFICER. The Chair advises the Senator that he is recognized for as much time as warrants.

Mr. HELMS. I will say to the Senate that I shall not consume over 10 or 11 minutes at the outside. I assume that I am not leaking anything when I say that I had to slip out of a CIA briefing about a matter which may be of interest to all Senators.

Mr. President, I have been in a conversation with my distinguished friend from Utah, Mr. ORRIN HATCH, and as I told him, I have grave concerns about any amendment of this sort. It is well intentioned, but I think it will not do what the proponents intend for it to do.

I know that the sponsors of this amendment have the very best intentions in offering it, and I respect them for doing what they think is the best thing to do. But sometimes the best intentions have harmful results. Discrimination is wrong, but this amendment, in my judgment, will simply make the situation worse.

My primary concern with this amendment is that we are punishing free speech. We may not like the free speech. There is a lot of free speech going on in this world and in this country and in this city that does not please me all that much. This amendment is intended to prevent discrimination, but it is extremely vague and subject to abuse. Furthermore, it will be almost impossible to enforce.

Senators may recall a young college student in Pennsylvania not long ago received national attention when, in frustration, he leaned out of his dormitory window where he was trying to study late at night, and he yelled the word "water buffalo" at a bunch of people gathered there who were making a great deal of noise. Did he commit a hate crime? I do not believe he had any such intent, but my fear is that somebody down the line may try to use this provision of law to penalize such speech.

Nat Hentoff, with whom I usually disagree, has the same concerns about this legislation. He asked the questions: Are we going too far? What about AIDS or political orientation? Even more so, what about intent?

This was in the ABA Journal in May 1993, and I am going to ask, in a moment that the entire article by Nat Hentoff be printed in the RECORD.

He says:

Those also insisting on the constitutionality of extra punishment for speech-related crimes claim that thereby a message will be sent to blacks, women, gays, lesbians, etc., that bias crimes must be punished more harshly because, as Wisconsin Attorney General James Boyle says, they are "much more harmful to the community."

That does not sound like any respect for the U.S. Constitution regarding freedom of speech.

Then he goes on to say:

Due for extra prison time is whoever "intentionally" selects the victim "because of the race, religion, color, disability, sexual orientation, national origin, or ancestry of that person."

What about age? What about my age bracket?

But the point was summarized, I think, by Nat Hentoff's quote of the president of the ACLU:

"Overly broad hate-speech law gives the Government a very powerful tool that can be—and historically, consistently has been—used against the very minority groups that it is intended to protect." But that was last year.

I ask unanimous consent that this full column by Nat Hentoff in the ABA Journal of May 1993 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, back in August there was an editorial based on comments by a very fine black citizen of North Carolina, who happened to be a Member of the U.S. Congress, U.S. Representative MEL WATT. In the Charlotte Observer, there was an editorial entitled "The 'hate-crime' trap." It begins by saying:

U.S. Rep. Mel Watt has raised a troubling point about proposed Federal "hate-crime" legislation; instead of helping protect minorities who have been victims of crimes motivated by race, color, ethnicity or national origin, such laws more often have been used to prosecute blacks charged with racial motivation.

Then the editorial says:

However much we abhor bigotry of that kind, we must also abhor any attempt by the government to control even hateful thought or speech. America's founders, who had ample experience with how outrageous free speech can be, understood that regulation would be worse.

I ask unanimous consent that this editorial from the Charlotte Observer be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HELMS. I ask unanimous consent also, Mr. President, that an article from the Charlotte Observer of August 3, 1993, headed "Watt targets 'hate-crimes' measure" be printed in the RECORD in full at the conclusion of my remarks.

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

(See exhibit 3.)

EXHIBIT 1

[From the ABA Journal, May 1993]

NO: EQUALITY AMONG VICTIMS

(BY NAT HENTOFF)

Todd Mitchell, a black convicted of aggravated battery in Wisconsin, was sentenced to two years in prison. But because the victim was white, Mitchell, under the state's "hate crimes" law, received an additional sentence of two years. (He could have been put away for three more years for having said, "There goes a white boy; go get him.")

"Does this make sense?" asks an editorial in the Washington Post.

"Wouldn't it have been just as outrageous if the assailants had beaten a black boy? Why should one victim be more precious than the other in the eyes of the law?"

Yet, as State of Wisconsin v. Todd Mitchell neared April oral arguments in the Supreme Court, the American Civil Liberties Union was supporting the state of Wisconsin. Whatever happened to its support of equal protection under the law?

Those also insisting on the constitutionality of extra punishment for speech-related crimes claim that thereby a message will be sent to blacks, women, gays, lesbians, etc., that bias crimes must be punished more harshly because, as Wisconsin Attorney General James Boyle says, they are "much more harmful to the community."

But what message is sent to all the others in the community who are attacked for no reason other than the criminal's lust for money?

Are the injuries they suffer—however painful physically and psychologically—of less importance to the community under equal protection of the law?

Then there is the actual wording of Wisconsin's enhanced-penalty statute. Due for extra prison time is whoever "intentionally" selects the victim "because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person."

What about age? (We are in the middle of a cost-benefit generational war.) What about political orientation? In short, what about R.A.V. v. City of St. Paul and the selection of only certain groups to trigger the extra years behind bars because of what they said while committing the crime?

And what about "intentionally?" Is all black-on-white crime or male-on-female crime due to bias?

BRINGING IN THE THOUGHT POLICE

And in countering the defense against such charges, what is to prevent the prosecutor from finding out what books and magazines the defendant reads, what sort of language he uses at the local bar, and what his coworkers say about what they know of his prejudices.

Those, like the ACLU, who are urging the Supreme Court to add to sentences because of bias are telling it to be sure to foreclose such abusive privacy-bending investigations.

The Supreme court, however, is under no obligation to take their prayers seriously. And if this statute is—as the ACLU admits in its amicus brief—"easily susceptible to prosecutorial abuse," why is a civil liberties organization asserting its constitutionality? Because the ACLU does not want to appear soft on racism, sexism, etc.

In many of the briefs trying to justify the legitimacy of creating this thought crime, the argument is made that unless the Supreme Court overrules Wisconsin's Supreme Court in this case, state and federal antidiscrimination laws will be at peril.

Yet, as the Supreme Court of Ohio, striking down a similar statute, noted in State v. Wynant: "Laws against discrimination in employment, housing and education do prohibit acts committed with a discriminatory motive," but "it is the act of discrimination that is targeted, not the motive."

In disparate impact cases, moreover, no discriminatory motive is necessary. And under a disparate treatment analysis, "proof of discriminatory motive can be inferred from differences in treatment. * * * Bigoted motive by itself is not punished, nor does proof of motive enhance the penalty when a discriminatory act is being punished."

In this case before the Supreme Court, the act is being justly punished, but the speech purportedly accompanying the act is also being punished. At least three state affiliates of the ACLU—Ohio, Florida and Vermont—have refused to join the national ACLU's attack on the First Amendment. They agree with what ACLU president Nadine Strossen said in April 1992 in a St. Paul symposium on hate speech and R.A.V.:

"Overly broad hate-speech law gives the government a very powerful tool that can be—and historically, consistently has been—used against the very minority groups that it is intended to protect." But that was last year.

EXHIBIT 2

[From the Charlotte Observer, Aug. 8, 1993]

THE "HATE-CRIME" TRAP

U.S. Rep. Mel Watt has raised a troubling point about proposed federal "hate-crime" legislation; instead of helping protect minorities who have been victims of crimes motivated by race, color, ethnicity or national origin, such laws more often have been used to prosecute blacks charged with racial motivation.

That's ironic. Many backers of North Carolina's hate-crime law anticipated it would be used most often in crimes against minorities where the motivation was bigotry of one kind or another. The point was to discourage the sort of bigoted behavior that has stained human relations in the South for far too long.

"Ethnic intimidation" during an assault was made a misdemeanor punishable for up to two years in jail plus a fine. And it joined the list of aggravating factors that can lengthen a sentence for committing a felony.

But the N.C. law has been used as an additional charge against blacks in several celebrated cases in Lincolnton and Gastonia. Because of that experience, Rep. Watt has opposed a federal hate crime bill pending in Congress, which expands the definition of hate crimes to include those motivated by a victim's gender or sexual orientation.

Law enforcement officials in North Carolina say the law has been applied in a color-blind way. In five instances where the law has been used since its passage two years ago, three of the cases charged black offenders with a hate crime. While that's anecdotal evidence at best, it accords with Rep. Watt's initial impression.

But there is a larger issue: Should the government be in the business of criminalizing thought? By making penalties more severe for crimes motivated by racial or ethnic beliefs, the government says that some crimes are worse because of the thought motivating them. And the government says that crimes not motivated by an objectionable idea deserve lesser punishment. Does the term "thought police" come to mind?

The law recognizes aggravating and mitigating circumstances when computing sentences. And it punishes crimes not just because they harm an individual, but because they damage the public weal. Hate crimes fit that category. But those elements of malice, intimidation and conspiracy that distinguish hate crimes don't really depend on race or religion or ethnic background. The Klan's menace was felt by both blacks and whites.

Creating a distinction in criminal law based on a belief—usually a spoken motive—slides away from punishing reprehensible conduct and toward punishment based on speech and thought. However much we abhor bigotry of that kind, we must also abhor any attempt by the government to control even hateful thought or speech. America's founders, who had ample experience with how outrageous free speech can be, understood that regulation would be worse.

The area is difficult, but the law has other tools to protect citizens from threat, intimidation, harassment. Those who have supported hate-crime legislation in the past, with the best of intentions, ought to reflect on how good intentions can come to a bad end.

EXHIBIT 3

WATT TARGETS "HATE-CRIMES" MEASURE

(By John Monk)

WASHINGTON.—Rep. Mel Watt of Charlotte is breaking ranks with the NAACP and other minority groups to oppose the so-called "hate crimes bill" meant to protect people from racial, ethnic or religious attack.

Watt says the proposed law could be used unfairly to prosecute minorities, among other things. That's because the bill cuts both ways, enabling whites as well as minorities to claim they are victims of racial attacks.

"My gut tells me this is one of these things that has good intentions that will create more problems than it will solve," says Watt, a Democrat and one of three black members of Congress from the NAACP, the Anti-Defamation League, the American Jewish Congress, the Fraternal Order of Police, the National Gay & Lesbian Task Force and the Organization of Chinese Americans, according to a statement released by the Judiciary Committee. In addition, the bill has 40 co-sponsors, including members from Jewish, Italian, African, Hispanic and Asian backgrounds.

But the 38-member Congressional Black Caucus, which could play a pivotal role in any floor vote, has yet to take a position.

Under the proposal, which would apply only to federal crimes, the U.S. Sentencing Commission would develop guidelines for increasing by one-third the sentences of people convicted of hate crimes. The bill would also give juries more say in setting the sentence.

Last week, the 35-member House Judiciary Committee approved the bill overwhelmingly despite Watt's objections.

The bill defines a hate crime as one in which "the defendant's conduct was motivated by hatred, bias, or prejudice, based on actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of another individual or group of individuals."

An aide to Rep. Charles Schumer, D-N.Y., the bill's sponsor, said the bill is needed "to send a message to hatemongers that their violent assaults cannot be tolerated in today's society."

In the last dozen years, 26 states have enacted various hate-crimes laws. North Carolina, for example, makes "ethnic intimidation" punishable by up to two years in prison.

Watt, a freshman member of Congress who represents the black-majority 12th District stretching from Gastonia to Durham, says he's against the proposal because:

Many more blacks than whites will probably end up being charged under it. That's because the percentage of blacks in the criminal justice system is far greater than their percentage in the general population.

Juries would find it more difficult to reach a verdict; deciding guilt and innocence is complex enough without adding the emotion of racial or ethnic hatred.

Prosecutors will simply use the law as another bargaining chip in pressuring defendants to plead guilty.

"If you get past just a superficial analysis of the thing, it is just not a good idea," said Watt, adding he'll probably speak against the bill when it comes to the House floor as early as this fall.

A spokesman for the Anti-Defamation League, which has played a major role in developing state "hate-crimes" bills, said Watt's arguments are well-intentioned but flawed.

Juries have to deal with complex issues anyway, said Michael Lieberman, the ADL Washington counsel. And while no studies have been done, he said his group has seen no evidence so far of minorities being disproportionately prosecuted.

"If there were a disproportionate share, we would know about it," Lieberman said.

In the Charlotte area, there have been at least three publicized uses of the state hate-crimes law in the last year. Each time, blacks were charged with "ethnic intimidation" against whites. In two cases, blacks were convicted.

In June, two black Gaston County teenagers were sentenced to seven days in jail after pleading guilty to ethnic intimidation in the beating of a white teen at Gastonia's Hunter Huss High School.

Last year, six black teens in Lincoln County were convicted of the same charge after they were found guilty of targeting white people for harassment. Sentences ranged from probation to three years in prison.

The two other black House members from the Carolinas—Eva Clayton, D-N.C., of Warren County, and Jim Clyburn, D-S.C., of Columbia—have taken no position on the bill. Their spokesmen said because of Watt's opposition, both intend to give it closer study.

Watt, a liberal, has found one unlikely ally—white conservative Rep. Bob Inglis, R-S.C., of Greenville. Like Watt, Inglis says juries should focus on the crime.

"If I'm being robbed by somebody, I am robbed and it doesn't matter in the course of a robbery if he makes some statements about my race," said Inglis, a member of the Judiciary Committee. "It's bringing political correctness to the criminal justice system."

Mr. HELMS. If I may ask my friend from Utah, with whom I have already discussed this matter, did he assure me earlier that only crimes of violence will be covered by this provision if it is enacted?

Mr. HATCH. That is true, yes, crimes against persons or property.

Mr. HELMS. Either would be a crime of violence, right?

Mr. HATCH. That is right. Mere words will not constitute a crime of violence.

Mr. HELMS. So if a teenager hollers some epithet at somebody else like a politician might holler leftwinger or rightwinger, he would not be guilty of a hate crime under the provision that we are about to vote on?

Mr. HATCH. So long as that person does not commit a crime against a person or property while saying the epithet. In other words, the epithet may be some evidence that the crime that did occur was a hate crime.

Mr. HELMS. You mean——

Mr. HATCH. There would have to be some action against a person or property before the epithet would become utilizable.

Mr. HELMS. There must be damage done to a person or a person's property?

Mr. HATCH. A mere epithet alone would not result in a crime.

Mr. HELMS. We are making legislative history. The Senator is vouching for that understanding; is that correct?

Mr. HATCH. No, it is not correct. Under this provision, if a person uttered an epithet but did not otherwise commit a crime against a person or property, then this provision would not apply. But if a person utters an epithet that would be categorized as a hate crime thought, and commits a crime against a person or property, and is convicted of that crime, then that epithet can be used as evidence that this was a hate crime.

Mr. HELMS. But not if there is no harm done to a person or his property? There must be a crime.

Mr. HATCH. That is correct.

Mr. HELMS. Is my understanding correct that this provision has the main purpose of increasing the penalty imposed upon one found guilty of a crime?

Mr. HATCH. That is right.

Mr. HELMS. Would the Senator explain to me how much it would increase the penalty and who decides how much that increase should be?

Mr. HATCH. Well, the amendment would require the sentencing commission to amend its guidelines, to promulgate new guidelines enhancing the penalties for crimes motivated by hate by at least three offense levels. The amendment defines "hate crimes" as a crime in which the victim or property against which the crime is committed is intentionally selected on the basis of "actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person."

I think there is one category left out of there—persons with disabilities. I think we should add that in there. Just to be clear about what the amendment does, it does not federalize hate crimes; nor does it create a Federal hate crimes statute.

(Mr. AKAKA assumed the chair.)

Mr. HATCH. Instead, it simply provides for enhanced penalties for existing Federal crimes if they are motivated by hate. It is estimated that an enhancement of three severity levels would on average increase sentences by one-third.

Let us say that the regular crime was a year in prison. It would probably increase it by as much as several months, just to give the Senator a rough illustration. Let me give him an illustration. For example, a Federal assault conviction, which brings with it a base offense level of 6, which translates into 0 to 6 months imprisonment. An increase of three levels to the offense level of nine would result in a sentence of 4 to 10 months.

Mr. HELMS. Is the Senator apprehensive at all that the judges will be confused by this bureaucratic oratory?

Mr. HATCH. No. It is pretty simple. Basically once they set——

Mr. HELMS. It is not simple to me.

Mr. HATCH. Once they set the sentencing guidelines, it is not very difficult to figure it out.

Mr. HELMS. Let me answer the Senator this way, if I may.

Mr. HATCH. Sure.

Mr. HELMS. Let us assume that a person is on Federal land, therefore conferring Federal jurisdiction on whatever happened on that land, and this person pushes someone. Is that an assault?

Mr. HATCH. It could be.

Mr. HELMS. Suppose he says "water buffalo." Is that a hate crime?

Mr. HATCH. I doubt it because under this statute they would have to prove beyond a reasonable doubt that it was hateful language. That is a pretty high standard.

Mr. HELMS. But there must be a crime—some harm was done to property or the person.

Mr. HATCH. If a person shoved, that is a harm.

Mr. HELMS. Pardon me?

Mr. HATCH. If a person shoved against that person's will, that is a harm.

Mr. HELMS. Suppose he just says "water buffalo"?

Mr. HATCH. This statute would not apply.

Mr. HELMS. Does the author of the amendment agree with that? I mean, I am trying to establish the legislative intent.

Mr. HATCH. Sure.

Mrs. FEINSTEIN. Excuse me. Will the Senator repeat the question?

Mr. HELMS. Yes. I will say to the distinguished Senator from California that I am a nonlawyer being a little bit technical trying to establish what is a hate crime and what is not. The distinguished Senator from Utah—and correct me if I am wrong—has assured me that unless there is violence against a person or property it is not a hate crime.

Is that the Senator's understanding?

Mrs. FEINSTEIN. That is correct. This speaks to conduct. It does not speak to expression.

Mr. HELMS. I thank the distinguished Senator.

Well, let us turn it around. I will say to the Senator from Utah, what if a group of black students on Federal land gets angry enough and pushes someone, and calls the white person a honky? Is that a hate crime?

Mr. HATCH. Well, if there is an action against a person or property, it could become a question for the jury, but they will have to prove that it is a hate crime beyond a reasonable doubt. I doubt that they could reach that level based upon that simple epithet.

Mr. HELMS. The Senator has no way of knowing what a jury is going to do.

Mr. HATCH. I have to say to the distinguished Senator that calling someone by a name is not a Federal crime. There has to be some action. Now, if someone paints a swastika on a Jewish synagogue and says an epithet at the same time, it is a pretty good indication that could have been proven beyond a reasonable doubt as a hate crime.

Mr. HELMS. I agree with that.

Mr. HATCH. I know the Senator agrees. That is a clear-cut case. It would come down to a question of fact for the judge or jury to decide as to whether the hateful remarks, coupled with the action against person or property, actually constitute a hate crime beyond a reasonable doubt.

There is that higher standard that the distinguished Senator from California has put into her amendment that makes it pretty tough to prove that offensive conduct is a hate crime unless it is accompanied by other factors that can be interpreted by the judge and jury as a hate crime.

Mr. HELMS. I say to the distinguished Senators from Utah and California, I am not trying to be difficult about this. I want to understand what we are doing. I do not want us to criminalize speech, speech that some may subjectively regard as hateful.

Mr. President, if we get to the place that we cannot fuss at umpires at baseball games, that is reductio ad absurdum.

Mr. HATCH. This may be helpful. It is my opinion—and I believe the distinguished Senator from California will agree—before you get into the issue of whether there is a hate crime, the person has to be convicted of a crime. Then the statute comes into being as to what enhanced penalties the person should have as a result of whether or not it is a hate crime. But to get to a determination as to whether or not the crime was motivated by hate under this amendment, the judge or jury is going to have to believe it beyond a reasonable doubt; the proof is going to have to be beyond a reasonable doubt. If that proof is beyond a reasonable doubt and the judge or jury says that this is a crime motivated by hate, then the severity level will go up three levels under the Sentencing Commission guidelines, which are pretty much set in concrete.

Mr. HELMS. If the Senator will forgive me, let me summarize my understanding of this point. If I understand the Senator from Utah and the concurrence with his view by the distinguished Senator from California, a crime must have been committed first?

Mr. HATCH. That is right.

Mr. HELMS. Is that right?

Mr. HATCH. That is right.

Mr. HELMS. Like mashing someone in the mouth or painting a swastika on the front of a church or synagogue, or something of that sort?

Mr. HATCH. That would be a crime.

Mr. HELMS. Then any spoken word of hate or presumed hate or alleged hate——

Mr. HATCH. Or any action that could indicate hate—

Mr. HELMS. Yes. Then?

Mr. HATCH. The painting of a swastika.

Mr. HELMS. Mr. President, a jury will decide who is right about this; is that correct?

Mr. HATCH. The judge will decide who is right about it.

Mrs. FEINSTEIN. Will the distinguished Senator from North Carolina yield?

Mr. HELMS. I yield.

Mrs. FEINSTEIN. I think the Senator is correct.

First, the crime against property or person has to occur and be proven. Second, the motive has to be proved beyond a reasonable doubt to be the race,

color, religion, national origin, ethnicity, gender, or sexual orientation of the victim.

Now, what may go to establishing the motive is the fact that if there is a firebombing in a synagogue and the swastika is drawn, clearly there the required motive is present. If there is a call from the Aryan Resistance Front that the reason they are bombing the JACL office is because they want any Japanese to be shot—which was an actual phone call made—that expression goes to making out the motive for the crime qualifying it as a hate crime.

So a jury would have to determine, first, that the crime took place, and, second, that the motivation would entitle it to the enhancement.

Mr. HELMS. I think I understand the Senator.

Mr. HATCH. Yes, I think that is correct. I agree with the distinguished Senator.

Mr. HELMS. I thank the Senator.

Mr. HATCH. I am not being the judge and jury. The way it works, there has to be conviction of a crime, and then the judge will determine whether hate was involved or the crime was motivated by hate.

Let me say there is another aspect of this, too. Sentencing enhancements under the guidelines are already in place for other really serious relevant conduct. For example, if a victim of an offense was an unusually vulnerable person due to age or physical condition, the sentencing guidelines already require an increased penalty. If the victim was a Government employee, the guidelines require an enhanced penalty.

This amendment is consistent with existing victim-based sentencing enhancement. So if there is a crime committed, the judge then can look into the facts surrounding that crime and determine whether it was motivated by hate. If the judge determines beyond a reasonable doubt—and he or she will have to make that determination—then the judge can enhance the penalties three times, 3 levels above what the normal penalty would be.

Mr. HELMS. I thank the Senator.

I would say in conclusion, Mr. President, I cannot vote for this amendment, because I think it is impinging upon freedom of speech; I wish I could enthusiastically support it, but I cannot, in good faith. I do hope that this provision will not be applied frivolously. We are in deep trouble if we move into the area where freedom of speech is diminished to any degree whatsoever.

I thank the Chair, I thank the Senator from Utah, and I thank the Senator from California.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, just one last comment about this, because I do not want to have the Senator leave with a misconception.

The constitutionality in this provision is clear. Under the Wisconsin versus Mitchell case, the Supreme Court unanimously held that carefully constructed laws providing for stiffer sentences to criminals who commit hate crimes do not violate the first amendment.

So I hope the Senator would vote for this, because, basically, this will not be a violation of the first amendment.

I might say, in that case, the Court upheld a statute very similar to what the distinguished Senator from California is doing here.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Senator HARKIN wished to make a comment and he is standing by.

Mr. President, while we are awaiting the Senator from Iowa, I wonder if I might just read a section from the Supreme Court opinion in Haupt versus United States, which was delivered by Justice Rehnquist on behalf of the unanimous court.

Because the statute has no "chilling effect" on free speech, it is not unconstitutionally overbroad. The prospect of a citizen suppressing his bigoted beliefs for fear that evidence of those beliefs will be introduced against him at trial if he commits a serious offense against person or property is too speculative a hypothesis to support this claim. Moreover, the First Amendment permits the admission of previous declarations or statements to establish the elements of a crime or to prove motive or intent, subject to evidentiary rules dealing with relevancy, reliability, and the like.

Mr. President, I would like very much just to thank the distinguished chairman of the committee and the ranking member. I am very pleased that Senator HATCH has joined on this amendment, making it the Feinstein-Hatch amendment, as well as a large number of other cosponsors in this body.

I think it is an important step that we are taking and so I would like to thank all concerned.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

If there is no objection, the Chair recognizes the Senator from Iowa.

Mr. HARKIN. I know we are operating under a unanimous-consent agreement regarding the amendment by the Senator from California.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Iowa be allowed to speak for 2 minutes.

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

Mr. HARKIN. Mr. President, I know we are operating under a unanimous-consent agreement on the amendment of the Senator from California.

However, I have discussed an omission in the amendment offered by the Senator from California. I have discussed it with the Senator. I have discussed it with Senator HATCH and with Senator BIDEN and also with Senator DOLE.

I ask unanimous consent, Mr. President, to send an amendment to the desk on behalf of myself and Senator DOLE. This amendment would simply insert the word "disability" in the list of hate crimes that are listed in the definition. The definition covers race, color, religion, national origin, ethnicity, gender, or sexual orientation. My amendment, cosponsored by Senator DOLE, would simply enter the word "disability" after the word "gender."

Mr. President, I ask unanimous consent that the word "disability" be incorporated after the word "gender" in the definition clause of the amendment offered by the Senator from California.

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

The modification follows:

To amendment No. 1097, on page 2, line 2, after the word "gender," add the following: "disability,".

Mr. HARKIN. I ask unanimous consent that the other cosponsors of the amendment be listed.

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

Mr. HARKIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by Senator FEINSTEIN. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—95

Akaka	Dole	Kohl
Baucus	Domenici	Lautenberg
Bennett	Dorgan	Leahy
Biden	Durenberger	Levin
Bingaman	Exon	Lieberman
Bond	Feinstein	Lott
Boren	Ford	Lugar
Boxer	Glenn	Mack
Bradley	Gorton	Mathews
Breaux	Graham	McCain
Brown	Gramm	McConnell
Bryan	Grassley	Metzenbaum
Bumpers	Gregg	Mikulski
Burns	Harkin	Mitchell
Byrd	Hatch	Moseley-Braun
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murkowski
Coats	Hollings	Murray
Cochran	Hutchison	Nickles
Cohen	Inouye	Nunn
Coverdell	Jeffords	Packwood
Craig	Johnston	Pell
D'Amato	Kassebaum	Pressler
Danforth	Kempthorne	Pryor
Daschle	Kennedy	Reid
DeConcini	Kerrey	Riegle
Dodd	Kerry	Robb

Rockefeller	Simon	Thurmond
Roth	Simpson	Warner
Sarbanes	Smith	Wellstone
Sasser	Specter	Wofford
Shelby	Stevens	

NAYS—4

Faircloth	Helms
Feingold	Wallop

NOT VOTING—1

Conrad

So the amendment (No. 1097), as amended, as modified, was agreed to.

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

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I rise to plead with the Members of the Senate to move our body along with some degree of speed. We have talked for 2 days. I suggest to everyone, we are not going to solve the crime problem by talking it to death. We have talked for 2 days and we have had two votes. The two votes, as I understand, the first one was 100–0 and the one we just had was 100–0 or thereabout.

Mr. HATCH. Will the Senator yield?

Mr. EXON. I will in a moment. It just seems to me that if we are going to address the crime bill and pass a crime bill with some amendments, we ought to begin to come to some kind of a time agreement on some of these amendments. The Senator from Nebraska has an amendment that I will offer at some time, and I will agree to a relatively short time agreement. I am pleading with the body to recognize that Thanksgiving is coming and Christmas is right after that.

Mr. BIDEN. Will the Senator yield?

Mr. EXON. And we are moving with less dispatch and speed on a very important matter to attack crime in America than I have seen before. There are many Senators seeking recognition.

Mr. LEAHY. Will the Senator from Nebraska yield for a question?

Mr. EXON. Mr. President, does the Senator want to ask a question?

Mr. LEAHY. I want to ask the Senator from Nebraska a question.

Mr. EXON. I will yield for a question.

Mr. LEAHY. I want to ask the question because I think the Senator from Nebraska is absolutely right. I think the Senator agrees with me that we seem to be adopting the Dracula rule or the vampire rule of legislation: The Sun goes down and finally the votes come up. That is about where we are.

But I think the Senator from Nebraska is absolutely right. How long does it take for each one of us to decide on these issues? We either want a crime bill or we do not want a crime bill. We either want to put real teeth into it or we do not.

I think the Senator from Nebraska is right. If we are going to go forward with this—I know how hard the two managers have worked to try to bring an agreement, but we can either operate under the Dracula rule of legislation or we can operate under time agreements. I think this is something that ought to have time agreements.

Would the Senator agree with that?

Mr. BIDEN. Will the Senator yield?

Mr. EXON. I would agree. I would simply remind him that Dracula was very active last Sunday. That was Halloween. We have carried it over evidently in the Senate.

I will be delighted to yield to the chairman.

Mr. BIDEN. Will the Senator yield?

I would like to operate under the BIDEN rule and point out to the chairman of the Agriculture Committee I am likely to get this complicated bill done faster than he does his agriculture bill. And I wish to also point out that——

Mr. LEAHY. Will the Senator yield?

Mr. BIDEN. I will not yield. I have the floor. I will not yield. There is no Dracula rule. We have been working here. We have passed four amendments, and in addition to that we have just settled, the Republicans and Democrats, something that if we stayed here and voted and let all Senators talk—God bless you, I love to hear you, and I know you are all incredibly enlightened—if we had done that, instead of what we have been doing the last 2 hours, we would not have gotten one-tenth of where we are going to get.

I have a nice Christmas surprise for you. Santa Claus is on his way. Dracula is dead. If you have patience for another 15 minutes, we will have in one fell swoop settled all amendments on prisons, all amendments on police, all amendments on funding. I am sure you will be in the Chamber talking about what a brilliant management job the Senator from Utah and I are doing.

All I ask you to do is be mildly patient for just a little while longer because we have just about settled all the major pieces of this bill.

I might point out, when we have handled the crime bill in the past, there were well over several hundred amendments. If I gave all Senators—if we agreed as a body that all of you have just a half an hour to wax eloquently on your amendments rather than try to put them in packages and deal with them very quickly, I promise you we are here well into next week. So I just beg you to be a little bit patient and by 7 o'clock Senator BYRD will be here, and he will stun you with the way in which he has been able to help put together the most significant package on crime that has occurred in the last 30 years in the Senate.

Mr. EXON. Without losing my right to the floor——

Mr. BIDEN. The Senator has the floor. That was my question.

Mr. EXON. I yield for a question by the ranking member.

Mr. HATCH. I would like to make a comment. I agree with the distinguished Senator from Delaware. We have been working for 2 days to try to get together a cohesive plan that really is the basic guts of this package, and we are very close to having it. If we have it, we hope that we will have the cooperation of everybody on this floor because it will be the most significant bipartisan anticrime package that has come down the pike I think in many years. It takes time to do it, and we are doing it. That is why we were having these votes, since we wanted to clear those away. But we are making a lot of headway, and if we just make this final last bit of headway, I think everybody in the Senate is going to be very pleased. I am happy to work with my colleagues.

Mr. EXON. I thank those Senators who have spoken.

Before I yield the floor, Mr. President, I congratulate them for the information they have just given us. I hope that the managers of the bill did not feel I was critical of them. I was critical of this body. I have been here a long time. I felt things were bogged down. I am delighted to hear that things are moving very rapidly. And so as not to further hold up the proceedings, I congratulate them for what they have done. I hope we can move as quickly as they have indicated.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, hopefully within a very few moments we will have an amendment of some consequence that has been worked on by the distinguished Senator from Utah, the distinguished Senator from Texas [Mr. GRAMM], myself, and the leader, Senator DOMENICI, Senator SASSER, and the chairman of the Appropriations Committee that will hopefully meet with the approval of the body. In the meantime, I do not intend to introduce any amendment.

By the way, when this amendment is forthcoming, arrives on the floor, and Senators have a chance to take a look at it, I hope it will generate a spirit of calm and maybe a number of our colleagues who have amendments will no longer feel the need in light of what we will present to have all of the amendments that they may have.

So I yield the floor.

AMENDMENT NO. 1102

(Purpose: To amend section 844 of title 18, United States Code, to increase the penalties for arson)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I do not want to frustrate the efforts of the Chairman. My amendment does not relate to guns or anything. I think it

should be acceptable. It will just take a couple minutes. I do not want to get in front of the distinguished Senator from Connecticut.

Mr. BIDEN. Can I inquire the subject of the amendment?

Mr. DOLE. It is increasing the Federal penalties for arson.

Mr. BIDEN. I think it is a good amendment. I have no objection to proceeding to it.

Mr. DOLE. I offer it on behalf of myself and the Senator from California [Mrs. FEINSTEIN]. I have not reached Senator BOXER. I have talked with Governor Wilson's office today.

I will send the amendment to the desk on behalf of myself and Senator FEINSTEIN and also Senator BOXER, if she has an interest in it.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report this amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 1102.

Mr. DOLE. Mr. President, I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

Mr. DOLE. Mr. President, let me indicate that I just happened to be watching CNN last night. I heard the Governor of California, Pete Wilson, talking about the increase in crimes of arson at the State level. It occurred to me that much of the property that has been damaged is Federal property. We will hear later from the Senator from California about the millions and millions of dollars of damage done, and they still have not found the person or persons who may be responsible. But certainly if you turned on your television and you have seen the horror and the tragedy and the destruction, watching fires which engulfed entire communities in southern California, as the President stated, our prayers go out to the families who have lost their homes and properties.

New reports now suggest that some of the fires were set intentionally by arsonists. No doubt about it, arson is one of the most malicious and cowardly acts of violence that anyone can commit—at anytime, anywhere.

And in California, arson continues to be a major problem, causing hundreds of injuries and deaths among firefighters and civilians, and leading to millions of dollars in property loss.

According to the California State fire marshal, the total number of fire-related incidents in California declined from 1981 to 1991, dropping by nearly 50,000. But, during the same period, the number of arson crimes as a percentage of total fire-related incidents, has risen steadily.

Governor Pete Wilson has responded quickly to this latest disaster, assisting in the relief effort and proposing to amend the California State Criminal Code to increase the penalties for arson. It is my hope that Governor Wilson will succeed in persuading the California State Legislature to join in this worthwhile effort.

The amendment I am offering today will supplement the work of Governor Wilson by increasing the penalties for arson at the Federal level. It recognizes that the punishment must fit the crime—for there are few crimes as despicable as arson, and few criminals as vicious as the arsonist.

Under Federal law, any person who destroys—by fire—property used in, or affecting, interstate commerce is subject to a maximum penalty of 10 years' imprisonment and a fine of not more than $10,000. And if the arson causes injury to any person, or any public safety officer fighting the flames spawned by the arson, then the maximum penalty is 20 years' imprisonment and a fine of $20,000.

This amendment would double the maximum prison term for arson affecting interstate commerce to 20 years, and would allow the imposition of a fine equaling either the value of the property destroyed or $100,000, whichever is greater. The amendment would also double the maximum prison term for arson that results in injury to a person—raising the maximum term of imprisonment to 40 years, and increasing the maximum fine to an amount equaling the value of the property destroyed or $200,000, whichever is greater.

Some of the property that has been destroyed is owned by the U.S. Forest Service, including land in the Angeles National Forest and the Cleveland National Forest. Other property that has been irreparably damaged is owned by State, local, and county governments that receive Federal assistance.

As a result, my amendment would also increase the Federal penalties for anyone who damages—by fire—any property owned by, or leased to, any agency of the United States or owned by, or leased to, any agency of the United States or owned by, or leased to, any organization receiving Federal financial assistance.

If this amendment were signed into law today, the new maximum penalties for this crime would be 20 years imprisonment and a fine equaling either the value of the property destroyed or $100,000, whichever is greater. The maximum penalty would increase to 40 years imprisonment and a $200,000 fine if someone were injured as a result of the arson.

Mr. President, you cannot repair the damage by legislation. You cannot repair the damage done to citizens. It will be very difficult, very hard to find these people, but I think the Government can demand accountability for those who committed these malicious crimes. I think we should follow the Governor's lead in this case.

I ask unanimous consent that a fact sheet prepared by the California State fire marshal be printed in the RECORD; and also that a letter received from Governor Wilson today supporting increased Federal penalties for arson be printed in the RECORD.

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

STATE CAPITOL,
Sacramento, CA, November 4, 1993.

Hon. BOB DOLE,
Senate Republican Leader, Office of the Republican Leader, U.S. Senate, Washington, DC.

DEAR BOB: I understand you may offer an amendment to S. 1607, the Violent Crime Control and Law Enforcement Act, that would stiffen federal arson statutes.

As the entire nation has seen, wildfires set by arsonists and fueled by Santa Ana wind conditions have ripped through Southern California communities, burning over 160,000 acres and destroying more than 700 homes and structures. Preliminary damage estimates exceed $500 million and will surely increase in the days to come.

Entire communities, life savings and cherished memories for so many Californians have been reduced to ashes owing to the actions of arsonists.

Justice demands the strongest sentences for individuals whose wanton acts result in multiple injuries or in massive property damage such as we have seen in California.

For this reason, I will be asking the California Legislature to take specific steps that will send a strong message to arsonists that they can expect full and complete punishment for their actions.

I support your efforts to increase the federal penalties for arson and believe that this action at the federal level will make clear our commitment to protecting people and our determination to see arsonists locked up for as long as they are able to function and be dangerous.

Sincerely,

PETE WILSON,
Governor.

FACT SHEET—CALIFORNIA STATE FIRE MARSHAL, CALIFORNIA FIRE INCIDENT REPORTING SYSTEM [CFIRS]

Year	Total fire incidents	Total incendiary fires	Property loss	Content loss	Firefighters injured	Firefighter deaths	Civilians injured	Civilian deaths
1981	192,460	27,422	$77,467,303	$34,043,823	321	1	181	26
1982	165,471	21,607	74,055,207	32,647,329	352		179	40
1983	155,592	20,825	66,733,500	23,792,023	153		124	31
1984	174,612	22,112	85,631,422	26,325,769	192		159	15
1985	171,131	22,373	87,075,730	49,360,901	164		184	25
1986	159,700	21,607	53,456,347	45,990,566	121		207	39
1987	162,203	21,445	77,718,634	25,150,431	139		157	30
1988	168,492	21,602	91,988,091	32,494,900	169		149	21
1989	158,470	21,926	87,215,606	23,989,304	145	1	109	26
1990	154,970	22,264	101,068,635	26,562,840	125		144	21
1991	142,612	21,874	63,767,877	25,959,402	251	1	139	62
Grand total	1,606,013	245,455	920,588,354	342,311,818	2,142	3	1,725	336

Note: Dollar loss as estimated by fire department. Not all fire incident reports contain a dollar loss. Totals may differ from other reports due to updating of master file.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, thank you very much. I would like to thank the distinguished minority leader for this amendment. I am very happy to cosponsor it, and I believe that my colleague, Senator BARBARA BOXER, would be interested in joining me as well.

There is no question that the current penalties for arson are not sufficient to deter this crime. As a result of the wildfires in California, the property loss is well over $500 million, at least 217,000 acres have burned, more than 9,000 structures have been destroyed, and more than 64 people have been injured.

The damages are only exceeded I think by the human suffering—people who have lost everything they owned, and have been lucky to get out with life and limb.

Hopefully, enhanced penalties of this kind will send a signal, both in California and elsewhere, that the people of this country are not going to tolerate this kind of behavior.

So, again, I thank the minority leader. I am happy to join him.

Mr. DOLE. Mr. President, I thank the distinguished colleague from California. I would point out, as she has already underscored, over 160,000 acres have burned destroying more than 700 homes, $500 million or more in damage, as she indicated.

Surely, it will increase in the days to come. We cannot do anything about it except try to make certain that the people understand that if it happens, if they are caught, and they are tried and they are convicted, the punishment is going to be severe.

I do not know of any objection to the amendment. I know the Senator from Nebraska is going to like this. But I would like to get a rollcall vote so that there will be a strong message. I would be willing to set the vote aside and let the majority leader determine when that vote will come.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent that the vote not occur until a time decided upon by the majority leader after consultation with the Republican leader, and it may be set aside to a later time when we have other votes.

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

Mrs. BOXER. Mr. President, parliamentary inquiry: Will there be time to support the Senator's amendment this evening?

Mr. DOLE. I am happy to yield to the Senator from California.

Mrs. BOXER. Thank you very much. I want to thank the Senator from Kansas. I have been working on such an amendment myself. This will get it done early this evening. I am very pleased with his interest and his concern on an issue that is of grave importance.

The way the Federal penalties are—they range from zero all the way to the death penalty. But it is very conceivable that someone could commit arson that could result in death, and yet they would serve no time at all.

So I am very pleased with this amendment. I give it my full and strong support. My good friend and colleague, Senator FEINSTEIN, and I are delighted to join with our colleague.

I yield the floor.

Mr. DOLE. I assume the Senator would be a cosponsor of the amendment.

Mrs. BOXER. Absolutely, proudly so.

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

Mr. DOLE. I thank my colleague from California.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak generally on the bill and on the amendment that is now the pending business, and really to respond to the statements that were made just a few moments ago by the chairman of the Judiciary Committee, the Senator from Delaware, to say that it appears that we are approaching one of those magic moments in the Senate when we truly hear the voice of the people crying out for help, in this case, crying out for protection from crime, from violent crime, which threatens the freedom and the security of the American people more than any foreign enemy that we face today.

Mr. President, the Senator from North Dakota [Mr. CONRAD] and I have been preparing an amendment to the underlying bill to increase by $1 billion the amount of money that we would send under this bill to States or groups of States to help them build prisons to hold the most violent and dangerous prisoners.

As the day has gone on, first, from the Republican leadership, I see my colleague from Texas, Senator GRAMM, offered an amendment, strong amendment, to provide more support for prison space, and found a means to finance it; Democratic leadership led by the Senator from West Virginia came in with an amendment, and what would seem inherently logical. That which too often does not happen around here is apparently happening, which is that all sides are getting together, laying aside any hint of partisanship and acting genuinely in the public interest.

I await with a real sense of pride and gratitude and anticipation the amendment apparently to be offered by the Senator from West Virginia, the chairman of the Appropriations Committee, Senator BYRD.

Mr. President, we have been focused here today on more money for prison space. All of us know that there is no single solution to the terrible problem of violent crime that so afflicts our society today. It will take a lot of separate steps to bring about a change. But it is clear to all of us in this Chamber,

I believe, and it is certainly clear to this Senator based on the conversations I have had with police, prosecutors, judges, neighborhood groups, and, corrections officials that one of the basic premises of an effective system of criminal justice is not working in our society; that is, if you commit a crime, you have some reasonable probability of being apprehended, arrested, and, if you are arrested, you have some reasonable probability of going to trial. And if you go to trial and are convicted, you have some reasonable probability of going to jail.

In almost every step in that process, our criminal justice system in America is in a meltdown. It is not working. You have seen the statistics presented earlier today and yesterday. A remarkably small percentage of those who commit crimes are actually apprehended. Of those who are arrested, a remarkably small percentage actually stand trial.

I spoke this summer to the commissioner of public safety in Connecticut. He shared some startling statistics with me. I bet they are true throughout this country. Every year in Connecticut those arrested who have the right to ask for a jury trial number between 160,000 and 200,000. How many jury trials does the Connecticut justice system have the capacity to offer every year? Two thousand.

So that means that at least 160,000 of those who are arrested on criminal charges—and remember, they are a minority of those who actually commit crimes—will ever go to trial.

The rest have leveraged, plea bargained, and gone through the revolving door back onto the streets to commit more crimes. Of that small number that is tried, and of the percentage of those who are convicted, too few end up going to jail because there is no room in the jails. The jails are painfully overcrowded.

So that is why we are talking about giving the States some help to build more prisons, to support boot camps, boot camps to take the nonviolent offenders out of the jails to release some of the overcrowding.

More money to the States and compacts of States, regional prisons, is specifically targeted on the violent offenders.

Mr. President, it is painful to say but it is obviously real, there are a group of people in our society who act without remorse, without principles, without values, without discipline, and do not care what they do to other people. They are a small number of people in our society, but they are creating havoc, fear, and chaos. Those are the people we have to target. Once we target them, investigation, arrest, try, and convict, our society must have a jail cell for every one of those.

I do not want one convicted criminal to go through that revolving door out onto the streets to terrorize us and our families, neighbors, and friends, or any law-abiding American because there is not a jail space for that person. That is what will be done with the money that the amendment before us now—and I suspect the one coming—will do.

Mr. President, the Bureau of Prisons tells us this is not just a State and local problem. The Federal prison system now holds 43 percent more inmates than it should. And at the State level—in 31 States and the District of Columbia—there are one or more prisons that are either under court order or are the subject of consent decrees to reduce prison overcrowding. My State of Connecticut is one of those States. In response to class-action suits filed on behalf of prisoners, Connecticut has court-imposed limits on the number of prisoners that can be housed in our prisons. There is such a serious bed space shortage in Connecticut in the prisons that, at times—and too many times—too many prisoners have served as little as 10 percent of their sentences. What a message to them and others who would commit crimes.

This cracks the foundation of our criminal justice system. As the Commissioner of the Connecticut Department of Corrections, Larry Meachum, told the Senate Governmental Affairs Committee:

I think we are making a mockery out of this entire process if we tell a person he or she is going to get 5 years, and he or she ends up going out of jail after 5 months.

The solution is clear, Mr. President. Commissioner Meachum told the committee:

If we are not going to make that kind of mockery out of the criminal justice system, then we have to provide the cells to deliver on the promise. If we are going to help the States and local governments deal with violent crime, we have to help them build new prison cells, so that prisoners will be forced to pay their full debt to society.

Mr. President, when we talk about providing more police to assist the cities and towns of our country, I have talked to some police in Connecticut who have said to me:

Do we really need more police? We do not even have the confidence to arrest all of the people we know are committing crimes now because we do not have the confidence that anything is going to be done except take them to court, and they are going to walk right out, plea bargain, or whatever.

Mr. President, in my State—and I would guess it is true throughout the country—there are categories of crime that are serious. Car theft is one, and the word spreads. A person committing a car theft knows that there is little or no chance that there they will ever go to jail for that crime. Why? No space in the jail. What message does that send? Steal a car, commit a robbery, assault another person; do not worry about ever being sent to jail. The courts are too crowded, and the jails are full. Police actually are not arresting people they know are committing crimes because they think it is a mockery to do that, that it does not matter. They see the same kids that they have arrested yesterday out in the streets selling drugs and committing crimes again today.

I will tell you, Mr. President, I have spoken to police officials and prosecutors throughout the State of Connecticut, and they tell me time and time again that they cannot think of a serious crime that has been committed in their communities that was not committed by an individual who has gone through the criminal justice system over and over again.

So, Mr. President, I think we, in the Senate, are hearing not just the voice of the people, but the cries of the law-abiding citizens for help. We know it costs money to give that help. Yes, we need to add more penalties. Yes, we should increase the crimes for which the death penalty is offered. Yes, we need to be tougher about mandatory minimum sentences. Yes, we need appropriate gun control to stop violence. But we also need two basic things: More cops on the street and more jail cells to put the criminals into.

I believe my colleagues understand, and we will show it by what we are going to consider tonight and, hopefully, adopt. This terrible problem of crime eats at our society. It is not a Democratic problem. It is not an Republican problem. It is an American problem that cries out for an American solution. I am full of anticipation that tonight, through the bipartisan leadership of this Chamber, the leadership of the Judiciary Committee, the leadership of both parties, the leadership of the Appropriations Committee, we are going to offer that solution to the American people.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from West Virginia for playing a very, very important pivotal role here helping to bring about changes in this bill that I think are going to make the difference between whether we pass a bipartisan bill that will do a lot against crime or not.

So I ask unanimous consent that I may withdraw the original Hatch

amendment with all of the appendages thereto.

The PRESIDING OFFICER. The Senator has that right.

Mr. HATCH. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendments (No. 1099 and No. 1101) were withdrawn.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the distinguished Senator from Utah [Mr. HATCH].

Mr. President, I shall shortly send to the desk a modification to my amendment. When Mr. HATCH withdrew his amendment by virtue of my amendment being a second-degree amendment to his amendment, my amendment also was withdrawn; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

I will shortly send to the desk a modification of my amendment.

I am pleased to report that we have worked out an agreement which will significantly increase our efforts in fighting violent crime throughout America. In addition to accommodating all of the programs authorized in the underlying bill, the modification also accommodates the regional prisons proposal contained in Senator HATCH's underlying amendment, the original underlying amendment, as well as increases for programs of particular interest to Senator GRAMM of Texas.

The modified amendment now before the Senate provides for the transfer of $22.268 billion to the violent crime reduction trust fund. These resources are made possible by the estimated savings calculated by the Congressional Budget Office from fully implementing the reductions in Federal employment contemplated in the National Performance Review. These personnel reductions are included in the amendment for each of fiscal years 1994–98 inclusive.

Additionally, the amendment makes the necessary adjustments to discretionary spending caps for fiscal years 1994–98 inclusive.

I will now briefly explain the funding changes made in the modified amendment. Like my previous amendment, this modification provides $12.276 billion to fully fund the underlying bill, S. 1607. In addition, the modification includes $3.720 billion to provide an additional 40,000 State and local law enforcement personnel. When added to the 60,000 similar positions provided in the underlying bill, this brings the total number of new police officers on the streets of our Nation to 100,000.

An additional $3 billion has been added for the construction and operation of regional prisons. This is the same amount that was contained in the underlying amendment by Senator HATCH and was included at the request of both Senator HATCH and Senator GRAMM. Another $1 billion has been added for the construction of jails, boot camps, and other minimum security State and local facilities.

And $500 million has been added for the construction and operation of secure facilities to house violent juveniles. These facilities are critically needed to remove some 60,000 violent, gun-wielding repeat juvenile offenders from our streets.

And, finally, $1.8 billion is included to fund the Violence Against Women Act to combat domestic violence.

Mr. President, let me just take a moment here. How long is a moment? It can be any length of time. I will take a few minutes to explain how we got where we are.

After offering the amendment in the second degree to the amendment by Mr. HATCH today, I listened to Mr. GRAMM of Texas make a speech in which he recommended that we should build additional prisons—and he suggested a figure of $6 billion—into which we would put incarcerated individuals. He also recommended the mandatory minimum sentence, and I thought that was a good idea. I think they ought to be incarcerated, and I think we ought to throw the key away, at least until they serve, I believe it is, 80 percent——

Mr. GRAMM. Eighty-five percent.

Mr. BYRD. Eighty-five percent, and we ought to have prisons in which to put these individuals.

So I came to the floor. I wanted to tell Mr. GRAMM that I felt as he did. I did call him at his office and I told him I felt the same way. But I said: "I want to talk to Senator BIDEN. He is the manager of the bill. I do not want to undermine him. I want to see how he feels about it."

I talked with Senator BIDEN. He said, "Well, I would like to see the full funding for 100,000 policemen." We provided 60,000 in the bill. "I would like 100,000."

I said, "Well, let us just do both."

And from there, we went to where we are now. There were long discussions with Senator HATCH, Senator BIDEN, Senator GRAMM, I think mainly among those three.

Therefore, we have arrived at an amendment which I am now about to offer, and I offer it on behalf of myself, Mr. MITCHELL, the majority leader, Mr. DOLE, the minority leader, Mr. BIDEN, the chairman of the Judiciary Committee and manager of the bill, Mr. HATCH, the ranking manager of the bill, Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, and Mr. MACK.

We certainly would appreciate the cosponsorship of any other Senators, and I ask unanimous consent that any other Senators who may wish to add their names may do so.

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

Mr. BYRD. Mr. President, I thank my colleagues. I particularly thank the manager of the bill, Mr. BIDEN. I particularly thank Mr. HATCH. I especially thank Mr. GRAMM for his suggestion, which brought me to the floor and which finally led to our being where we are at this point.

I want to thank Mr. KERRY. Mr. KERRY came to my office probably 10 days ago and told me how badly needed this legislation is and how badly we need the money.

I said to Mr. KERRY, "I agree with everything you say about the need for the legislation, but we do not have the money." And I explained our situation with respect to appropriations and caps and the freeze, and he understood.

And then in the conference the other day, I made the same statement. After Mr. BIDEN and Mr. KERRY had spoken, I said, "This is all well and good. I agree with everything you said. But we do not have the money."

And then Mr. GRAMM offered an amendment 2 or 3 days ago. I voted against his amendment. I voted against his amendment. But his amendment carried overwhelmingly. I did not speak against it, but I voted against it. But his amendment carried overwhelmingly, so it made the money available.

This is an extremely serious problem and it is crucial that we do the best we can, under the tight budgetary circumstances, to deal with this problem.

And so, having said that, I think I have said enough.

I salute all those who worked so hard. And I also compliment and thank our staffs for their work on the amendment.

I urge my colleagues to support this modified amendment.

AMENDMENT NO. 1103

(Purpose: To fund the reduction of violent crime)

Mr. BYRD. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. HATCH, Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, Mr. MACK, Mr. THURMOND, Mr. DORGAN, Mr. DOMENICI, Mr. CONRAD, and Mr. D'AMATO, proposes an amendment numbered 1103.

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

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BYRD. Mr. President, I also ask unanimous consent that no other amendments be in order to this amendment and that no other amendments be

in order until this amendment is disposed of.

The PRESIDING OFFICER. Is there objection? There being none, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, let me first say to the dear chairman of the Appropriations Committee that I have given many speeches on the floor of the Senate—some that I thought were pretty good and some that I thought were quite mediocre—but I do not know that I have given one that turned out to be more productive than the one today.

It reminds me of a poem by Emerson, titled "Each and All." It talks about the sexton ringing the church bell, little thinking that the great Napoleon hears the bell and pauses and is refreshed by it.

We have here a happy coincidence of events that I think is going to make American history on crime and punishment.

Last week, I offered an amendment that was aimed at trying to set a cap on Federal employment and enforce the President's reinvention of Government program.

How the amendment works is, it sets in law the goals of reduction in the size of the Federal bureaucracy. It has an enforcement mechanism, through the Office of Management and Budget, with a freeze on Federal hiring when we breach the employment limits. The Congressional Budget Office scored that amendment as saving $21.8 billion. That gave us the vehicle to fund this crime bill, not just to promise money, but to actually provide that money.

We have now put together a bill that is going to approach the crime problem in two ways: It is going to try to deal with the first offender—it is going to provide boot camps, it is going to try to provide drug rehabilitation facilities; and it is also going to build prisons so that violent predator criminals convicted in State courts end up serving their full term.

I think this is a very important step. This is clearly going to be the most important crime bill that we have passed in my time in the Congress and I believe it is going to be the most important crime bill that we have passed in many, many years.

This is an important step forward, because not only are we going to end up with mandatory minimum sentences for people who commit terrible violent crimes, but we are going to provide the prisons to put them in, we are going to challenge the States to have honesty in sentencing and, as a result of this bill that we are going to pass in the Senate, I believe that we are going to take a gigantic step in taking violent criminals off the streets of America.

I believe that that is truly doing God's work and America's work at the same time.

I thank the distinguished chairman of the Appropriations Committee for his leadership in making this happen. I am very proud to be a cosponsor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I should also say that Senator SASSER, the chairman of the Budget Committee, came to my office this morning and we discussed this matter. He is very supportive of this modification. I want to pay tribute to the work that he has done on this amendment and on the original amendment which I had offered earlier.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I, too, want to compliment the chairman of the Appropriations Committee and the majority leader—and I do not often do this—and his staff, a fellow we affectionately refer to as "Hilley" around here, who, quite frankly, came up with the idea of how to deal with the efforts that were made by the Senator from Texas, and prior to that, by the administration about cutting Federal employment and, in effect, setting up this trust fund.

Senator HATCH and I have been working on this bill for a long, long time. Let me just take 2 minutes to make several very brief points.

No. 1, the bill that all of this is being attached to is the bill that the President of the United States, through his Attorney General, and I worked out. And so the underlying bill here, is the President's bill.

But the ranking Republican, Senator HATCH, made the point to me throughout that he thought that one of the major ingredients of the Republican position on crime was to deal more with doing more about prison construction and incarceration and, quite frankly, forcing the States to have tougher standards and penalties.

That was totally consistent with what my friend from Massachusetts has been saying. I must publicly acknowledge to him that he turned out to be right and I was wrong. He and I both wanted a $20 billion-plus bill.

I was determined that I would not write a bill, have a name on it called the Biden bill, that I could not pay for. So I started off with a $5.9 billion bill several weeks ago, cutting back from a $9 billion bill I had last year. My friend came to me and said, "JOE, what are you doing?" I said, "We cannot get any more money."

And he made the point, if we hold out long enough, spoke long enough, made the case strong enough, we could change people's minds. I was, quite frankly, a bit cynical about the ability to do that.

As of yesterday, I met with the President of the United States and his staff at length, as did the Senator from Massachusetts previously. The President and his Chief of Staff and others agreed that they would work to fund a $10 billion bill. So I reintroduced a new bill, a $10 billion bill.

But my friend from Massachusetts kept saying, "No, we can do more."

And then along came the man who seems to pull every chestnut out of the fire in this place whenever you want to get something done.

I have known this for 20 years, but if you want to get it done, go to the man who knows how to do it. Go to the chairman of the Appropriations Committee, a man that I and a lot of us affectionately refer to as "Leader."

I once said to him, I would almost rather he would be leader again, because he was not nearly as powerful as leader as he is as chairman of the Appropriations Committtee.

But the truth of the matter is, every time you want to get something done, if you get him and the majority leader together on something, we hardly ever fail.

I went, along with others, to him the other day and said, "Help, boss. We need help on getting this done."

I must tell you, this exceeds my expectations. I have been arguing and fighting for 100,000 police for a long time.

There are some very, very, very, very important pieces of this legislation that the Senator from Utah has been pushing for for a long time. The Senator from Utah and I have believed all along, and our staffs, that if we were left to our own devices, we could come up with a bill that everyone would be happy with.

And so, I just want to suggest that the combination of getting the chairman of the Appropriations Committee; the chairman of the Budget Committee; the ranking member of the Budget Committee, Senator DOMENICI; the majority leader; and with the unrelenting pushing, I say affectionately, of my friend from Massachusetts, that we have come up with what I can say, without reservation, since every single major crime bill since 1974 I have either been the primary cosponsor of and/or the author of, I can say without hesitation that this is by far and away the most significant Federal effort to deal with violent crime in America that has ever been undertaken in the U.S. Senate—ever.

We are talking about something that is of major consequence.

Let me say to my colleagues who are listening back in their offices and all wondering how long we are going to go tonight and what is going to happen here, and then I will yield. I see my friend from New Mexico is seeking recognition.

It is the intention of the chairman and the ranking member, the managers of this bill, that once we agree to this amendment—which I hope we will do shortly—we will try very hard to discourage some of the amendments, because one of the things that our colleagues are going to find is much of what they have been asking for has been accommodated by this significant amendment.

I also address my colleagues who have amendments that they feel are not accommodated by this doubling of the size of the bill. I see my friend from North Dakota. He and BYRON DORGAN, his colleague, have been pushing hard to deal with violent juveniles. They have been pushing hard to deal with violent offenders in jail. This exceeds their wildest expectations, I think it is fair to say, and encompasses all they wanted.

There are others on this floor who have been equally as interested. I think when they look at this—and I encourage their staffs to look very closely at what the chairman of the Appropriations Committee is sending up on behalf of all those he named—and then, if you still think you need an amendment, please come forward.

I see my friend from California on the floor. She has a very important amendment that the President of the United States has, at her bidding, signed off on, which, after we finish this, we hope we can move to quickly. She will explain it, but it is a very significant amendment.

She came to the committee earlier, I might add, with an arson amendment that was her doing, her thinking, her idea. And I must publicly apologize to her because, in the meantime, another arson amendment was brought up. I, frankly, thought it was hers—which I frankly think is a little better than the one we had. I know she joined in the one we passed.

But there are going to be amendments like that of the Senator from California that are very important that are not encompassed within this arrangement. There are others who will have them.

So I urge all Senators and their staffs who are listening, please come to the floor. It is the intention of the ranking member, I think it is fair to say, and myself to try very hard to negotiate those amendments that we can, to have votes on those we cannot, and move this process along. Because, as my mother would say, with the grace of God and the good will of the neighbors, we may be able to, in a relatively short time, present to the American people a bill that is the first step, but a most significant step, in dealing with violence in America.

I might add one last point. The Senator from Utah and I have been working very hard for a long time on a thing called the violence against women bill. It is of significant consequence. It was going to be the third item on the agenda of this Senate dealing with violence over the next 3 months.

We have incorporated that bill in this amendment and funded it as well within this amendment. I want to pay a very high compliment to my friend from Utah who, frankly, were he not insistent upon this taking place at this time, we would not have it in the bill and we would be somewhere 2, 3, 5 weeks down the road still fighting.

I might add, through the persuasion of my friend from Utah, we have 68 cosponsors for that bill. So this ought to be something that is akin to motherhood. But it is critically important to deal with domestic violence and the absolute ravaging of women in this country as a consequence of being the victims of violent crime. So this is a very, very, very important amendment that we are about to vote on.

Again, I thank my friend from Utah for his leadership because, make no mistake about it, we would not be doing this were he not willing to do the things he did to reach an accommodation on this bill. It is a pleasure working with him.

Again, as I said, whenever we want to get something done I have learned it never hurts to go to the Senator from West Virginia and, without exception, it always helps. I have no illusions. Were it not for the Senator from West Virginia and his legislative alchemy—he is the only man that I know who can turn things from legislative dust into legislative gold.

You have done that, Mr. Chairman. I compliment you for that. The entire Senate and, more importantly—and I mean this, it sounds like hyperbole—the Nation, the Nation owes you a debt of gratitude for your ability to do those things which those of us who have only been around 20 years have still not learned how to do as well.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BIDEN. I will be happy to yield.

Mr. BYRD. I thank him for the hyperbole. I appreciate it very much.

Mr. BIDEN. It happens to be true. Because I have, in my experience, been on the other side of a few—a few, very few—the other side of a few issues with the distinguished chairman of the Appropriations Committee, and I have always found it a less-than-rewarding experience.

There is only one other person in my 20 years I have been almost as mournful of not being with him when I have been against him, and that was Senator Russell Long. Russell Long was the only other man who, whenever I stood up on the floor to take him on, by the time he got finished speaking I felt so good and warm, I felt like calling my mother to tell her how I had done such a great thing only to find, when it was all over, I had lost. So I have learned. But I truly do, Mr. Leader, I thank you.

Again, this is a highly unusual thing to do, but John Hilley of the majority leader's staff came to me 3 weeks ago with this idea. I think this is one of those cases where there is not, in my view, enough money we could pay such a talented person to get something done.

So I thank everyone for this, and, hopefully, once we pass this amendment we can move rapidly through the remainder of this bill and present the American people with a very serious piece of legislation to deal with violence in America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciated the comments of the distinguished Senator from Delaware, but I would like the distinguished Senator from Delaware to listen to what I am about to say.

Mr. BIDEN. I beg your pardon. I am sorry.

Mr. HATCH. Mr. President, this really is a good package. It is something that everybody on this floor, both Democrats and Republicans, can feel good about because here we are providing for $8.9 billion for police. Every Republican ought to be for that. Every Democrat ought to be for that. It makes sense. If we want to do away with violent crime, let us get the police out there on the streets. People on both sides have argued for this but nobody more eloquently than the distinguished Senator from Delaware.

There is $3 billion for regional prisons—very badly needed. I think everybody on both sides of the aisle can be happy about that.

There is $3 billion for boot camps and operational grants to the States. This is a real chance for us to help the States and do something on crime.

There is $500 million for juvenile detention facilities for the hardcore juvenile criminals, something that just had to be done.

But there is one problem. In our zeal to get this done—and nobody is stronger for the violence against women bill than I—I did not realize that I was to protect the rights of the distinguished minority leader of the Senate and the distinguished Senator from South Carolina. In our zeal to put this in we have not protected their rights. They wanted it to be brought up separately. I feel very, very badly about that because I never would have done that for anything in this world.

I have asked the distinguished chairman of the Appropriations Committee if we could vitiate the unanimous-consent agreement so we could at least have that be separately debated so Senators DOLE and HELMS would be able to

bring up whatever they want to because the unanimous-consent agreement prevents any first-degree amendments.

I am very concerned about it because I want to get that bill passed, and I know the distinguished Senator from Delaware does, too. But I also do not want to trample on the rights of my esteemed colleagues, and I know they have many rights they can exercise on this matter anyway. So I hope as we discuss this we will consider maybe recognizing those desires and my failure as floor manager to protect their rights.

I did not realize that I was supposed to, and it was my fault I did not realize it, but I did not. It is certainly not the fault of the distinguished Senator from Delaware and certainly not the fault of our esteemed colleague, our great colleague from West Virginia, without whom we never would have put this together. Everybody here has to acknowledge that, but it would not be fair under these circumstances to foreclose the rights of our minority leader.

Mr. BIDEN. Will the Senator yield for just a moment?

Mr. HATCH. Yes.

Mr. BIDEN. I hope the Senator will not exercise that unanimous-consent agreement yet and give me an opportunity to meet with the Senator from South Carolina and the Senator from Kansas to determine——

Mr. HATCH. North Carolina.

Mr. BIDEN. Excuse me, North Carolina, and the Senator from Kansas to determine whether or not there is a way we can accommodate that.

Mr. HATCH. Mr. President, let me yield the floor so Senator DOMENICI and Senator THURMOND can say what they like.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will not take a lot of time. I have a few questions I want to ask the distinguished chairman of the Appropriations Committee. When we are through with the colloquy and a few other observations I have, I may join as a cosponsor. But it does seem to me that there are a couple of things we ought to clarify and that need some explanation.

I understand the chairman is willing to do that. So, Mr. President, let me start by saying, to some extent, I share the concerns that were expressed this afternoon by the distinguished senior Senator from Oregon [Mr. HATFIELD] about creating a new off-budget trust fund. I am totally convinced and in accord with those who contend in this Chamber that violent crime prevention is a very high priority for the people of our country and for the use of our resources. I can see other priority needs, however, that are already here and that might arise from time to time in the next 5 or 6 years that are not encompassed by this amendment.

The unified budget concept with everything on budget and as few trust funds as possible, and even some of those trust funds within the budget, gives us a complete picture of Federal spending and how resources are allocated to those needs.

So I had some reservations early on of establishing this funding mechanism. I know that the distinguished chairman shares some of these concerns. I would appreciate any response or ideas that the chairman of the Appropriations Committee might have about the concerns I have just expressed.

Mr. BYRD. Mr. President, if the distinguished Senator will yield.

Mr. DOMENICI. I will be pleased to yield.

Mr. BYRD. So I may respond without him losing his right to the floor.

I understand the concerns expressed by Senator HATFIELD and Senator DOMENICI regarding the establishment of the trust fund that would be created under this amendment. However, over the past weeks, I have had discussions with the distinguished chairman of the Judiciary Committee, Senator BIDEN. He has, upon numerous occasions, mentioned to me on this floor and elsewhere that he wanted to visit with me about the crime bill and about the funding of it. He has spoken eloquently today, as have others, concerning the importance of this legislation.

These discussions centered around whether we can find a way and how it could be found to assure that the programs authorized in this bill are funded. My response to him was that one approach that could be considered would be declaring a congressional and Presidential emergency each year, but it would have to be done every year for 5 years to make the appropriations that would be authorized pursuant with this act. That would require, as we all know, that both the President and the Congress agree to spending under this act as an emergency. I would note that this emergency designation, even if approved by the President and the Congress, would increase the deficit each year.

Another method would be to rescind discretionary appropriations and apply the savings from those rescissions to offset the appropriations that would be necessary to fund programs such as those authorized in this act. But even then, I am not at all sure that we could find those rescissions and that they would be enacted by both Houses. It would also leave uncertain on a year-by-year basis how much, if any, of the authorizations contained in this act could be funded. The amount to be funded, if rescissions were required, would not be known until rescissions were enacted each year sufficient to pay for part or all of the programs authorized in this act.

Yet another method could have included making mandatory appropriations in the act itself and providing these appropriations in advance in the act. I do not like that approach. These appropriations would have been subject to a point of order under the Budget Act, as well.

While I share the legitimate concerns expressed by Senator HATFIELD and Senator DOMENICI. I determined that the establishment of the Violent Crime Reduction Trust Fund was the least offensive—the least offensive—of these various approaches and the approach that did the least damage to the existing budget and appropriations processes.

Let me add further that I would prefer not to have to set aside or reserve the funds contained in this act at all. I do not like that way of proceeding, but I consider the crime problem to be a major, major crisis in this country that is getting worse and worse every day. It is a crisis that demands that the spending provided in this act match the rhetoric.

Mr. DOMENICI. I thank the distinguished chairman for his comments, and I will ask another question.

I had a concern the other day when Senator GRAMM offered his amendment, which mandated the caps on Federal employment levels and built into law the number of full-time employee reductions recommended by the President's National Performance Review of the Government. I did not vote for it then. I said to my friend, the chairman, after the vote that I did not vote for it because I had no idea where the cuts would be made.

Mr. BYRD. Yes, I came to the Senator and said, "Why did you vote against that amendment?"

Mr. DOMENICI. Right. We did not collaborate but afterwards, we talked.

Mr. BYRD. I was wondering why he voted against it. I voted against it, and his answer made me feel all the more on that occasion I was right.

Mr. DOMENICI. So I remain concerned that the amendment which you originally offered would leave it up to the OMB to determine where the Federal employee reductions within the bureaucracy of our Nation would occur. I was worried that under the original amendment that you offered today it would totally be left to the discretion of the OMB Director.

I understand, and I hope I am correct, that the distinguished chairman has modified the amendment and that the amendment which is at the desk now solves that concern by requiring that the President include an analysis of his proposed FTE reductions as part of the budget submission each year.

Mr. BYRD. Mr. President, if the distinguished Senator will yield, I know he intends for me to respond. He will yield without losing his right to the floor. The Senator from New Mexico has described his concerns to me as recently as 2 hours ago, and earlier. I

have incorporated this language into the modification of the amendment. I appreciate his bringing this matter to my attention. I do believe that it is an improvement to the bill.

Mr. DOMENICI. I thank the Senator. I want to make one more point. I am sure the distinguished chairman agrees with me that the pending amendment violates section 306 of the Congressional Budget Act, which prohibits consideration of legislation under the jurisdiction of the Budget Committee that has not been reported by the Budget Committee.

The section 306 point of order can only be waived by an affirmative vote of 60 Senators. I inquire of the Chair, is that a correct assessment of the situation?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair. I want to be clear that a 60-vote point of order lies against the pending amendment, and any future legislation creating an off-budget trust fund would also be subject to the same point of order. Am I correct in that assumption?

The PRESIDING OFFICER. Since this issue is not presently before the Senate, the Chair would decline to rule on it prior to tomorrow.

Mr. DOMENICI. I thank the Chair. But I would make the point for the Senate that I think it is important Senators know we are not going to turn the budget of the United States and the appropriations process into myriad trust accounts where we predetermine upon what the subcommittees of the Appropriations Committee will spend money.

I think my good friend from West Virginia would concur that that is not the intention. Clearly, if a very similar proposal for a similar trust fund with similar effect on the appropriations process and the budget itself is brought before the Senate, we are not waiving the right to raise that point of order if we choose to waive the point of order here tonight.

I wonder if my friend from West Virginia would concur.

Mr. BYRD. I do concur, and I thank the Chair as well. I want to be clear that a 60-vote point of order does lie against the pending amendment. The distinguished Senator from New Mexico and I discussed this earlier today, and we both agreed that it did, that it would lie. And any future legislation creating, I will call it an off-budget trust fund, would also be subject to the same point of order, in my opinion.

May I say to the Senator, I will just as zealously guard the legislative process in the future as I have in the past. It was only because of the very extenuating circumstances throughout this country today, that I think cry out for solutions, that I have taken this approach.

I thank the Senator from New Mexico for being equally zealous and protective of the budget process. This, in a sense, may be something of a precedent, but it will not count as a precedent that we have to follow in the future. I believe that any future legislation to expand the size of this trust fund or the programs eligible to be funded by this trust fund also would be subject to a 60-vote Budget Act point of order.

Mr. DOMENICI. I thank the Chairman.

Mr. President, let me just take 1 more minute. I would like to ask the Parliamentarian if he could rule on this, and if he cannot I understand. If we do not vote on waiving the Budget Act on this amendment this evening, because nobody chooses to raise it—the Senator from New Mexico does not raise it—do we in any way set a precedent that we can do this in the future without waiving the point of order?

Mr. BYRD addressed the Chair.

Mr. DOMENICI. Or will failure to vote on it be construed to be a waiver?

Mr. BYRD. I know the Chair will respond. Before the Chair responds, may I say a word.

Mr. DOMENICI. Surely. Absolutely.

Mr. BYRD. The Chair cannot rule on this because no point of order has been made. Consequently, he cannot issue a ruling. The Chair can respond to a parliamentary inquiry from the distinguished Senator from New Mexico, and while that responds to a parliamentary inquiry, it does not carry the weight of a ruling, at least it does sometimes provide guidance for both the Chair and any Senator.

Mr. DOMENICI. I thank the Senator. I apologize to the Chair and Senators for not having raised my question by way of a parliamentary inquiry. I should have done that. I thought I did that without stating the proper words, but I believe the chairman is stating that properly. So if you would convert my language to a parliamentary inquiry as to whether or not anything is waived if we proceed on this amendment without a vote.

The PRESIDING OFFICER. In the opinion of the Chair, if a point of order is not raised today and the issue is not joined, the issue remains an open question.

Mr. DOMENICI. Mr. President, I wish to ask unanimous consent that I be added as an original cosponsor and thank the distinguished chairman of the Appropriations Committee for the work that he has done, and all others who have put this amendment together.

I think it is historic. From my standpoint, as money is saved from reducing the work force of the United States, I thought maybe we would salvage some of it for deficit reduction. But as I looked at it, I feared we would lose that battle, and it would be spent. As a consequence, I join in saying if we are going to spend it, we probably ought to spend it for the most serious domestic issue in our country.

I yield the floor.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, the Senator will be added as a cosponsor.

Mr. MITCHELL. Mr. President, I am proud to cosponsor, along with Senators BYRD, BIDEN, SASSER, HATCH, DOLE, GRAMM, and MACK this compromise amendment to the crime bill.

The most important fact about this amendment is that it guarantees that what the Congress does about crime will amount to more than words—that it will lead to direct action to reduce the violence that plagues too many of our neighborhoods.

This amendment will assure that the crime bill we pass will be funded. It creates a Violent Crime Trust Fund into which savings from the executive branch personnel cuts will be deposited to pay for the provisions of the crime bill.

That means that we will have available, over the next 5 years, $21 billion in the trust fund for crime-fighting programs to respond to one of the most urgent national problems that affect Americans today.

The amendment will fund 100,000 additional police for our Nation's cities and neighborhoods.

It will provide $3 billion for regional prisons to help the States alleviate overcrowding in State prisons and the resultant too-early releases of violent offenders. It will provide $3 billion for boot camps to house nonviolent, first-time offenders, which will free up additional State prison facilities for those who must be separated from the society for long periods of time.

It will provide $500 million to fund secure community-based facilities for violent juveniles, those who are not suited to community-based facilities, and those who are repeat violent offenders.

The amendment encompasses a view of crime control based on more effective response by police and more stringent incarceration for violent offenders to restore the sense of personal safety and security that our society has lost.

This is a bipartisan amendment. It enjoys strong support from the chairman and ranking minority member of the Judiciary Committee. It has the support and, indeed, much of the leadership of the Appropriations Committee chairman, and it deserves the enthusiastic support of all Senators.

I urge my colleagues to vote for this amendment, so that we can lay the foundation for a crime bill which will deliver what we promise: More police, jails for longer sentences, fewer violent repeat criminals on our streets, and safer neighborhoods for the law-abiding people of America.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment on prisons which has been worked

out by the chairman and ranking member of the Judiciary Committee with the able assistance of Senator BYRD, our President pro tempore.

Without doubt, there is a critical need for additional prison space across the Nation. According to the Department of Justice, there are more men and women in State and Federal prisons than ever before. The Bureau of Justice Statistics reports that the inmate population on June 30, 1993 was 925,247. A number of States have parole systems that release prisoners before they have served their full sentences. Other States have early release programs—either on their own or pursuant to court orders—that are specifically designed to keep down their prison populations. As a result, crimes are being committed by prisoners released early that would not have been committed if the prisoners had remained in prison for the duration of their sentence.

It does little to arrest, prosecute, and convict violent offenders only to see them prematurely released because of prison overcrowding. As Georgia's Democrat Attorney General Michael Bowers stated, and I quote,

All of the police officers in the world are not going to make a difference on the crime situation until you provide a place to put the criminals. Unless you do that, this is a waste of time.

Mr. President, adequate prison space is a critical link in the State criminal justice system. We must address the problem of early release of violent offenders due to a lack of prison space. I am pleased that we have been able to reach agreement with our Democratic colleagues to provide badly needed funding for regional and State prisons. A vital provision within this compromise will encourage States to adopt greater truth-in-sentencing laws to ensure that violent offenders serve their time. When law enforcement does its work arresting violent offenders, it will ultimately make little impact on crime if we have so little prison space that convicted offenders are put back out on the street well before they have completed their sentences.

This amendment will help the States close the revolving prison door for violent offenders. This compromise will provide $6 billion for construction, maintenance, and operation of regional and State prisons and jails. Additionally, this funding will incorporate the distinguished chairman's proposal on boot camps and other alternative sanctions. Further, we have reached agreement on funding for putting more police on the street to continue the fight against the violent predators.

I want to commend the chairman and ranking member for their bipartisan efforts on this amendment. With this type of cooperation, we should soon be able to complete action on the comprehensive crime bill and meet our responsibility to the American people. I encourage my colleagues to support this amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I ask unanimous consent that I be allowed to join on the pending Byrd amendment as an original cosponsor.

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

Mr. CONRAD. Mr. President, maybe I could be permitted to just make a brief comment and to thank the President pro tempore, the chairman of the Appropriations Committee, for what he has proposed in this amendment.

Mr. President, if I might just say that earlier today I had been prepared to offer an amendment to offer a substantial increase for prison construction so that we might assure the American people that the most violent repeat offenders would have to serve 85 percent of their sentence, and that we would have the facilities to allow that to happen.

Mr. President, I am extremely pleased that in this Byrd amendment, the truth-in-sentencing provision is included, that the money to make certain that we have the facilities to house those prisoners is included: and, in addition, another amendment that I was prepared to offer after having worked closely with the Judiciary Committee over a number of days to provide secure facilities for violent juveniles.

We were talking about a funding level of $100 million or $200 million. With the Byrd amendment, that has been raised to $600 million.

Mr. President, I believe that is going to make a difference in this country, a difference for the better, something that is desperately needed both in terms of violent juveniles and in terms of those who are violent repeat offenders.

This is a leap forward from where we started the day. I think all those involved, the chairman of the Judiciary Committee, Senator BIDEN, the ranking member, Senator HATCH, and the chairman of the Appropriations Committee, are to be publicly commended and thanked for their excellent work.

I also, Mr. President, would like to take a moment to salute my colleague from Massachusetts, Senator KERRY, who so aggressively has pursued additional funding so that this crime bill would really make a difference in the lives of people: so that it would not just be a cosmetic bill, it would be a bill that would actually make a difference in peoples' lives.

I have been in meeting after meeting, hour after hour, with the Senator from Massachusetts, in which he made very clear how much he wanted to see 100,000 additional police, and not done in some cosmetic way, not done in some clever way that made a good press release, but in some way that actually delivered on the promise.

Mr. President, I believe this amendment goes a long way toward doing that.

I want to again publicly thank all those who have been involved.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I begin by thanking my friend from North Dakota. If you are ever in one of these fights where you are looking to this place to do something real, you want to have the Senator from North Dakota with you in that effort. He has pushed this as hard as anybody. I am very appreciative for his comments, and especially for his support.

I came to the floor earlier today, and have been pushing a number of different people over the course of the last weeks. I would like to say that what we are about to do, if indeed we are, and I hope we are, is real. And it is very significant.

This is such a quantum leap from where we were a few hours ago, and certainly from where we were just a week ago, that you really kind of have to pinch yourself.

The person who has provided this incredible coup is indeed the President pro tempore, the distinguished chairman of the Appropriations Committee. I think all of us understand that if he did not believe this ought to happen, and that if he did not believe there was a way to make it happen, this would not be happening.

I think that it is a tribute to the way that he listens, I might say. I know when I went to visit him a week ago, there is much that he has on his mind. But as he always does, he meets with junior Members who ask for meetings. I knew that even though he told me he did not quite know how we could do this, I knew from his look and from the time he gave me and the concern he expressed that if there was a way, the Senator from West Virginia was going to try to find it because he understood.

I think that he deserves just enormous credit for this because this is really, in all the years I have been here, the most real and significant response to what is a very complex and often contentious and sometimes too partisan effort to try to deliver something real to the American people.

Today, presuming we move forward in these next moments—and I presume that we have broken down that partisanship—we are about to take the step which is an enormous downpayment on protecting and providing for the domestic tranquility and security of this country.

So I really do salute the distinguished President pro tempore. I also want to say that Senator HATCH and I met this morning, sort of by happenstance, on the Fox Morning Network,

where we both had opposing views on this bill. And we expressed them. At the end of that, we had a conversation that lasted about 20 minutes, or half an hour, in which we sort of unraveled the differences but found common ground, and we both expressed a sense that we might be able to find something that was a legitimate and important compromise in the course of this bill.

I never anticipated it would happen in the same afternoon after that conversation. But thanks to the seriousness and purpose which has been, really, I think, catalyzed by the Senator from West Virginia, all parties have come together, and we are poised to do something that is not insignificant by any sense of the word.

I also want to say that as good as this is, I do not want to be the skunk at the picnic. There is more to be done. There are schools yet to be kept open; there are kids who are still going to need programs; there is an enormous amount to make up for.

But this is a real step. This is not cosmetic. This is not rhetorical. This is not something that is press-release oriented. And this will, if we follow through on it through the appropriations process, as I think the distinguished President pro tempore has guaranteed through the structure of it, this is going to make the difference.

I really thank him. I thank the distinguished Senator from Delaware and Senator HATCH for helping to get us to this moment.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. KERRY. I yield.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his extremely charitable and gracious words. I thank him even more so for his concern, for his zeal, and his dedication toward doing something that is really effective in dealing with the terrible problem that confronts this country.

He has been an articulate spokesman on this subject matter. And he has worked long and hard. That is easily to be discerned by listening to him as he quotes figure after figure after figure, and fact after fact. He has made this a very serious study. I compliment him.

I also join him in complimenting Senators on both sides of the aisle in making this a true bipartisan effort to deal with the serious problem.

The criminal, or the would-be criminal, or the about-to-be-criminal never stops to inquire as to whether or not it is a Republican or a Democrat who is carrying the wallet, who is about to become the victim. The criminal knows no partisanship in that regard, and he knows no party, whether it is an Independent or an individual that has no party at all. That does not cross the criminal's mind. And it should not cross ours when we are dealing with this very serious problem.

I was the chairman of the District of Columbia appropriations bill for 7 years, the longest that anybody has been the chairman of that subcommittee in this century; and the very first time I went out with the police, we visited the scene of a homicide, and I will never forget that sight. But things have grown progressively—I must use that word—progressively worse in the intervening years, from a time when—who would have ever thought that the Mayor of the District of Columbia would be asking for the National Guard. This is our Nation's Capital.

I thank the distinguished Senator for his efforts and for his good work.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Republican leader is recognized.

Mr. DOLE. Mr. President, I understand they are now working on a rather large package of an amendment, or a large amendment, and while some of us were temporarily off of the floor, somebody had gotten consent that no further amendments to this amendment be in order. At the appropriate time, when the managers are back on the floor, I will ask that that either be vitiated or that we have some understanding, because there was a lot of material included in this amendment—not the amendment of the Senator from West Virginia—which some of us had a direct interest in and were not contacted about.

I do not think anyone on either side would appreciate that happening to them. I do not appreciate it happening to me. So either we will be able to offer amendments, or we will work it out, or we will not be voting for a while.

Mr. BYRD. If the Republican leader will yield. It was I who got the request. I had no knowledge that the distinguished Republican leader had an amendment or that he had a problem. I put his name on this amendment without his asking me, even.

Mr. DOLE. On your amendment, that is fine.

Mr. BYRD. I thought it was this amendment we are talking about.

Mr. DOLE. No. It is on domestic violence, and it has some differences.

Mr. BYRD. But it was I who asked that there be no amendments to the amendment and that no other amendments be disposed of prior to the disposition of this amendment. I did not know anything about the Republican leader's problem.

Mr. DOLE. Maybe we can resolve our differences. The Senator from Delaware has indicated an interest in doing that. I have not discussed it with the Senator from Utah. If not, maybe we can take off the other part.

Mr. BYRD. I am sorry if I discommoded the leader. I did it borne of the knowledge that I have gained in this United States Senate for many years, that after we have worked on an amendment of this kind for so long and drawn both parties together, and we come together on a vital amendment, I have long ago learned to do this to protect it.

Mr. MITCHELL. Might I ask a question of the chairman and Republican leader? Was not the agreement cleared by Republican Senators?

Mr. DOLE. It was cleared by the managing Republican, Senator HATCH.

Again, I think there was no problem with the amendment Senator BYRD offered earlier. I am happy to be a cosponsor of that. I think it was agreed to somewhere to add another title called "domestic violence," and we do not have any problems with most of it, because we have been working on it together with Senator BIDEN in a bipartisan way; but we have a problem with two or three issues that we are now trying to resolve. Otherwise, we can move that off and vote on the Byrd amendment.

Mr. BYRD. While the Senator has the floor, if I may say to the majority leader, the request that, for the moment, shuts out other amendments was mine. I did not clear it with anybody. I simply sought to protect the amendment. So that was my doing. But as to the content of the amendment, I have no problem with the domestic violence part, whatever can be worked out on that.

Mr. MITCHELL. Mr. President, the point I wanted to be clear on, so there is no misimpression here, is that an agreement was entered, without the knowledge or participation by Republican Senators, dealing with——

Mr. DOLE. One Republican Senator in this case, which maybe should suffice, but in this case, it may not.

Mr. MITCHELL. As the Republican leader knows, it is a common practice. We have a manager of the bill on either side, and the Democratic manager is responsible for notification and clearance with Democratic Senators, and the Republican manager is responsible for notification and clearance with the Republican Senators. Obviously, we cannot go around and clear with 44 individual Republican Senators every discussion and agreement made between the managers.

Mr. DOLE. I do not have any quarrel with that. In this case, we registered our objection, even though we were not on the floor, that we had a problem—not with the underlying portion of the Byrd amendment, but with adding the domestic violence title to it. We conveyed that, and before I could get back, consent had been obtained. We hope we can resolve it.

Mr. MITCHELL. I am sure we can. I do not think we can do it without the managers, though. It seems to me that the two people most involved are not here. So I do not think we should take any action to alter the current status until the managers are here, the people who are most directly involved and are responsible for handling the matter.

Mr. BYRD. I also say that the distinguished ranking manager, Mr. HATCH, came to me and asked me to vitiate the request I made. I said I will not do that. So he did try. I assure the Senator that I was not trying to keep out any particular amendment of the Republican leader. I knew nothing about that.

As I said, if we vitiate this, who knows how many amendments there will be. So I will not vitiate it. But I am happy to be a party to working this out, if I need to be, when the two managers return.

Mr. DOLE. I just indicate that I strongly support the efforts worked out on a bipartisan basis, led by the distinguished Senator from West Virginia, because, in my view, we will have the money for regional prisons, and the States can only send their most violent criminals there if they adopt truth-in-sentencing laws. We think that is a big, big step forward, as discussed by Members on both sides of the aisle throughout the day. There is certainly no problem with that.

I hope and understand that we may be able to resolve it. We have submitted a list of things we think should be in the domestic violence section. If that can be resolved, it is fine with me. If not, I hope we can work out a way to set that aside and vote on the major amendment.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, it is obvious that we cannot proceed without the managers because whatever understanding led to the current situation was between them. I think if there has been an error it would be compounding it now for us to take action without notification to and consent by the managers.

I think they are going to be here shortly. I think it is best that we have a brief quorum as we try to resolve this.

Mr. LEVIN. Mr. President, I have a question of my friend from West Virginia.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if there is no other comment after that, I would put in the quorum call if that would be all right.

Mr. President, I wonder if my friend from West Virginia would answer a question.

First, let me compliment him and others who have worked this out. It is a very critical need we have in this country for many of the items that he covers. I as always am absolutely amazed at what the Senator from West Virginia is able to achieve both on this floor and off the floor. I commend him for it. I think it is an important step that takes us here. I do have a question as to how this would operate.

As I understand the mechanism in the amendment, a trust fund would be set up and money which results from the savings from reduction in personnel would go into that trust fund. That trust fund could only be used for two purposes. One would be the purpose as set forth in the amendment and, if not used for that purpose, then for deficit reduction.

Mr. BYRD. No.

Let me say it this way: This guarantees that the normal appropriation process will go forward. The money will be in the trust fund. But the President will send up his budget. That budget will come to the Appropriations Committee in each House. The subcommittee, which is chaired by Senator HOLLINGS with the ranking member being Mr. DOMENICI, will conduct hearings on that budget request, as in all other cases.

Then the Appropriations Committee will appropriate such moneys as it finds, in its wisdom, should be appropriated to meet the requests, or the subcommittee may recommend that moneys be spent under the general rubric of dealing with violent crime and violent criminals in some other way. But the money is put aside for this specific purpose——

Mr. LEVIN. OK. I understand.

Mr. BYRD. To deal with violent crime and violent criminals.

Mr. LEVIN. I follow that. The money that is in this trust fund that is created, as I understand it, will be reduced from the cap that we have for discretionary spending for that; is that correct?

Mr. BYRD. That is correct.

Mr. LEVIN. If, for instance, there is, let us say, a cap of $500 billion for discretionary spending for the year 1994, which is approximately right, and if there were, say, $6 billion in this trust fund that year for this purpose, the cap for discretionary spending would be then reduced to $494 billion?

Mr. BYRD. It would be, because otherwise we would be increasing the total fund over and above the cap.

Mr. LEVIN. I understand that. What is the outcome of that and the effect of that?

Mr. BYRD. The outcome will be to use the figure the distinguished Senator used, I believe, $501 billion.

Mr. LEVIN. Say, $500 billion.

Mr. BYRD. Yes.

Mr. LEVIN. It is $500 billion, minus $6 billion.

Mr. BYRD. We will not be increasing there or lowering that. We will be lowering the cap, but we will be putting the amount by which it was lowered into the trust fund. So it will end up in the same amount as was in the cap.

Mr. LEVIN. I understand that.

If I could just ask one more question: Is not the effect of that, then, that we should all understand that there would necessarily be $6 billion less for other discretionary spending?

Mr. BYRD. The Senator is exactly correct. He is precisely on the point.

I want to say again, as I said earlier, I do not like to use this approach. I do not like to use it, but we are keeping it within the appropriations process. Otherwise, I felt that if we did not follow this approach, we would not only be not dealing as best we can with one of the most serious problems, if not the most serious problem in this country, but we would also be leaving that money, which was the subject of the amendment offered just a few days ago by Mr. GRAMM of Texas, on the table for other amendments.

My concern was that others might offer amendments, which would carry, which would appropriate moneys in an authorization bill because the source of money was there. And the necessity is so great here that if a Member offered such an amendment—I will say to the leader I am going to be very brief—I want to be in a position to maintain the control of that money through the appropriations process.

I was fearful that if an amendment were offered to appropriate that money, which is hanging out there, and appropriate it in an authorization bill, we would create a problem.

Also, there might have been an attempt to authorize and appropriate it, but not reduce it from the caps, which would mean that we would be increasing the cap. I do not want to increase the cap. I do not want to go above the caps we already agreed in the budget resolution. I do not want to go below them. I do not want Members to offer amendments that will use up funding or lower the caps, because that takes it away from the Appropriations Committee to use for discretionary purposes, which could mean defense or domestic discretionary.

Mr. LEVIN. I thank my friend.

I think it is important that we understand the full implication of what we are doing, and they conclude that there will be, under my hypothesis, $6 billion less in discretionary spending for other discretionary programs. I think we should be aware of that, in addition to all the other things that we are accomplishing or doing or effectuating in this amendment.

Mr. BYRD. The Senator is preeminently correct, and I thank him for emphasizing that point.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, in this brief period when our colleagues are attempting to work out a problem recently mentioned, I want to take this opportunity to introduce with Senator DOLE the implementing legislation for the North American Free-Trade Agreement.

(The remarks of Mr. MITCHELL, Mr. DOLE, and Mr. PACKWOOD pertaining to the introduction of S. 1627 are located

in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I would like to return to the amendment that has been offered by the distinguished Senator from West Virginia, Senator BYRD, and express my support for what he has been able to achieve in what is a remarkably short period of time.

Last August, I had occasion to travel to Southeast Asia. One of the countries that I visited was Singapore, which one of my colleagues properly characterized as an example of Plato's "Republic," where wise leaders organize the people and control much of their lives.

At the top of that leadership was a man named Lee Kuan Yew, who resigned as Prime Minister back in 1991, but still sits, I think, as the premier intellectual force behind that country's society.

Senator ROBB had preceded my arrival in Singapore by one day and. upon my arrival, told me that Lee Kuan Yew was bleak and pessimistic, about the future of the United States.

When I had occasion to meet with Minister Lee, I asked him if he was going to quote from Gibbon's "Decline & Fall of the Roman Empire." He quickly noted that the United States, of course, has never been an empire.

I encouraged him to repeat some of the conversations he had the previous day as well as his pessimism about the Western World.

At the conclusion of our meeting—and I will paraphrase his statements, he told me that the United States has been in a period of decline for only 25 or 30 years. That particular fact stuck in my mind, because we can go back 25 or 30 years, to the period of 1960 or so, and reflect back on those days and what life was really like.

I recall growing up in the era of "Father Knows Best" and then, years later, watching the "Mary Tyler Moore" show. In a very short period of time we have gone from "Father Knows Best" to the kaleidoscopic images of MTV and rappers who urge the killing of police officers. When you go home late this evening and turn on HBO, you will see and hear things that once would have shocked even the most coarse merchant sailors.

When I was going to school as a young boy we used to pack lunches. Today teenagers are packing guns.

The problem of crime comes down to a question of values. While I support this amendment, and will support this bill with various other amendments, I believe they are insufficient to do much of anything to control crime in this country. What we need to do is focus on values.

Vice President Quayle was heavily criticized, indeed, even ridiculed by many in this country when he publicly questioned the Murphy Brown show for not promoting family values when it seemed to glamorize the birth of a child to an unwed mother. I will not take the time this evening to debate that subject except to say that I think he was right on the mark when he raised the issue. I realize that many supporters of the show believed the program was simply showing the dilemma faced by many women today.

From what I have heard, virtually everyone in this Chamber, be they liberal or conservative, Democrat or Republican, now shares the view that over the years we have lost the core of moral values. There is nothing in this bill, really, that is going to do much to correct that.

I mentioned Singapore as a Plato's Republic. That is an example this country is not about to follow. However, Singapore's paradigm of values is worth exploring.

Mr. Lee Kuan Yew pointed out, for example, that the most important values to Singapore society is: first, the common good; second, the family; and last, the individual. In our society, the reverse seems to be true. We place the individual first, family second, and the common good last.

Mr. Yew also pointed out that, in Singapore, such a high value is placed on the family that their tax code is designed to penalize people for divorce and to reward people for remaining married. We do quite the opposite in this country. Our tax code imposes a penalty on those who get married.

I do not suggest we even try to emulate what is taking place in as small and homogeneous a country as Singapore. It is interesting to note that they have a very low crime rate. There is very little if any drug use because you can be executed for possessing and selling drugs. There are virtually no handguns. People do not live in total freedom but they do live nearly free of fear—nearly free of fear. That is something we no longer experience in this country.

I respectfully suggest there are not enough prisons, boot camps, police, or courts. None of these can be created or expanded fast enough to keep pace with the number of illegitimate babies being born, the number of crack-addicted babies being born, or the number of children who are growing up in urban concrete jungles or the more barren landscapes of rural America. It is going to take much more to rekindle the values that once made this Nation, without exception, the envy of the world.

Many countries I visit no longer look with envy or admiration upon the United States. Instead, they see a rising tide of violence, a flood tide that is sweeping this country with the voraciousness of the fires sweeping through southern California.

Other countries see our violence, decadence, drug use and say that America is not a country to emulate. They emulate our economic freedom but try to control, as best they can, the adverse elements which we seem to be drowning in.

New York City was once viewed as the very symbol of liberty and freedom where one could pursue his or her dreams and hopes with unbridled optimism. Recently, I read an article in New York magazine entitled "How Bad Is It?" This article made a very deep impression on me and I would like to read part of it. The article was written by Craig Horowitz and points out the problem that is now confronting the people who live in New York City. I suspect this problem is not unique to New York.

The article points out the case of Ricky P.

> Ricky P. is a dangerous criminal. He doesn't carry a 9-mm, a Glock, a Mac-10 or any other high-tech weapon of death popular on the street today. He is not a drug dealer, a murderer, a rapist, an armed robber, or a child molester. According to his rap sheet he has never committed an act of violence and not a single one of his crimes is worthy of a hysterical tabloid headline or, for that matter, any other kind of newspaper coverage. Ricky, 36, is simply a small-time thief—shoplifting mostly—and he is dangerous because of what he represents, not because of the crimes he commits. But over the past 8 years, he has been convicted 41 times—40 misdemeanors and one felony.

The article goes on to explain that he has given the police nine different dates of birth, and seven different Social Security numbers. That on one particular day he was arrested three separate times and he was given a, what they call a DAT, a desk-appearance-ticket, an order to appear before the police court or the lower court to account for his actions.

On three separate occasions in one day he was arrested—on three separate occasions—given a DAT, none of which he ever appeared at.

Then he finally was arrested for shoplifting and he went before a court. The court suggested he plead guilty to one offense and would receive 4 months if he did so. He decided to go forum shopping. He said, "Not guilty." He was assigned to a different judge, and he then received a sentence of 10 days community service, despite his 40 previous convictions. And there is no evidence he actually even performed the 10 days of community service.

The article goes on to point out it is symptomatic of what has happened to our criminal justice system. New York is a city in which there are roughly 2,000 murders committed every year. Think about that, 2,000 murders a year.

There are over 500,000 reported felonies, and 1 million felonies that go unreported. There were 5,761 violent incidents in the public schools; the police estimate there are more than 1 million guns on the street, most of them illegal; 1 out of every 4 robbery arrests in

the entire country are committed in New York City by those under the age of 15.

The article continues:

Ricky is merely a small but typical part of a much larger problem * * * The system has broken down and is spinning out of control. Shoplifting, token-sucking, vandalism, aggressive panhandlers, hostile squeegee people, homeless people, car break-ins, drunken or drug-induced disorderly behavior, peddlers, drag racing, noise, filthy streets.

There is a growing sense of hopelessness on the part of the people who are living there today. It cites the article that our colleague, Senator MOYNIHAN, wrote earlier this year for a magazine in which he talked about "defining deviancy down."

A few short decades ago, an act of violence like the St. Valentine's Day Massacre, in which, I think, four people may have been cut down on the streets by three or four others, made headline news the world over. Today, that would not warrant much more than a footnote in most daily newspapers.

The article proceeds to talk about what one former mayor, Ed Koch, said. He said:

The city is now in a downward spiral where middle-class people—white and black—are moving out. They're moving out because of fear of crime, out of fear of sending their kids to the public schools—because they won't learn, but worse still, they're in physical danger. We're approaching, not yet reaching, a point of no return.

When asked what "a point of no return" was, Ed Koch said: "We become Detroit."

Perhaps an exaggeration on Mr. Koch's part, but that is the fear that is now gripping the residents of New York City.

There is a quote I would like to read because it was issued by a judge, Supreme Court Justice Edwin Torres. He said:

This numbness, this near narcoleptic state, can diminish the human condition to the level of combat infantrymen, who, in protracted campaigns, can eat their battlefield rations seated on the bodies of the fallen, friend and foe alike.

The judge wrote that:

A society that loses its sense of outrage is doomed to extinction.

He said:

Let's not stick our heads in the sand, because you know the portion of the anatomy that's left exposed then. I don't think there's enough talk about it. You know, there's a misperception * * * The minority groups, of which I am a member, are more law-and-order than any other group in the city, because they constitute a disproportionate number of the victims. If you go to any of these neighborhoods—East Harlem, West Harlem, Bed-Stuy—they are the ones who are under the gun; they are the ones whose children are being murdered on the stoops and streets and the fire escapes. But that is a silent-majority situation.

What is most distressing of all is the fact that the elements of crisis have reached down to the levels of juvenile crime. Of the 13,000 juvenile cases that were handled last year, more than 90 percent were felonies; 13,000 juvenile cases, the majority, 90 percent, were felonies. Over the past 7 years, the number of kids 15 and under arrested for carrying a loaded gun has grown to more than 750. In 1986, it was 103.

I mention this all by way of preface because there are going to be a number of amendments offered later tonight or sometime tomorrow. I see my colleague from Illinois is on her feet. I know she wants to talk about an amendment that she has in mind. Senator KOHL from Wisconsin also has an amendment dealing with juveniles.

But I wanted to come back to the fundamental point about values; that all that we are doing—this bill which is nearly 500 pages long—will not do very much of anything to control crime in this country until we start facing up to the reality of what is going on underneath with a loss of family, with a loss of mothers and fathers, with a loss of the influence of the church.

I must say, I find it disturbing to find that candidates who stand up and run for office and who live a very good and, indeed, religious life suddenly find themselves the subject of ridicule. We have to return to those fundamental values about life and the quality of life and caring for our children and being responsible for them because none of this will save us.

We can build the prisons—and I favor the prisons—we can build the boot camps—and I favor that—and we can put people away and take the dangerous criminals off the street and ensure some measure of safety. But underneath, if the illegitimate babies continue to come, if the drug-addicted babies continue to come, if the broken families continue to expand in number, there is not enough money in our budget to deal with the consequences. So it comes back to a question of values.

I recall reading many years ago a book written by Alistair Cooke. He drew a comparison between the United States and, inevitably, between the history of Rome. He said that we, like Rome, were very much in danger of losing that which we profess to cherish most. He said, liberty is the luxury of self-discipline, and that those nations who have failed to discipline themselves have been disciplined by others. Then he turned his very critical eye to the United States. He said,

America is a country in which I see the most persistent idealism and the blandest of cynicism. The most persistent idealism and the blandest of cynicism, and the race is on between our vitality and our decadence.

That, Mr. President, is precisely where we find ourselves today, nearly two decades later. The race is still on between our vitality and our decadence. This bill and this amendment will help, I think, provide some measure of protection to the people who are now living in mortal fear, who cannot drive their cars at night, who lock their doors, myself included, and the moment we come to a stop light, we make sure the doors are locked because we might be the victim of a carjacking.

I heard the Senator from Massachusetts earlier today talk about an incident in which someone threw a bottle of beer at his feet, and when he complained about it, the car turned around, and he experienced the real fear of being attacked by the occupants.

I had a similar experience about 2 years ago, in which I was coming from a dinner with my youngest son. We were walking not more than 100 yards from the restaurant where I live and a car pulled up loaded with, I guess, young people. I could not see inside the car. It had darkened windows. I could tell by the very nature of the car itself and the sense of violence it conveyed just from the way in which the car was being driven, that there was danger posed to me and to my son. Sure enough, the car made a quick U-turn, started to come over to our side of the road, and the apartment building was from here to the doors of this Chamber. They were about to pile out and attack the two of us. The only thing that stopped them from doing so is we happened to be walking by a building in which there was a security guard standing outside who was armed. Once they spotted the security guard, they got back in the car and took off.

So I, like the Senator from Massachusetts, might have become a statistic along with my son. So police on the street make a difference. They do make a difference, and we want to have more of them on the streets.

But I come back to that point: It will never be enough. We cannot put enough Guardsmen in the street, you cannot deal with the problem of illegitimacy and drug addiction with bayonets. Bayonets will prove futile.

So this is a beginning but, I must say, we have to rekindle the values that made this country strong or else we will continue to slide into that level of moral rot. What many, many Americans are now seeing is that pool of decadence from which we will not be able to retrieve ourselves.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. COHEN. I yield.

Mr. BYRD. I know the distinguished Senator from Illinois is seeking recognition. I will detain the Senator but a moment, just a few minutes.

I agree with the Senator when he says that this is not enough and that money itself will never cure the problem. I said to a group of Democratic Senators who were assembled just the other day, I am old fashioned and the problems that the Senator had been talking about, as I mentioned in that gathering, are the result of the breakdown of the family and of the erosion

of moral and religious values in this country. These are basic. And, in my opinion, we will never solve this problem. I do not think things are going to get better. I think they are going to get worse. I have now lived almost 76 years, and I have seen this trend too long. The old values that have made this a great country are eroding.

I have been talking a good bit about Roman history. The Senator has mentioned the Roman Empire and the Romans. The average Roman was simple, steadfast, honorable, courageous, patriotic, and reverent, and the Roman family was the cornerstone of Roman society. It was in the family circle that the Roman learned about respect for authority and the veneration of ancestors and reverence for the gods.

These values gave stability to Roman society and iron discipline to the Roman legions. A Roman family met evening and morning, together with the slaves, and they offered prayers and sacrifices to the departed ancestors around the hearth in which there burned the eternal flame that signified unity of the family. When those values eroded, the legions lost their iron discipline, and Roman society crumbled and the Roman Republic collapsed.

These were basic then, and they have been basic to our country. Until we get back, as the Senator has so correctly said, from my viewpoint—and I like to hear him talk. I always enjoy listening to him. I always learn something. Until we get back to those old values, we will never see this country like it once was: "Except the Lord build the House, they labour in vain that build it."

I thank the Senator also for his cosponsorship of this amendment.

Mr. COHEN. I thank the Senator for his comments. I will only go on for another moment because I would like to add just a footnote to what I have said before.

At the core of those values we also have to insist that we start judging people based upon their merit and eliminate, to the best we can, the biases and the prejudices that we hold for others who might be either of lesser stature or have lesser opportunity in our society.

I was thinking of the quote from Oliver Wendell Holmes, Jr. He once gave a speech in which he spoke about the hell of the old world's literature consisting of people being taxed beyond their abilities. And you can, of course, cite Sisyphus and others where they simply could not measure up to the task before them. But, he said, "I think there is a deeper abyss in contemporary society." And he was writing this back in the 1920's. There is a deeper abyss, "and that is when powers conscious of themselves are denied their chance."

That also is the fundamental problem we face today where people, who are conscious of their God-given, innate born powers, are denied their chance because of their sex, because of their race, because of their religion. That has to stop.

So as we are building a more moral society, going back to those virtues that made us the envy of the world, we have to rededicate ourselves also to start judging people upon the merits, upon who they are as individuals, and not upon any stigma that we attach to them due to bias and prejudice.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair very much.

Madam President, I would like to make my statement in support of the crime bill.

Before I do, I really would like to engage for a moment in a conversation or colloquy with the Senator from Maine and the President pro tempore, and to say to the President pro tempore I had occasion, as did the other Members of the Senate, to listen to his eloquent lessons on the decline and fall of the Roman Empire, when he talked about it in connection with the line-item veto.

I followed that conversation. I followed the Senator's lesson plan as close I think as anyone. In listening to the Senator's comment in response to the Senator from Maine, if there is one thing I would like to add this evening, it is a voice of optimism, a voice of optimism about the decline in our values and about the direction of the road which we are following.

Every generation of Americans reinvents itself. It is the quintessential American experience that we reinvent how to deal with the problems of our time. It seems to me that there are a lot of young people, there are a lot of people who have not been around for the old days and do not really have any connection to them but who are searching, who are trying to find the moral path, who are trying to find the right way, and who want to build and to continue a society that is strong, that is supportive, that allows for the opportunity the Senator from Maine talks about, who want to fulfill that dream.

I say that to the Senator from West Virginia as a note of optimism. I think our role is to give those young people a chance, to give those young people the foundation or the tools with which to work as they build their new society, as they build what our America will look like in the 21st century. If we have done our job in Government, to provide them with the tools they need in order that those positive values will emerge and beat back the naked values, the declining values, the values that tear us apart, if we do our job, we can make it easier for them to succeed and to triumph.

I believe that will determine the critical difference between whether or not our society will go into a spiral of decline or whether we will be able to take forward from our generation to the next what the dream of this country is all about.

Mr. BYRD. Madam President, will the distinguished Senator from Illinois yield?

Ms. MOSELEY-BRAUN. Absolutely.

Mr. BYRD. She made reference to listening to my speeches on Roman history. I want to take this opportunity to congratulate her on the excellent work she does as a presider over this body. She takes her turn at presiding, and she is one of the best presiding officers we have. I have said this very same thing to my wife and to members of my staff. When the Senator from Illinois sits at that desk to preside, she is not reading a newspaper. She is not signing mail. She is very alert, paying attention to the Senate. She has not forgotten the few suggestions that I made when she first came here in my efforts to give to the new Members a few rudimentary principles by which they might be guided in presiding. She obviously listened and has not forgotten them.

With respect to what we do here, I agree with the Senator. As a father and grandfather, I wish I could say I had some great grandchildren but my grandchildren are fully grown. One is in his fourth year, studying for his doctorate in physics at the University of Virginia; his younger brother is in his first year working on his doctorate in physics at the University of Virginia; one graduated from Princeton about 5½ years ago; and one granddaughter graduated from Roanoke College some years ago.

I have tried to instill in my grandchildren the same thing I have tried to instill into the young people of West Virginia, that you can go as far and as high as you want to in this country if you have the ambition and the drive, the willingness to work and use the opportunities that are yours. I have tried to inspire young people—I do not mean to intrude on the Senator's time, but I have tried to inspire not only the young people but people like myself who are getting along in years with the idea that learning is a continual thing.

We ought never stop learning. Solon, one of the seven wise men of Greece, said, "I grow old in the pursuit of learning." And I try to encourage our young people to read something that is wholesome, to read great pieces of literature; do not fool with the pieces you pick up at the airport in those stands. I never fool with those.

I try to carry with me something by Emerson, his essay, Milton's "Paradise Lost," Dante's "Inferno," "The Divine Comedy," or history. And I try to encourage them to excel in their studies and become the best spellers, the best

mathematicians, the best in whatever classes they take. Try to be the best.

I try to encourage them along those lines because I can remember that in my own meager beginnings my foster father did not buy for me a cap buster or a cowboy suit. He did not have much to buy with. He was a coal miner. He bought a set of water colors, or he brought me a drawing book, or a book to read. He encouraged me to try to excel. And so did my teacher.

But I do not hold myself up as a paragon of virtue or anything like that. But people do try to emulate others, and I try to encourage young people to strive for the best. And I tell them when they come to visit my office, do not ever let anyone try to persuade you that there is not a God who created man in his own image and had the destiny of men and nations at heart. And when I use the word "men," I speak generically, and of course I include my wife and granddaughters and the ladies.

This is one individual who still believes that men should look up to women, and I still feel that sometimes I am becoming a little out of place because I was taught to say, "Yes, ma'am," "No ma'am," "Sir."

And I do not intend to ever surrender these old virtues that I was taught. I have missed by far living up to them as I should. We all stray from the straight path. But if we are taught the right things that our mothers—and I lost my mother before I was a year old. But I had a dear aunt who raised me. What we were taught then, if we are taught right, we may stray, but we will come back.

I thank the lady from Illinois. I am speaking as I would in the House of Representatives now, the gentle lady. But I thank the distinguished Senator. She is correct.

We want to do everything we can here. It is our duty. But we have to do more than that. We have to try to provide encouragement to our young people and remember that most of our young people are wholesome young people. We do not hear so much about those who are in the libraries, or in the laboratories, or who are working at their studies. We only hear of a few who do something else, and they serve to give a black eye to the majority of our young people.

I believe we have some fine young people in this country. We ought to do ourselves everything we can to encourage them to grow, to excel, to strive to do what is right and to continue to learn every day of their lives.

I thank the Senator. I want to thank her again for being a good Presiding Officer.

Ms. MOSELEY-BRAUN. Thank you very much. That is a very high compliment coming from the Senator from West Virginia. I am greatly honored by his comments.

Today in Chicago, Madam President, mothers at the Cabrini Green Housing Project will anxiously watch their children leave for school, praying that they do not meet the same fate as 7-year-old Dantrell Davis, who was gunned down in a gang crossfire one day last fall as he made his way to class.

Meanwhile, for senior citizens all across the city, the passage of daylight savings time will be more than just a reminder that winter is coming: it will be a signal to them to hurry and finish their shopping an hour earlier so they can be home safely before dark.

Later this afternoon, in cities across the country, parents will keep their children inside after school, afraid to let them play anymore in parks that have been taken over by gangs and drug dealers.

Tonight, Madam President, in a scene which will be repeated at colleges and universities from coast to coast, a female student will leave the Loyola or Stanford or University of Illinois or Grambling Library before she finishes her studies, simply in order to walk back to her dorm room with an escort and be able to move about her environment free of the fear of rape or sexual assault.

And somewhere tonight, in an inner-city neighborhood starved for jobs and economic development, a small businessman will close his doors for the last time, tired of working behind steel bars and bullet-proof plastic and placing his family and future at risk every time he opens for business.

And by the end of the day, thousands of other Americans have acquired a handgun or assault weapon to protect themselves, or for the alternative.

All across this great country, crime is causing Americans to change the ways we live our lives. Crime is destroying the dreams of our young, it is stripping the dignity of our old, and when it strikes fully one, out of every four American households, as it did last year, it is threatening to turn the rest of us into a nation of victims. Afraid to go to the park or the corner grocery store. Eyeing our fellow citizens with fear. Avoiding entire cities or neighborhoods because of what we fear might happen there.

I have been in public life for 19 years, 4 years as an assistant U.S. attorney and 15 years as a State and local elected official. And for all of those years, crime has been an issue of great public concern. For all of those years, the level of crime in our society has been unacceptably high. But now, there is consensus that crime in this country is out of control.

But we can no longer ignore the truth. We live in a country where 7-year-olds are gunned down on their way to school; where 9-year-olds bring guns to school and when asked why reply, "for protection"; and where—as the Washington Post reported Monday—11-and 12-year-olds in some crime plagued neighborhoods are already planning their own funerals.

Eleven-year-olds such as Jessica Bradford, a sixth-grader at Payne Elementary School, who recently told her family that if she should be shot before her sixth-grade prom, she wants to be buried in her prom dress.

"I think my prom dress is going to be the prettiest dress of all," little Jessica said. "When I die, I want to be dressy for my family."

Madam President, when I was 11 years old, my only hope was that one day I would be invited to a prom—not whether my dress would be pretty enough to wear to my funeral.

But then, when I was growing up, Mr. President,, a club was something you joined, like the French club or the chess club, not something that millions of Americans attached to their steering wheels to try and make sure their car would still be there in the morning.

What is happening to our children, Mr. President? What is happening to our society? And how long are we going to allow it to continue?

Every day in America, crime brings tragedy to the lives of those like Jessica Bradford, who I hope gets the chance not only to attend her sixth-grade prom, but also to buy a brand-new and even prettier dress for her senior prom 6 years from now.

Perhaps the biggest tragedy of all, however, is that, worn down by the daily barrage of bad news and grim statistics, the latest line of shootings, stabbings, rapes, and assaults, we are slowly becoming inured to the slaughter; we are becoming silent accomplices in the slow disintegration of orderly society; we are surrendering our lives to the threat of violence and to the rule of force.

Senator MOYNIHAN was exactly right. We are becoming inured, becoming enamored, we are becoming almost blind and oblivious to the presence of crime around us.

Our victimization is no longer a personal concern, it is a public tragedy, and the very character of our free society is jeopardized by the madness.

More than 50 children under the age of 15 have been killed in the Chicago area this year. That means that more children have been shot in Chicago so far than all people of all ages in England for the entire year of 1991.

We cannot pretend this is only a problem in our inner cities, because violent crime is also spreading across rural Illinois. This epidemic, like all epidemics, is spreading without fear or favor.

How can this be? Where is our outrage?

Perhaps we need to see ourselves as others see us. Like many of my colleagues and millions of other Americans, I saw a "60 Minutes" broadcast

last week on the preparations taken by Japanese tourists for a trip to the United States. One group of visitors watched an instructional video entitled "A Little Street Wisdom." Among the tips these tourists picked up were: "Don't let strangers into your room"; "don't walk alone at night"; and "never argue with a criminal—just give him your money."

"Remember to use a little street wisdom and have a wonderful visit to the United States," concluded the video's helpful narrator. Who was the video's producer? Who wanted to take every step possible to prevent foreign tourists from becoming victims on our streets?

The answer, Mr. President, is the U.S. Government.

Allow me to repeat that. As if it does not have enough to do, the United States Government is now producing videos to ensure that the Japanese public is safe on our streets.

But what about the American public, Mr. President?

What about the 23,000 Americans who were victims of homicides last year?

What about the 109,000 American women who were raped and the countless thousands more who were victims of domestic violence?

What about the 1,600,000 Americans who were victims of robberies or aggravated assaults?

I am no xenophobe, Madam President. I do not mind that our Government is taking aggressive steps to protect Japanese tourists in New York and Los Angeles, or German and British tourists in Florida.

But I think the American people have every right to ask what are we—the elected branch of the U.S. Government—going to do to keep them safe on our streets in our own cities and towns?

What we cannot afford to do is to trot out the failed approaches—whether they be liberal or conservative—of the past. In fact, ever since crime and the cry of "law and order" were exploited for political purposes in the 1968 elections, what both parties have billed as the answers to the crime problem have often been more slogans than solutions.

"We have to look at the root causes of crime," said the liberals, calling for increased spending on social programs and an emphasis on rehabilitation as the best way to attack crime. After 30 years of looking, Mr. President, the root causes are still there and crime is worse than ever.

In fact, not only are the root causes still there, they have gotten worse. In many inner-city neighborhoods in this country, unemployment among young males is at levels of 50 percent—and higher. What do people think is going to happen when half of the young men in a community are totally excluded from the system?

Make no mistake, Madam President—all of us know that poverty, unemployment, inadequate housing and education, and racial discrimination contribute to crime, and I, for one, always have and always will support an active governmental role in combating these social ills.

I daresay that no one looks forward with more anticipation to the day when we make a serious attack on the root causes of crime than this Senator and the constituents I represent.

And it is precisely the constituents whom I represent who are saying, "we're tired of being held hostage to crime. We're tired of being terrorized every day of our lives."

Even in the poorest communities in this country, people are saying being criminal is worse than being poor. Poor people—honest people—are the least sympathetic to the vampires who suck the little they have and make them hostages to those who would sacrifice their dignity. It is time that we in Government took action to reinforce that message.

I refer to a conversation earlier. It is the people living in these communities, the citizens, who do not have the chauffeur-driven limousines, and who cannot afford to live in high rises, those in the streets, in the communities, that are victimized the most, and they are the ones who are calling for us to take action.

But in the meantime, while sociologists and psychologists debate the underlying causes, an epidemic of crime is destroying the American people's lives and livelihoods right now.

Liberals were not the only ones with slogans about crime. For conservatives, "lock them up," was the cry of the day, and during the 1980's we built more prisons, imposed more mandatory minimum sentences, and carried out more death penalties than ever before. And lock them up we did, to the point where on a per-capita basis we now incarcerate a greater proportion of our population than any other nation in the world, including South Africa and the former Soviet Union.

During the 1980's, Madam President, our rate of incarceration increased by almost 200 percent, and we spent four times as much on the criminal justice system as we did on education. Yet does one single American really feel safer? I think not.

It is time for a new approach. The ideological debates of the past were nothing more than a false dichotomy that divided and distracted the American people—and those of us who represent them—while all around us, crime skyrocketed out of control.

It is not either/or. And it does not just come down to a choice between funding a social program and funding a prison cell. The truth of the matter is, there is no liberal solution to crime. And there is no conservative solution to crime. There is only a commonsense solution. Common sense tells us that we cannot just focus on alleviating the root causes of crime because even if successful, these measures might not show any effects until 10 or 15 years down the road. We cannot just talk about locking people up, because once you need to lock someone up, you have already failed at what should be the central task of the criminal justice system: preventing crime in the first place. We cannot say that the only solution we have is to warehouse poor people.

I would much rather prevent crime than spend taxpayer dollars—to the tune of $75,000 per cell per year—punishing criminals. Yet we spend hours in this Chamber debating 47 new death penalties or $47 million for a new social program as if either were the panacea to the crime problem.

Ask the people on the street or the police officers and sheriff's deputies on the front lines if they want 47 new death penalties or 47 new social programs. They will tell you, "neither."

They want 47 new cops walking their streets, or 47 new metal detectors at their children's schools, or 47 new jobs. When we talk about crime, and how to reduce the level of fear that the American people are living with every day, we need to stop talking about Head Start on the one hand and habeas corpus on the other. Instead, we need to start talking about what will make people safer in their homes, in their jobs, in their schools, and on the streets of their cities and towns.

Right now. Today.

We can no longer afford false dichotomies and phony choices. Restoration of our domestic tranquility has got to be our priority. We cannot speak of preserving a system of quality education when children cannot go to school. We cannot speak of the economic revitalization of our great urban centers when people are afraid to go to work there.

I have always believed that a successful anticrime strategy must be proactive, rather than reactive. We have to be smart, not just tough. That is why I support this crime bill.

First and foremost, this bill will deploy up to 100,000 police officers on the streets of our cities and towns, exactly where they are needed the most.

However, this bill will not just send out a few more police officers. It also authorizes $1.8 billion in aid to State and local law enforcement to give these agencies the tools they need to aggressively go after crime wherever it occurs. It will help buy DNA labs and squad cars and bullet-proof vests. It will support urban and rural crimefighting initiatives, and provide for new drug treatment and correctional facilities.

S. 1607, the Biden crime bill, builds upon successful local experiments by

supporting military style boot camps for nonviolent offenders, and regional drug treatment prisons for violent drug criminals. It authorizes funding for the drug courts that Janet Reno employed so successfully as a prosecutor in Miami courts that require drug testing, drug treatment and alternative punishments for nonviolent young drug offenders.

Let me say that there is no better example of the new thinking embodied in this bill than boot camps and drug courts. Some people say we do not have enough empirical evidence as to whether these ideas will work. But I think they make sense. I believe the people think they make sense. I say very little that we have tried so far has worked. I say we are in a crisis—at least we ought to give it a try.

It provides grants for schools to fund anticrime and safety measures—imagine; Madam President, safe schools—and imposes tough new penalties on the gangs who terrorize adults and lure youngsters to a life of crime.

It addresses the nationwide problems of police brutality and misconduct and racial bias in the criminal justice system by giving the Attorney General the power to intervene where a police department has shown a pattern or practice of brutality, and by making funds available to the States to conduct studies on the effect of race on the administration of criminal justice.

That is no small accomplishment, Madam President.

Because the African-American community in this country wants to be participants in, rather than the object of the crime debate. No community is more devastated by every aspect of crime than the African-American community. If the thousands of black Americans who write me and approach me had one message for this body regarding crime Madam President, I believe it would be this: Provide our community with the economic opportunity we need to allow all Americans to share in this country's promise. Give our neighborhoods a fair share of the law enforcement presence that will stop crime before it happens. But for those who will not respect themselves or their community, who would destroy life rather than uphold it, make the punishment, swift, sure, and certain.

Crime is tearing apart the very fabric of our society. We cannot sit idly by while our constituents and our communities are crying out for help.

I support the crime bill, even though I, for one, oppose the death penalty. I am going to support the bill in any event, and I urge all of my colleagues, from both sides of the aisle, to support it as well.

I also would like to pay special tribute at this time to the Senator from Delaware, Senator BIDEN—he is not here right now—the chairman of the Judiciary Committee on which the Presiding Officer and I serve. For more than a decade now, Senator BIDEN has been on a mission—a mission to get the Federal Government to take a leadership role in the fight against crime. He has battled to find Federal funding for State and local law enforcement agencies. He has been willing to courageously challenge drug wars fought with empty rhetoric instead of real resources and tried to push this nation towards a realistic, comprehensive anti-drug strategy. He has never ignored the toughest issues—such as habeas corpus—and has spent countless hours trying to craft compromises on these issues so that we would not be blocked from making progress on all of the others.

It is largely due to the efforts and perseverance of the Senator from Delaware in the face of repeated attempts to derail this bill and continue to use the crime issue as a political football that we have a crime bill at all. And I thank him today for his steadfastness and his dedication.

I also would like to take this opportunity to announce that I will be offering a series of amendments to deal with the most disturbing new trend in today's criminal justice system: The rise of violent juvenile crime. Every year, as our streets and cities become more and more dangerous, we find that it is younger and younger criminals who are spreading the fear and the violence.

Once every few generations, we reexamine our treatment of juveniles in the justice system. At the turn of the century, my State of Illinois became the first to create a separate court for juveniles, as recognition spread that it was not appropriate to treat most juveniles in the same way we treat adults. Twenty years ago, as the problem of what we used to call juvenile delinquency intensified, Congress passed the landmark Juvenile Justice Act of 1974, which focused on noninstitutional solutions and on separating status offenders from those convicted of violent offenses. Finally, in the decade which just passed, we witnessed a move to try some of the more violent juvenile offenders as adults.

I submit to my colleagues that once again the time has come for an examination of how we deal with juvenile offenders.

Between 1987 and 1991, the number of juveniles arrested for murder increased by 85 percent. That compares with an increase of only 21 percent for those over the age of 18. During the same period, the number of juveniles convicted of all violent crimes increased by 50 percent, twice the increase for persons over 18.

In 1990, fully one-third of all murders were committed by individuals under 21 years of age, and in 1991, 122,000 juveniles were arrested for committing a violent crime—murder, forcible rape, armed robbery, aggravated assault—the highest number in history.

In fact, in light of who is committing the crimes in our society and the callousness with which the youngest offenders are carrying out their mayhem, it may no longer make sense for us to talk about the juvenile justice system as if it were separate from the criminal justice system. To a very real and a very frightening extent, criminal justice in this country is becoming juvenile justice.

That is why I am proposing a comprehensive package of initiatives to deal with the issue of juvenile crime in our society. To those youngsters and their families who need help, I want to extend a helping hand. To those youngsters who have a brush with the law, I want to provide the education and training to enable them to avoid a life of crime. But to any juvenile who would take up a gun to terrorize society—and to any adult who would provide such a weapon—I want to send a very clear message: You are old enough to know right from wrong and if you use a weapon to commit a crime we will lock you up for a very long time.

In other words, if you are old enough to do the crime—you will most assuredly do the time.

First, because we must always acknowledge that it is better to prevent a crime than to punish a criminal. I am offering an amendment which specifies that at least 20 percent of the juvenile drug trafficking and gang prevention grants must be used to provide parenting classes to high risk families and nonviolent dispute resolution classes to junior high school and high school students in areas of high violence.

We must teach our children that every dispute need not be settled with a gun.

My second amendment expresses the sense of Congress that all incarcerated juveniles receive education at least equivalent to the standards of the local school district. While I realize that, over the past 2 decades, some have said that we should not waste time or money trying to rehabilitate adult offenders, we cannot give up on our youth. According to the Department of Justice, less than half of the 57,000 youth incarcerated every day in public facilities are receiving a satisfactory education. We cannot afford to give up on any juvenile merely because he or she has had a brush with the law. Education probably is, as we all know, the best tool to avoid recidivism. My amendment hopefully will authorize the funding for States to receive grants to ensure that every incarcerated juvenile receives a basic education.

My next two amendments deal with the most dangerous mixture in America today: Kids and guns. I know in the coming months both sides will express

themselves passionately on gun control issues—but one thing on which the American people and the Members of this body are in unanimous agreement is that guns do not belong in the hands of children.

As the statistics I cited earlier today indicate, and as the chilling descriptions of some of the killings committed by juveniles signal, juvenile crime is rampant. There are some who think that 13 year olds are not truly capable of distinguishing right from wrong, that a seventh grader does not realize that a gun is not a toy and that he should not bring it to school or carry it on the street.

I am not one of those people.

We as a society cannot turn our streets over to criminals who happen to be children. They must be made to account for their actions when they terrorize the rest of society.

My third amendment would direct U.S. attorneys to try juveniles 13 years and above who murder or use a firearm in the commission of a violent crime as adults, while providing safeguards so that young offenders who truly rehabilitate themselves will not be condemned to a life of incarceration. This amendment I will discuss further in the context of the bill.

Madam President, it is also important that we not spare the adults who are arming our children, cynically using them as mules and lookouts to earn their ill-gotten drug money and push their poison into our children's bodies. A companion measure which I am introducing will make it a new Federal crime to provide a firearm to a juvenile which the provider knows or has reason to believe will be used in a crime or in furtherance of a criminal conspiracy.

Finally, because of the strong evidence that minority youth receive disparate treatment in many Juvenile Justice Systems across the country, I will introduce a measure to allow the Attorney General to intervene where a pattern and practice of such conduct can be demonstrated.

These and other measures offered by many of my colleagues I hope will become additions to perhaps the most important bill we will pass in this session. Then, Madam President, I hope we can turn to the business of enacting some serious gun control measures in this country.

I referred earlier to the epidemic of crime in America. Some people question that characterization. Some feel that it is an exaggeration.

But I use the term epidemic deliberately. When the number of deaths caused by violence, which kills more than 50,000 Americans each year, is greater than the number caused by AIDS—which kills 30,000 or drunk driving, which kills 18,000, crime is an epidemic.

When gunshot wounds are the leading cause of death for both black and white teenage males, crime is an epidemic.

In 1991, for the first time in our Nation's history, the number of homicides alone exceeded 25,000.

So I do not think I exaggerate when we call it an epidemic.

As Dr. David Satcher, the new head of the Centers for Disease Control and Prevention, said, "if violence is not a public health problem, why are all of those people dying from it?"

Violence is perhaps the No. 1 public health problem in this country. And guns are the primary instrumentality of that violence. That is why I support the Brady bill. That is why I support the assault weapons ban. And that is why I will be introducing a measure along with others to require all owners of handguns and assault weapons to purchase liability insurance, just like the owners of a car.

In conclusion, Senator BIDEN is to be commended for taking the leadership in this area, for the vision to recognize that the something we have to do is not just hearts and flowers or lock 'em up and throw away the key. It is a bit of both. This is crime fighting with common sense. It is proactive as well as reactive. It is liberal and conservative.

It takes parts of many approaches and crafts a program that can work. We are all in the same boat now even if we came to this point in different ships and by different roads. Crime fighting represents the consensus our Nation has reached. We are bailing out the water in the boat, reclaiming our streets, on our way to rediscovering our domestic tranquility.

We must make sure, Madam President, that the word goes out and that people out in the communities hear us loud and clear. For the criminals who do not watch C-SPAN and are not watching this debate and are not paying much attention, we want to make certain that the word goes out that we are united as a people in this war on crime; that we intend to take our country back; and that violence will no longer be tolerated.

This crime bill, I believe, gives us a first step, gives us a tool to effectively approach this war on crime in a way that makes sense and can work.

I wish to congratulate the ranking minority member, who is on the floor, for all of his work on this bill and Senator BIDEN for all of his work on this bill. I look very much forward to being a part of this continuing debate.

Thank you.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I will not take long. I know there are others who want to speak.

Madam President, I really believe that we are quite close to having this basic part of the core package done. I am hopeful that we can before we leave this evening, which would mean we would vote on this, plus Senator DOLE has another amendment, an arson amendment, that we would vote on.

But this particular major amendment, which has been put together by a wide variety of people on the floor—but in particular Senator BYRD—helping us to get this done has $8.9 billion for 100,000 policemen on the beat. I think all of us agree that would be a very good idea. It is a bipartisan issue. Both Republicans and Democrats support it. It is something that is long overdue. If we are going to end criminal activity in this country, or at least diminish it greatly, we need these policemen on the beat.

Second, there will be $3 billion for regional prisons, something we have fought for for years that really is long overdue, that will help to house these prisoners in ways that they need to be housed and will help to take them off the streets so that we end an awful lot of violent crime.

There is $3 billion for boot camps and other State grants, operation grants. I think almost everybody admits that we ought to move toward boot camps, especially with young offenders. It may have some rehabilitation effect. We hope it will. But, most importantly, it will cost about a quarter as much as if we house them in regular prisons at $30,000 to $35,000 a year apiece. It will be a lot less than that if we run the boot camps. But I think it is time to let them know that this is a tough world, that if they are going to act like this, they are going to have to pay the price. So this a good step.

I think both sides can agree that this is a very bipartisan, interesting, and good approach.

We have $500 million in here for hard core juvenile offenders that really ought to be in jail, but we do not have places to put them. These are juvenile detention facilities. It is a step in the right direction. It probably is not enough money right now, but it certainly is a step in the right direction. It is something we have not done before.

And we have the violence against women bill for $1.8 billion. It is about time that we passed that legislation. A great number of Senators have worked on it, particularly Senator BIDEN, Senator DOLE, and myself. There are others that deserve to be mentioned, but let me just mention those three for now, because we feel very deeply about this particular bill. We think it is written well. We believe it will help to solve a lot of problems. We believe that it recognizes the power and the obligation and the duties of the States, and the rights of the States, as well.

One other aspect of this bill that is very, very important is the sentencing aspect. We are adopting truth in sentencing. We are encouraging States to adopt truth in sentencing. That means, if these hard core, violent criminals are

put away, they serve at least 85 percent of their sentence. We think it is about time that that take place. And that is a major, major, pivotal part of this.

Now, I want to compliment all who participated in this. In particular, I want to pay tribute to my friend who has spent so many long hours in here, and has since I have been here in the Senate and long before I came, the distinguished Senator from West Virginia, the distinguished chairman of the Appropriations Committee. Because, without him and without the funding that his amendment has provided, none of this really would mean a thing. We could go through and authorize it until Kingdom come, but without that funding, the effort and the ability to be able to really bring down crime in this country would never occur.

He was the one who came up with the funding mechanism. I just want to personally compliment him for it, plus the ability to put this together the way we are putting it together. It is something Senator BIDEN and I have been trying to do for a long time. We know that we have opposition on both sides of the aisle to getting a central core package, but I think this will go a long way toward getting us a bill that both sides can agree to, that both sides will be proud of, that really we can all be proud of, the whole Congress, and that the President will support and literally will help bring down an awful lot of criminal activity in our society that is going on today.

So this is very, very important stuff. I just want to compliment all concerned, especially Senator BIDEN, Senator BYRD, Senator DOLE, Senator MITCHELL, and others who have worked so hard on this particular amendment.

In particular, Senator MACK has worked very hard with me on this regional prisons concept and also the boot camps and the other operations grants. That is $6 billion of this bill. He deserves some credit, as well. I just want to make sure he receives that recognition.

I do not want to take any more time because there are others who would like to speak. But, Madam President, I hope we can put this together tonight, then we can put some other core features in that I think almost everybody will agree to and hopefully get rid of as many amendments as we can and have a bill that will be, for the first time in 8 years, a bill that everyone in this body can be proud of.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield to the distinguished Senator.

Mr. BYRD. Madam President, I will only take 1 minute to thank the Senator for his very kind remarks. I thank him also for the excellent work that he has done in the committee on this bill, as well as on the floor.

Mr. HATCH. I thank my colleague. We all respect him.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I am not going to be long.

I wonder whether I could put a couple of questions to the President pro tempore on this amendment.

I am trying to understand the budget part. I ask the Senator from West Virginia: Altogether, we are going to be talking about spending how much money into this fund?

Mr. BYRD. $22 billion.

Mr. WELLSTONE. This will be $22 billion over the next 5 years?

Mr. BYRD. In the aggregate, over the next 5 years.

Mr. WELLSTONE. I had a conversation with Senator LEVIN from Michigan earlier, and I am trying to understand the way this would work.

As we spend roughly $4.5 billion, or whatever, a year, something like that, do we then reduce the cap by that amount each year?

Mr. BYRD. We do reduce the cap by the amounts specified in the amendment.

Mr. WELLSTONE. I ask the Senator whether or not I would be on the mark or off the mark with my concern that this could very well be money that would actually come out of education?

I was following the discussion, the very moving discussion, between the President pro tempore and the Senator from Illinois about children and young people and education and opportunity. Is there not really the danger that we would be cutting into these kinds of programs?

Mr. BYRD. This money, the Senator is correct, if it were not used as we are using it, put it into a trust fund for a single purpose—if I might refer to this as a single purpose, dealing with violent crime and violent criminals—it would be available to use for other purposes: foreign operations, national defense, spending on the military, or for any number of domestic discretionary programs. So the Senator expresses a concern which I share.

But it is my feeling that it would be better to use this mechanism, that reduces personnel levels and use the savings for fighting crime, since it is available. There is no question that there would have been amendments offered to use these savings for various and sundry purposes. It is better to use it in this amendment and put it into one effort—against what is probably the most serious problem confronting this country—violent crime. As I said earlier, I would have preferred not to do it this way.

Mr. WELLSTONE. Yes. I very much appreciate your work, Senator, of course. You are a teacher for all of us.

For the record, I guess I want to say tonight on the floor, and I do not quite know what this translates into as the bill goes along, that I do not think, probably, there is a Senator, Democrat or Republican alike, who would argue that we do not need to move toward community policing. We cannot afford not to have real law enforcement for safety and for people. But when I talk to law enforcement people, some of the police chiefs—I have talked to several today—when I talk to judges, they tell me if part of the war on crime is not the war on poverty, this cycle goes on.

You can have a brick and mortar approach and you can have your prisons and you can have your jails and you can have more law enforcement. I think we put different priorities on that here. I am not talking about the violence against women, which I think is a very important part of this act. But if you just go 10 blocks—I have heard Senators on the floor all day talk about, 10 blocks away or 8 blocks away, the kinds of crimes that have been committed and all the rest. But when you talk to judges and police, they say yes, we need more help in terms of dealing with the reality now, but, they will tell you, if you have young people living in communities where, ages 18 to 30, the unemployment rate is 40 or 50 percent, where you have schools that do not have adequate facilities, where you do not have job training, where you have illiteracy and all the rest, that out of those brutal conditions you are going to have the crime committed.

So I guess my concern is I do not know when it was that we decoupled dealing with crime and the focus on safety and security in our communities from the economic circumstances of people's lives. My fear is, Senator—I know you do not intend this to be so—but my fear is we may be taking money out of education, job training, health care, literacy programs, economic opportunity programs. I do not want to belabor the point tonight because I know you are anxious to move along, but I think it would be very myopic if we do so. I really think it is naive.

I may sound naive, I do not know; I hope I do not. But I think it may be naive for all of us to believe that if we go with this approach, which I think most Senators believe is a very significant step forward—if we are with this hand moving this way and with this hand taking away funding for those other kinds of opportunity programs, I worry if we are going to break this cycle.

Mr. BYRD. If the Senator will yield?

Mr. WELLSTONE. Of course, I will yield.

Mr. BYRD. We are not taking money away from other programs.

Mr. WELLSTONE. But if the cap is reduced each year?

Mr. BYRD. The cap is reduced. And I do not like to support amendments that cut funding and reduce caps, because we have already passed a budget

resolution earlier this year which puts the appropriations committees into a very, very tight straitjacket. And we are operating this very year, for fiscal year 1994, with $16 billion less in budget authority than we had last year, and $8.7 billion in outlays less than we had last year; and next year it is going to be worse; and the next year, it is going to be worse; and the next year, it is going to be worse.

So I do not like to do that. This money is the result of the amendment offered by Mr. GRAMM of Texas a few days ago, which I did not vote for. But he utilizes money that is to be saved from the reduction in Federal personnel. So that is what it is really coming out of.

So there was $22 billion that has been identified. It could be used, as I say, for education. It could be used for national defense. It could be used for C-130 planes. It could be used for foreign operations, putting it out in foreign countries. It could be used for any number of domestic discretionary accounts. But here we were about to pass a crime bill with no money to fund it. I feel we kid the American people when we pass authorizing measures and make a big hoopla over the crime bill that we pass, and we do not have any funding for it.

So it is being used for a meritorious purpose. My concern was that we need to fund this legislation that is meant to deal with one of the country's most serious problems, if not the most serious. And here was an opportunity to fund it.

I do not like to lower the caps because they are already too constrained by our budgetary circumstances. But I was concerned that someone would offer amendments, very hard to resist, that would gobble up this money, or offer amendments to add on to the caps, which is as bad as reducing them. Either way they add to the deficit.

So I also was concerned that Senators might be prone to appropriate moneys in authorization bills. And if they offer amendments that are difficult to resist, then we lose and we end up with authorizing committees appropriating moneys.

So here is $22 billion that could be used for any number of things, and in the end what would we have to show for our $22 billion? But by putting it in a trust fund, it will be used for this purpose—Fighting violent crime—and it will not be squandered away in various and sundry other ways, some of which would be good, some of which might not be as good.

So while I do not like to do it this way, under the circumstances, I felt that this was the best approach we could use to address this legislation.

Mr. WELLSTONE. I thank the Senator. It is late at night. I will just mention two quick points, one of which is I just wanted to understand the implications of the reduction of the cap and how that might in turn take funding—that is, play off of other programs.

And my other point is, I guess, when I think about this fund and I think about how to deal with crime, I one more time would like to suggest I think part of any war on crime has to be a war on poverty. I think educational opportunities, for example, and job opportunities, are two of the most effective ways of fighting crime, reducing crime, and providing more security in our communities. And I think I am backed, by the way, by judges and police and those people who are down in the trenches. I just want to make that point.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, the crime bill which the Senate is considering is obviously a matter of enormous importance. In the course of the presentations within the past hour, there have been some very strong comments made by the Senator from Illinois [Ms. MOSELEY-BRAUN], about attacking the underlying causes of crime, and that is a subject that we must never lose sight of, in terms of family structure, in terms of adequacy of housing and education and job training, so we can move to have a society where we can minimize the motivations for some to commit crimes.

In the course of the past colloquy, the issue has been raised by the Senator from Minnesota about eliminating poverty. That is obviously a subject which has to receive the attention of the Congress.

When we focus on the crime bill we have a slightly different center of attention and we are considering very substantial expenditures of funds directed at crime. It is obviously a question of priorities, as to how much we spend on education and job training so that people have useful pursuits and how much we spend on rehabilitation for youthful offenders, for first offenders and for some second offenders.

We also have to face up to the fact that there are, regrettably, many career criminals in our society who have to be dealt with in a very strong way. For a long time our society has recognized that when you have a habitual offender, defined as someone who has committed three or more violent crimes, severe punishment is needed. More than 40 States have required that such people be subject to life imprisonment, to separate them with finality from society.

I believe that that is regrettably necessary, but I think as an indispensable prerequisite, we have to legislate in a way so that juvenile offenders, first offenders, and some second offenders have a chance for meaningful rehabilitation, for literacy and job training.

It is no surprise when someone who cannot read or write leaves jail without a trade or skill and with a drug habit goes back to a life of crime. When we talk about rehabilitation, we are talking about an objective beyond the individual criminal; we are talking about an objective for society to be rid of a person who is going to go back out and repeat more violent crimes. But if we structure our system to provide that opportunity for realistic rehabilitation and we find they are career criminals, then I think we really have to be very strong on the life sentences.

That was the thrust of the legislation enacted by the Congress in 1984, the armed career criminal bill, which brought the Federal Government into punishing violent street crimes for the first time by providing for a life sentence. The Federal sentence for violent recidivists is 15 years to life. That law was directed at street crime—robberies, and burglaries—for the first time. That kind of legislation was introduced and has since been expanded to deal with the drug problem. So I believe that a multilevel approach is necessary to really face up to the problem of crime in this country.

Twenty-one years ago, a Presidential commission laid out a blueprint to deal with violent crime in America. I had an opportunity to serve on that commission and to bring to bear on the work of that commission activities which I had undertaken for many years as an assistant district attorney prosecuting crimes of violence and handling lesser offenses, prosecuting murder cases, and handling death penalty cases on appeal. Regrettably, we have not acted on a reasonably clear-cut blueprint to deal with violent crime which was calculated to cut violent crime in this country by more than 50 percent and could do the job if we really got down to business on this subject.

The legislation we are currently considering could, if we are resolute and if we do the job, reduce violent crime in this country by 50 percent.

The work of the 1972 commission called, first of all, for diversion of lesser cases. We had a pilot project in Philadelphia where I was district attorney which was a system where first offenders, without a prior record, would be called before a judge in an informal setting and told if the individual stayed out of trouble for a year, the incident would be forgotten. No determination of innocence or guilt—first offender, nonviolent, nonserious matter—and that the record would be expunged. In a criminal docket of some 30,000 cases, we eliminated 8,000 cases right off the top so that the courts could focus on the serious cases.

The 1972 commission recommended a policy which we had adopted in the Philadelphia district attorney's office for no plea bargaining. Plea bargaining is the scourge of the criminal justice system because violent criminals come into court with long histories and they

walk out sometimes with probation or without a sentence at all and very frequently with only a 6- to 12-month sentence.

The criminal justice system is really a mockery because the only point in bringing violent criminals to trial is to have a sentence and if you do not have a sentence, then the objective of the criminal law is not achieved. There has been a difficulty with adequacy of sentences in the States, where judges have not been willing to impose the kinds of sentences necessary for many reasons, including the unavailability of adequate prison space.

In the legislation which we are considering now, we are talking very substantial dollar figures for prison space. One of the bills which I introduced many years ago called for the Federal Government to house prisoners convicted under State habitual offenders statutes. If the State would sentence someone to life in prison after three or more violent crimes, there would be an inducement to do so, so the Federal Government would take over housing of those violent criminals. It is most appropriate because those are criminals who operate in interstate commerce, cross one State line to another, are frequently involved in drugs, which is really a Federal problem. So it made sense for the Federal Government to provide the prisons to house those criminals and to encourage States to impose life sentences for those career criminals, those habitual criminals.

It is necessary that the criminal justice system face up to the fact that realistic rehabilitation has to be a part of the process with drug treatment, and that is present in this bill; literacy training so that you do not have people released who cannot read and write; and job training so you do not have people released who do not have a trade or a skill.

When I was chairman of the District of Columbia Subcommittee of the Appropriations Committee back in 1983, 1984, 1985, and 1986, we provided for the District of Columbia job training and educational training with more than $20 million being directed to those pursuits. There was so much money there in an unusual way that David Stockman, the Director of Office of Management and Budget, threatened to have the President veto the District of Columbia appropriations bill, which was really unheard of. He did not have that done. But that was an effort on a modest scale to try to bring to bear some of the realities of rehabilitation so that people were not released from jail without an opportunity to pursue a meaningful employment line and also to protect society from repeat crimes of violence.

Later in the course of these proceedings, I will put in the RECORD other legislation which I have introduced which was directed to allocating 1 percent of the Federal budget to a variety of purposes, many of which are encompassed in the current legislative proposal, a $10 billion a year effort to try to fight violent crime.

There have been many statements on the floor about the need for swift and certain punishment, which is the essential ingredient of deterrence. A principal function of criminal law is to demonstrate that the law will be decisive in dealing with those who violate the law under the great slogan, "Crime doesn't pay."

When punishment is not swift and punishment is not certain, the opposite message goes out to the criminals and that message is: Crime does pay.

Regrettably, that is the view of the criminals in our society today. The street criminals know all the angles and they know all the tricks of the trade and they know when cases are being brought under the Federal system or the State system. They know about the long delays, they know about the absence of the death penalty, and they are on top of the game.

We recently put into effect in the Eastern District of Pennsylvania a program for the Federal courts to try drug cases. Federal courts and State courts each have jurisdiction over drug cases. The Federal courts are vastly preferable because there are prompt trials, within 90 days; there is preventive detention where that is appropriate, and there is tougher lines of sentencing. And now when people are arrested in Philadelphia on the street, on a drug case, the first thing the young hoodlums say is, "I am a State case, not a Federal case. Take me to the State court, not the Federal court." They understand more about jurisdiction than some of the Philadelphia lawyers. That is a very brief illustration of the way the word filters down.

(Mr. LEVIN assumed the chair.)

Mr. SPECTER. The hallmark of our criminal justice system, Mr. President, in my opinion, is the death penalty, and it is a very tough penalty, obviously. There are many people who oppose the death penalty on conscientious grounds, on grounds of morality, conscientious scruples. I respect those who oppose the death penalty, but I do believe it is a necessary weapon in the arsenal of society and the fight against violent crime.

I think the death penalty has to be very carefully imposed. When I was district attorney of Philadelphia, in a city which had 500 homicides a year, I carried on a practice which had been established by my predecessors that no assistant would ask for the death penalty unless the district attorney himself or herself—there is now a woman district attorney in Philadelphia, one of my former assistants. But the death penalty would not be sought except on that kind of very careful review. We asked for it in only a few cases. We made certain that we were dealing with repeat offenders. We made certain we were dealing with cases as ironclad as we could possibly make them.

There are competing provisions in legislation now pending before this body. One bill would call for the juries to impose the death penalty if the so-called aggravating factors outweigh the so-called mitigating factors. What that means in plain language is that when the jury considers what the penalty should be for murder in the first degree, whether it should be life or death, the jury will hear about the background of the defendant who has been convicted. If the defendant has had prior robberies, prior burglaries, or even prior murders, that is an aggravating factor. If the individual has a low IQ and has been in the military and has done good work, those would be mitigating factors.

One of the bills now pending would call for the jury to impose the death sentence where the aggravating factors outweigh the mitigating factors.

The bill now before us provides that the jury retains the discretion to decide when to impose life imprisonment or the death penalty. I believe that the provisions of this bill ought to be adopted by the Congress so that it is up to the discretion of the jury as they see fit on whether the death penalty is to be imposed.

The current legislation corrects a major problem which has long existed in the trial of capital cases where a death sentence may be imposed. That is by addressing head on the question of adequacy of counsel and requiring that anybody accused of a case where murder may be imposed would be represented by competent counsel, with a description of the kind of experience that individual must have and a requirement that there be court certification on adequacy of counsel.

The death penalty has been challenged on grounds that it is violative of the U.S. Constitution as being cruel and unusual punishment. Chief Justice Earl Warren wrote on this subject in a case called Trop versus Dulles back in 1958, and Chief Justice Warren is well known as one of the great civil libertarians on the Court and in fact was subjected to a great deal of criticism while he was Chief Justice for decisions by the Court which essentially said that Chief Justice Warren was too soft on crime. But this is what Chief Justice Earl Warren had to say about the constitutionality of the death penalty:

> At the outset, let us put to one side the death penalty as an index of the constitutional limit on punishment. Whatever the arguments may be against capital punishment, both on moral grounds and in terms of accomplishing the purpose of punishment—and they are forceful—the death penalty has been employed throughout our history, and in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty.

One of the other great liberal Supreme Court Justices was Hugo Black, who was well known for his liberalism on individual rights and individual freedoms. Justice Black addressed the issue of the death penalty in the case of McGauthas versus California and had this to say in a 1971 decision:

The Eighth Amendment forbids cruel and unusual punishments. In my view, these words cannot be read to outlaw capital punishment because that penalty was in common use and authorized by law here and in the countries from which our ancestors came at the time the Amendment was adopted. It is inconceivable to me that the framers intended to end capital punishment by the Amendment. Although some people have urged that this Court should amend the Constitution by interpretation to keep it abreast of modern ideas, I have never believed that lifetime judges in our system have such legislative power.

The issue of capital punishment has been addressed by many judges, but I will cite one more illustration of the importance of capital punishment as viewed in our criminal justice system. In the 1976 case of Gregg versus Georgia, in an opinion by distinguished Supreme Court Justice, Justice Potter Stewart, the Court was dealing with the constitutionality of the way the death penalty was imposed, said the following:

Despite the continuing debate dating back to the 19th century over the morality and utility of capital punishment, it is now evident that a large portion of American society continues to regard it as an appropriate and necessary criminal sanction. The most marked indication of society's endorsement of the death penalty for murder is the legislative response to Furman. The legislators of at least 35 States have enacted new statutes to provide for the death penalty and for at least some crimes that result in the death of another person. The United States Congress in 1974 enacted a statute providing the death penalty for aircraft piracy that results in death. But all of the post-Furman statutes make clear that capital punishment itself has not been rejected by the elected representatives of the people.

Mr. President, capital punishment is favored by an overwhelming majority of the American people with the public opinion polls rating it somewhere with 70 percent approval, something in the range of 20 percent disapproval, and about 10 percent of the people undecided. That has resulted because of the commonsense views supported by our experience that capital punishment is a deterrent, that capital punishment does affect the way criminals conduct themselves.

One of the cases that I handled many years ago as an assistant district attorney illustrates in one case the deterrent value of capital punishment.

There were three young hoodlums named Williams, Cater, and Rivers who were about to embark upon a robbery in north Philadelphia. They were 19, 18, and 17, respectively. The oldest, Williams, had a gun, and Cater and Rivers, 18 and 17, said they would not go along on the robbery if Williams insisted on taking the gun. How do we know about that? We know that from the confessions of all three of the defendants.

Cater and Rivers had marginal IQ's, but they knew enough to be fearful of going on a robbery where a gun was taken and a murder might result and they might face the death penalty in Pennsylvania.

Williams assured them that he would not take the gun and put it in the drawer, slammed it shut, and then, unbeknownst to Cater and Rivers, the two younger men, Williams reached back in, took out the gun and put it in his belt.

They went into north Philadelphia and they robbed a grocer. In the course of the robbery, when the grocer resisted, Williams pulled the gun and shot and killed the grocer. Ultimately, Williams was executed and death sentences were also imposed on Cater and Rivers.

In a long case which followed, which I handled later when I became district attorney, I agreed that the death penalty ought not to be imposed on the two younger men because of the absence of the specific intent, although as a matter of law they were liable for what their co-conspirator Williams had done, and ultimately their sentences were commuted to life imprisonment.

There was another case where young men named Marks and Lighthouse, 17 and 18, knew enough not to want to go on a robbery where a gun was present because the death penalty might be imposed on them.

There were many cases which we saw day in and day out of robbers and burglars who were saying they were not carrying the weapon because they were afraid that the death penalty might be imposed.

There was a very fascinating opinion, a second opinion, filed by Justice McComb of the California Supreme Court in a case captioned People versus Love where Justice McComb cites some 14 cases which are illustrative of the principle that people are apprehensive about the death penalty and guide their conduct accordingly.

One of the cases cited by Justice McComb—this is a 1961 opinion—involved three people, Robert Thomas, Melvin Young, and Shirley Coffee—who were arrested for a robbery where they had used toy pistols. When questioned by the investigating officer as to the reasons for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, that if someone were killed in the commission of a robbery they could all receive the death penalty.

Justice McComb cites a case of Lewis Turck, arrested for robbery in California. Turck had used guns in prior robberies in other States but used a fake gun in the robbery in California. He told investigating officers that he was aware of the California death penalty, although he had been in the State for only 1 month, and said when asked why he had used a fake gun "I knew that if I used a real gun and if someone were shot in the robbery, I might get the death penalty and go to the gas chamber."

In a 1971 Los Angeles Police Department survey of some 99 persons arrested for violent crimes who did not carry a weapon over 50 percent of them, 50 of the 99, stated that they were deterred by fear of the death penalty from carrying or using weapons. Of the 49 respondents, 7 said they were unaffected by the death penalty because it was no longer in force; 10 would be undeterred by the death penalty and would kill or use violence even with the death penalty; and 32 said they were unaffected by the death penalty but claimed they did not use the weapon because of fear of injuring themselves or others.

The author of the book "Neither Cruel Nor Unusual," Frank Carrington, cites specific cases where people did not use guns for fear of the death penalty being imposed in the course of robberies. Carl Vance, distinguished former district attorney from Houston, TX, described in a 1973 article in a journal called, "The Prosecutor," a specific case involving an escapee from a Texas prison who did not kill a woman from whom he stole a car because as he later told police he feared the death penalty if he killed that hostage.

Mr. President, to abbreviate the statement, I ask unanimous consent that the 14 cases cited by Justice McComb appear at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, the delays on the imposition of the death penalty and the absence of an effective death penalty constitute an enormous gap of law enforcement in this country. When the Supreme Court of the United States declared capital punishment unconstitutional in the case of Furman versus Georgia in 1972, it did so because the court felt that it was necessary to avoid discrimination and to avoid unfairness, that a special procedure be put into effect so the juries would have before them the background of the individual so-called aggravating and mitigating circumstances in order to make the judgment.

The Federal Government had many crimes which carried the death penalty before the Furman decision, but because of the procedures of the Congress, because of our inactivity on this subject, and because of the rules allowing for extensive debate in this body, there was only one offense on the Federal books today which carries the death penalty, and that is a murder in furtherance of a conspiracy in the distribution of drugs.

If a President is assassinated, there is no Federal death penalty. If a terrorist kills an American citizen, there is no death penalty. If the individuals are convicted who were charged with the bombing and murders resulting from the bombing of the World Trade Center in New York, there can be no death penalty.

And in my judgment it is very important that the Federal Government act, as some 37 other States have acted, to reinstitute the death penalty. The State of New York has no death penalty. So if the convictions are obtained against the terrorists who committed the murders in the bombing of the Trade Center, the most they can get is life imprisonment.

If a convict in a Federal penitentiary murders a prison guard, after having been sentenced to life imprisonment, the most he can get is another sentence for life imprisonment. What earthly sense does that make?

There are, regrettably, Mr. President, enormous delays which are present in the State courts as a result of the procedures known as habeas corpus. What is habeas corpus? It is a Latin phrase which means have the body, habeas, have, corpus, body, have the body, where a person who is imprisoned may challenge the constitutionality of his conviction by filing a petition in the State court or filing a petition in the Federal court to try to upset the conviction.

And the delays in the habeas corpus system have been so long and so unreasonable as to have made the death penalty a laughing stock. And as the death penalty really is in our society, the hallmark of the criminal justice system because of its high visibility, it has really made punishment and deterrence a mockery and a laughing stock.

There are many, many cases which illustrate the phenomenal delays on the habeas corpus system.

I have had a chart prepared as to one of the cases. That case is present in the rear of the Chamber, and through the wonders of television, the charts can be viewed.

This is the case involving a man named Robert Alton Harris who was charged in July of 1978 with a double murder, and who pursued the case in court for some 14 years until April 1992.

On these charts the specifics are set forth about his trial and conviction, about his filing in the State courts of California 10 petitions for a writ of habeas corpus. There were filings in the Federal courts, six petitions for habeas corpus, and a case where he petitioned the Supreme Court of the United States for certiorari on some five occasions. Richard Hertling, who is supervising the charts, will bring over the color chart. I shall not take the time to read all of the entries on these five charts. There are 104 entries reflecting the complexity of this case through the court system.

This chart depicts the time line on the Harris case, with the blue signifying the State court delay and the red signifying the Federal court delay. And as the chart shows, there is an overlap, where sometimes the case was both in the Federal court and the State court; and as the chart shows, it lasted almost 15 years.

I will not take the time now to set forth the other cases—Beasley, Lesko versus Lehman, Campbell, and La Rette versus Delo—but they are illustrative of the delays in the system where those cases are not yet finished, and they have taken in excess of 10, 12 years each.

The legislation which is pending, Mr. President, attempts to address the problem of habeas corpus and delay in our dual court system. I intend to offer amendments which will provide for the handling of these cases in a way which will ensure justice to the defendants and, at the same time, will not result in such interminable, lengthy, excessive delay.

One of the problems exists because of a rule in the Federal courts that the Federal courts will not undertake Federal habeas corpus until there has been what is called an exhaustion of the State court remedies. That means that after an individual is convicted and the case is appealed to the Supreme Court of that State, the defendant can then go back to the trial court, file a petition for a writ of habeas corpus and litigate the same issues all over again. And it is obvious that when he goes back to the State court, the lower court judge is not going to do anything to upset the decision which has been made by the State supreme court. All there is, is lengthy delay.

There is only one issue customarily raised after trial, and that is the issue of competency of counsel, which can be handled as it has been in California, for example, by having the competency of counsel determined post trial, but before the appeal to the State supreme court. And under the provisions of this bill, providing for competent counsel—that should be a much lesser problem.

One of the amendments I intend to offer would be to provide for Federal jurisdiction, attaching after the first appeal from the State supreme court, to eliminate the current requirement of the exhausting of State court remedies, which has provided for such lengthy, really impossible delays of up to 10 years.

There is a controversy as to what is the scope of the Federal habeas corpus proceeding, and some have proposed legislation which would limit the Federal court proceeding to simply examining what happens in the State court as to whether there has been a full and fair review.

My amendment will provide that there will be a de novo hearing, which means that the Federal court will undertake an independent review of all of the factual claims and all of the legal claims, even if they were decided by the State court. And that provision is intended to ensure that constitutional protections will be present in the Federal system, and to ensure that the case will not bounce back and forth between the State and Federal courts again and again and again, which accounts for these tremendous delays.

The great delay which has been caused by successive petitions in the Federal courts is also dealt with in an amendment I will offer, by making the court of appeals the gatekeeper for the filing of a second or successive writ of petition for habeas corpus, an idea advanced by Chief Judge Jon Newman of the Second Circuit. So that if the individual is to have access to a successive Federal habeas corpus petition, that defendant must persuade the court of appeals of the grounds for such a petition on newly discovered evidence, or a subsequent decision which affects materially the question of guilt or innocence.

The provisions that I think need to be adopted also require a timetable for disposition in the Federal courts. In 1990, this point was introduced and passed the U.S. Senate. It would set a time limit for the handling by the district court.

Originally, the thought had been that the district court should handle the case in 120 days, but in order to eliminate concerns about the shortness of time, the time will be fixed at 150 days, which coincides with the time already established by one Federal court itself in one of the Federal court cases.

The Federal court consideration of death penalty cases ought to be a priority. It ought to take precedence over other pending matters, and this can be undertaken without any great inconvenience to the Federal courts.

If you will bring me the chart, Mr. Hertling. We have found, in examining the nationwide statistics, that in 1991 death penalty cases there were some 265 death sentences, where there are some 664 Federal judges, so that a judge would have to handle one of these cases once every 2 years. And in the three heaviest death penalty States—Florida, Texas, and California—the judges would have to handle one of these cases every 18 months to 2 years—in every State except Florida—and similarly in Pennsylvania.

Mr. SPECTER. I have handled such cases, and I know that a case can be handled within the course of a few days, and that it is a realistic timetable. The amendment which I will introduce will provide that if the district judge feels there are extenuating circumstances which require a longer period, the flexibility will be present.

There is no doubt about the authority of the Congress to establish timeliness, which we have already done, on

the Speedy Trial Act, where the courts are required as a matter of congressional declaration to handle the cases within the course of some 90 days. Similarly, there ought to be a time limit on the court of appeals and on the Supreme Court of the United States to try to bring a reasonably prompt conclusion to these cases.

Under this kind of a formula, these matters can be concluded within a 3-year period, instead of periods which run up to 17 years.

Mr. President, I am taking some time in outlining these provisions because I think they are very, very important, because death penalty cases are the hallmark of the criminal justice system, and the tremendous delays which are involved in the imposition of the death penalty have really made that whole system a laughing stock in this country and have ruled out the realistic possibility of deterrence.

The death penalty is a deterrent for reasons which I have elaborated on in this system, the steps with which they are to be acceptable if we are really to take hold of the problem of crime in America and structure a system which recognizes the importance of realistic rehabilitation where possible, life sentences for career criminals where rehabilitation is not possible, and a system which carries out the will of the public in some 37 States for the imposition of the death penalty where that has appropriately been imposed.

I thank my colleagues for their indulgence, and I yield the floor.

EXHIBIT 1

(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeh, I cut him and I should have done a better job. I would have killed him but I didn't want to go to the gas chamber."

(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, as if someone were killed in the commission of the robberies, they could all receive the death penalty.

(iii) Louis Joseph Turck, alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, "I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."

(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: "I think I might have escaped at the market if I had shot one or more of them. I probably would have done it if it wasn't for the gas chamber. I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day."

(v) Orelius Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer, he stated: "The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber."

(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that he did not want to get the gas chamber.

(vii) Salvador A. Estrada, a 19-year old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officer: "I want to ask you one question, do you think they will repeal the capital punishment law. If they do, we can kill you cops and judges without worrying about it."

(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colevris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, "I know that if I had a real gun and killed someone, I would get the gas chamber."

(x) George Hewlitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnaping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, "I did not want to get the gas."

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investing officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. If I had a real gun and killed someone, I would get the gas. I would rather have it this way."

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies, in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that he did not want to kill someone and get the death penalty.

(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up a box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, "If I used a real gun and shot someone, I could lose my life."

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1959, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, on another occasion I am sure the Presiding Officer, the Senator from Michigan, and I will be pleased to respond to the Senator from Pennsylvania on the death penalty.

I want to in a few minutes express some concern about the pending amendment, and there is much that is good in the pending amendment.

I commend the Senator from West Virginia, the President pro tempore, for including additional police on the street. There is no question this is an important provision, and the violence against women provision of which I am a cosponsor. But I am going to cast a vote—if I may have order, Mr. President.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SIMON. I am going to cast a vote against this amendment. I may be the only person in the Senate to do so, because it includes $3 billion for more prisons. It is sponsored by my friend, and he is my friend, the Senator from Utah, Senator HATCH, with whom I serve on two committees. We have worked together on a great many things. I have great respect for him.

But spending $3 billion more for prisons builds on a myth. It is a popular myth, but it is a myth.

In 1970, Mr. President, we had 134 people per 100,000 in our prisons, and we

69-059 O—97 Vol. 139 (Pt. 19) 20

thought we would solve the crime problem by putting more people into prisons. Today we have 455 people per 100,000 in our prisons. And is Washington, DC, safer today? Is Chicago safer today? Is Detroit safer today? Is Seattle safer today? Is Minneapolis safer today? We know the answer.

As we have put more people into prisons, our crime rate has grown. The reality is our prisons to some great degree are schools for crime. We have the highest percentage of people in prison of any country in the world, 455 per 100,000. South Africa is second at 311. Canada has 109.

We can spend $3 billion more this year on prisons and a few years from now we are going to be back being asked to spend $5 billion more, and we can spend it endlessly, and we are going to do virtually nothing to solve the crime problem.

Should people who commit violent crimes go to prison? You bet. We ought to be tough on them. Should people who are career criminals go to prison? You bet. We should be tough on them. But it just does not make sense, and among other things—and I would ask for order, Mr. President.

Mr. WELLSTONE. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senator is correct.

The Senate will come to order.

Mr. SIMON. In addition to everything else are the inequities of sentencing. If you are an African-American and you commit the same crime as some white suburban youth, the statistics are overwhelming. You are going to get a heavier sentence. If you are Hispanic-American and you commit the same crime as a white suburban youth, you are going to get a longer sentence. The statistics are simply overwhelming.

In addition to building regional prisons, this particular amendment takes the Federal sentencing provisions and imposes them on the States.

I do not know how satisfactory the State sentencing provisions are, but I hear from Federal judges all over the place, that the Federal sentencing guidelines and laws are a disaster. And why we should impose those on the States I do not know.

We ought to be looking for alternatives. Just recently in Illinois someone who was a public official who abused his office was sentenced to 5 years in Federal prison. And he appropriately is punished. He is in his midfifties. That is my guess anyway. Frankly, I think he ought to serve a little time in prison. He ought to serve maybe 90 days in prison, and then we ought to send him out to work in a halfway house, to work at a shelter for homeless people, have him serve society in a constructive way. Why spend $20,000 a year for 5 years keeping him in prison? It does not do him any good. It does not do the taxpayers any good.

If we want to spend $3 billion, why not spend some money on drug rehabilitation? I heard the senior Senator from Massachusetts today point out that in Federal prisons today 14 percent of the prisoners are given drug rehabilitation programs and of those 14 percent 70 percent are not returned to prison. Of the remainder who do not take the drug rehabilitation programs, 70 percent come back to prison.

Mr. BIDEN. Mr. President, will the Senator yield on that point just for clarification?

Mr. SIMON. I am pleased to yield to my colleague from Delaware.

Mr. BIDEN. The prison provisions allow the State to apply for this money and use it for drug rehabilitation in the prison.

Mr. SIMON. The chairman of the committee is absolutely correct, and there are a lot of other good provisions in here. But, frankly, instead of spending $3 billion for more prisons we ought to be spending more money on that kind of program.

Mr. BIDEN. If the Senator will yield again, I could not agree with him more, but we also have to get a bill and in order to get our friends to agree to 100,000 police officers and a few minor things that was part of the agreement.

Mr. SIMON. I understand.

I am going to cast a symbolic vote against it simply because I think spending 3 billion more dollars on prisons is just not a sensible procedure.

I see the majority leader, who is eagerly listening to every word I have to say but who now would like to interrupt to make a unanimous consent request, I assume.

Mr. MITCHELL. I thank my colleague for his usual perceptiveness.

The PRESIDING OFFICER. Is part of the request that the Senator from Illinois retain the floor after the request?

Mr. MITCHELL. It is now.

Mr. SIMON. I shall do that briefly, I think.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I think I will accommodate him.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that in behalf of Senator BYRD I be permitted to modify his amendment with language that Senators BIDEN and DOLE have agreed on relative to the "violence against women" section of the amendment and the prison section of the amendment; that the Senate vote on the Byrd amendment No. 1103 at 11 p.m. this evening; that Senator DOLE be permitted to modify his amendment No. 1102 with language that he and Senator BOXER have agreed on; and that the yeas and nays on Senator DOLE's amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Mr. President, reserving the right to object, and I will just take another 2 minutes, but I know the Senator from Virginia has been here some time. I do not know if he wants to speak on this amendment or object.

Mr. ROBB. I want 4 minutes if I could.

Mr. MITCHELL. The unanimous-consent request would call for a vote in 12 minutes. I will add to the request that following the modification of the amendment Senator SIMON be recognized for 2 or 3 additional minutes and Senator ROBB be recognized for 5 minutes.

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

AMENDMENT NO. 1102, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification of my amendment to the desk, and I just say Senator BOXER recommended it as a good amendment. I ask the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1102), as modified, is as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $10,000" and inserting "not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

Mr. DOLE. The yeas and nays have been vitiated on the other amendment.

The PRESIDING OFFICER. The yeas and nays have been vitiated.

Mr. MITCHELL. I believe the unanimous-consent request vitiated the yeas and nays by its terms. But we are not proposed to act on the amendment at this moment.

AMENDMENT NO. 1103, AS MODIFIED

Mr. MITCHELL. Now, pursuant to the agreement, if I have recognition, I would like to send to the desk on Senator BYRD's behalf a modification of his amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1103), as modified, is as follows:

At the appropriate place, insert the following:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearms offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct, and operate a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any felony crime of violence involving the use or attempted use of force against a person, or use of a firearm against a person, for which a maximum sentence of 5 years or more is authorized that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentence for firearm offenders, where death or serious bodily injury results, murderers, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

Page 303, line 21;

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, operating, and improving boot camp prison programs to medium security prisons;

(B) developing, constructing, and operating prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

"GRANTS FOR COMMUNITY-BASED VIOLENT-JUVENILE FACILITIES

"SEC. 238. (a) IN GENERAL.—The Attorney General, through the Bureau of Prisons, may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, and operating secure facilities for violent and chronic juvenile offenders. The mandates required by the Juvenile Justice and Delinquency Prevention Act shall not apply to grants under this subtitle.

"(b) AUTHORIZATIONS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

SEC. 2. TABLE OF CONTENTS.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 4 of Public Law 102-521 (106 Stat. 3404), is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) include proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for

under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1722 of subpart 2.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"Part Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.

"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.

"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make

capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91–383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violence Against Women

SEC. 141. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, there shall established a commission to be known as the National Commission on Violence Against Women (referred to in this subtitle as the "Commission").

SEC. 142. GENERAL PURPOSES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) FUNCTIONS.—The purposes of the Commission shall include—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 143. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall consist of 12 members, as follows:

(A) PRESIDENT.—Four individuals, not more than two of whom shall be of the same major political party.

(B) SENATE.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(C) HOUSE OF REPRESENTATIVES.—Four individuals, two appointed by the Majority Leader and two by the Minority Leader.

(b) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience, and shall include representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

SEC. 144. COMMISSION OPERATIONS.

(a) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date of enactment of this Act. After the initial meeting, the Commission shall meet at least 6 times.

(b) CHAIR.—Not later than 15 days after the members of the Commission are appointed, the President shall designate a chair from among the members of the Commission.

(c) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(d) PER DIEM.—Except as provided in subsection (c), members of the Commission shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 145. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President, the Senate Majority Leader, the Senate Republican Leader, the House Majority Leader, the House Republican Leader, and to the congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 146. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chair, with the approval of the Commission, not later than 30 days after the Chair is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 147. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chair of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 149. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) RULE.—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

"412A. Evidence of victim's past behavior in other criminal cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissibility.
"(c) Procedures.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under

this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 151, is amended by inserting after the item relating to rule 412A the following new item:

"412B. *Evidence of past sexual behavior in civil cases:*
"(a) Reputation and opinion evidence excluded.
"(b) Admissible evidence.
"(c) Procedures.
"(d) *Definitions.*".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

"(e) Interlocutory appeal.
"(f) Rule of relevance and privilege.".

SEC. 154. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 152, is amended by inserting after the item relating to rule 412B the following new item:

"413. Evidence of victim's clothing as inciting violence.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1), by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before "or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) the term 'victim' means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

"(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1994, 1995, and 1996.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lumpsum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across a State line' includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser;

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; *and*

"(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—DOMESTIC VIOLENCE, FAMILY SUPPORT, AND SHELTER GRANTS

SEC. 241. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) REPORT.—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $125,000,000 for fiscal year 1996.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the 'Secretary'). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year 1994.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

SEC. 282. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(b) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

(2) by adding at the end the following new paragraph:

"(7) Providing technical assistance and training to State domestic violence coalitions.".

SEC. 283. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 292. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1994.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes of violence motivated by gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for crimes of violence motivated by gender committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of crimes of violence motivated by gender, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled;

(5) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects on interstate commerce caused by crimes of violence motivated by gender. and

(8) the victims of crimes of violence motivated by have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim's gender;

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) PENDENT JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.".

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92–318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(1) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year *1995*;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 603. PAYMENT OF COST OF HIV TESTING IN SEX OFFENSE CASES.

(a) FOR VICTIMS—

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the

human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

(b)—TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR AIDS—

Victims of any offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

LIMITED TESTING OF DEFENDANTS—

(1) Court Order—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) Showing Required—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) Follow-up testing—The court may order follow-up tests and counseling under paragraphs (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) Termination of Testing Requirements—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) Confidentiality of Test—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results to any personal physician or sexual partner(s) she may have had since the attack.

(d) Disclosure of Test Results—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) Contempt for Disclosure—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) Penalties for Intentional Transmission of HIV—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

(5) There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 604. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 606. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 154, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.".

SEC. 607. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or

that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SEC. 608. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 609. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 610. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 611. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 612. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) SPECIFIC ISSUES.—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period, (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 613. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) IN GENERAL.—The Attorney General may, in each fiscal year, award an aggregate amount of up to $1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) ELIGIBILITY.—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

On page 292, lines 6 and 7, strike "the prisoner" and insert "a prisoner convicted of a nonviolent offense".

On page 26, line 16, strike "$620,000,000" and insert "$1,035,000,000", and on line 17, strike "$1,040,000,000" and insert "$1,720,000,000". and

On page 27, line 1, strike "$1,160,000,000" and insert "$2,070,000,000" and on line 2, strike "$1,225,000,000" and insert "$2,270,000,000" and on line 3, strike "$1,200,000,000" and insert "$1,900,000,000".

At the appropriate place in the bill, insert the following:

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years.

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund", into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,423,000,000;

"(3) for fiscal year 1996, $4,267,000,000;

"(4) for fiscal year 1997, $6,313,000,000; and

"(5) for fiscal year 1998, $8,545,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund."

"(30) An analysis displaying by agency proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 1321B of the Violent Crime Control and Law Enforcement Act of 1993.

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $314,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $2,330,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $4,267,000,000 in new budget authority and $4,184,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $6,313,000,000 in new budget authority and $6,221,000,000 in outlays;

(5) for fiscal year 1998, for the discretionary category: $8,545,000,000 in new budget authority and $8,443,000,000 in outlays.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I now yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, again, as I did earlier, I commend the Senator from West Virginia.

I understand compromises are essential in this process. But, again, to spend $3 billion more on prisons after the disastrous experiences we have had just does not make sense.

If we are really interested in going after crime—for example, we have over one-fifth of the children of this country living in poverty. No other Western industrialized country has that kind of a record. We ought to be tackling the problems of poverty, and then we would really be tackling the problems of crime.

We ought to have a jobs bill.

I heard the Senator from Maine saying that our values need to be looked at. There is no question about that. I heard Senator BYRD speaking eloquently on that.

But one of the things we have done through our welfare system is to discourage families from living together. We have to examine our policy and not simply say we have to improve our values system. And I agree with that.

But I shall cast a vote against the amendment, even though very much of the amendment I think is excellent—having police on the street, having the violence against women bill. But to spend $3 billion more on prisons when we already have more people in prisons than any other country on the face of the Earth just does not make sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, on several occasions, I have taken the floor to discuss the drawdown in America's military forces.

In addition to the very substantial question, of how best to employ the tremendous skills of personnel leaving the services our country is searching for ways to put the physical facilities, of our defense infrastructure to new uses.

Senator DORGAN of North Dakota put forth a proposal, which addressed that long-term national concern, while promising to make America a safer place to live.

I had agreed to be an original cosponsor of his amendment.

However, the distinguished President pro tempore recognized the merit of our proposal, and has included it in the omnibus amendment which we are now considering.

I congratulate them both for their good work.

The crime bill before us and, indeed, the entire criminal justice system operates on the theory that the promise of punishment will deter crime, and when the deterrent fails, punishment must be swift and appropriate.

Too often, though, that system is undermined.

Punishment is not effective if it cannot be carried out.

And, as the chairman of the Judiciary Committee, Senator BIDEN, has explained, the critical block to swift punishment, is the overcrowding of our State and local prisons.

Make no mistake, there is enough space now in maximum-security prisons to hold all of the truly dangerous offenders. But first-time and nonviolent offenders are being shoved into the same facilities creating the overcrowding.

So the people who should be doing hard time, wind up serving reduced sentences, or in some cases, no sentence at all.

And those who do go to prison, are able to tutor young, first-time offenders, in the ways of violent crime.

With no punishment, or uncertain punishment, for committing crimes, there is virtually no deterrent. Is it any wonder, that first-time offenses and recidivism, both continue to climb?

To make room for the truly dangerous criminal, we need to revise the way the criminal justice system deals with nonviolent offenders and first-time offenders.

Alternatives to full-security incarceration, such as military-style boot camps and regional drug-treatment prisons, provide excellent means to alleviate some of the burdens associated with the cost and overcrowding problems in prisons. This amendment, turns these ideas into concrete steps.

The converted bases which would be opened only with the concurrence of local authorities, would be shared between the Federal Government and the States.

States would pay to operate the facilities and house the prisoners. In exchange for the use of the facility, some space in each would be reserved for Federal offenders whose crimes are of similar severity.

If the Senate is to incorporate creative alternatives into the criminal justice system, then we must find more prison space—but it does not have to be maximum security. Those alternatives require such space, separate from the existing full-security prisons in order to work.

The amendment before us would help provide the lower-security prison space required.

In this time of military downsizing, we need to explore the range of new use possibilities for closed military bases.

This amendment, in one of its provisions, proposes to refit closed military bases into boot camps and minimum-to-medium security prisons for first time offenders and nonviolent criminals; 23 Federal prisons currently operate on deactivated bases, or former military property. From that experience, we know that refitting deactivated military bases costs significantly less than starting from scratch.

This idea is resourceful, and forward-looking; this idea provides relief for overcrowded prisons. This idea helps to make alternatives for first-time offenders and nonviolent offenders viable. This idea offers a way of lowering the costs of building new prisons. This idea helps to keep violent criminals where they belong—in jail.

Therefore, I am pleased to join Senators BYRD and DORGAN, in sponsoring this amendment, and solicit the support of my colleagues for this next step in the fight against crime.

Mr. President, I thank the Chair and I yield the floor.

Mr. MITCHELL. Mr. President, there being no other Senator seeking recognition, and in order to give notice to Senators who are not in the Capitol—we set the vote for 11 p.m.—I now suggest the absence of a quorum.

Mr. BIDEN. Will the Senator withhold that request?

Mr. MITCHELL. I will withhold.

Mr. BIDEN. I would like to take just 2 minutes to explain what the Senator from Kansas, the Republican leader, and I agreed on as the changes that were contained in this unanimous consent agreement relative to the violence against women portion of this agreement.

There are basically two changes we agreed upon. We had in the bill an Attorney General's task force to study the issue of violence against women. The Republican leader pointed out that that was not particularly balanced and fair. So we changed it to a national commission to study violence against women, with appointees by the President and the minority and majority leaders in the House and the Senate, in both bodies. That is the first change.

The second change that we have agreed to in the Violence Against Women Act—and, I might add, this is something the Republican leader has worked on for more than a year on this issue —and that is we had payment for HIV tests requested by the victim of a rape, which is contained in this bill. We added to this provision the ability to test the accused after, and only after, a probable cause hearing before a judge and the judge, determining that there is a substantial reason for concern to exist, thereby ordering the test. And, so, there are the two changes that we made.

There are other pieces that are of no consequence, that do not change the bill at all, that were some minor language changes, one to clean up the definition of what constitutes a crime of violence motivated by gender. It really was semantic, rather than any substantive difference.

They are the changes that we are referring to when we say in the unanimous consent agreement that the Republican leader and I had agreed to changes in the portions relating to the violence against women section.

Mr. DOLE. Can I just add one additional thing to that? I think it also directs the sentencing commission to prepare recommendation for revising the sentencing guidelines that relate to offenses committed by offenders who intend to expose others to the HIV virus.

Mr. BIDEN. The Senator is correct. I apologize for leaving that out.

Mr. DOLE. I suggest there is another provision we could not agree on which we will offer to some other section—in fact, two others. We will offer it to another place in the bill.

I thank the chairman and members of his staff and others who have helped us resolve a couple of these areas. I think it makes it a better bill, more consistent with the bill many of us have been working on for a couple of years.

The PRESIDING OFFICER (Mr. DODD). The Senator from Utah.

Mr. HATCH. Mr. President, I thank the distinguished minority leader for his work on this because he has worked on violence against women for well over a year. He is one of the key players on this. I think it makes a tremendous difference, and this compromise has enabled this whole matter to go forward and I want to personally thank him and those who worked on it.

Mr. BYRD. Mr. President, I ask unanimous consent Mr. HOLLINGS be added as cosponsor to the amendment.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the Byrd amendment, to urge my colleagues to support this vitally important initiative to combat the plague of crime in our Nation.

Mr. President, it is long past time to make the battle against crime a top national priority. Violent crime has increased substantially in recent years, and has reached crisis proportions. No part of our Nation is safe from this epidemic. From suburbs to inner cities, and even to our Nation's rural area, the threat of crime pervades America today. Congress has simply got to respond.

There is much to be done to address the crime problem. But one essential element of a war against crime is that we have to get tougher with criminals. We need tougher sentences. And we cannot tolerate a criminal justice system that lets even dangerous violent individuals out of prison long before their sentence is completed. Those who commit violent acts should know that they are going to go to prison for a long, long time—and that they are not going to get any special breaks to get out early.

This amendment will encourage States to adopt tough sentencing practices, to put a stop to the overly permissive policies in too many areas. For example, to qualify for certain Federal funds, States will have to impose sentences for serious firearm offenders that are at least as long as those imposed under Federal law. States also will be encouraged to ensure that defendants serve at least 85 percent of the sentence ordered.

Beyond getting tougher with criminals, Mr. President, we also need more police officers. As a member of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, I have long been a strong proponent of community-based policing, to get officers out of their cars, and into their neighborhoods. It's made a big difference in many jurisdictions, and we need to encourage this approach.

This amendment would provide funds to hire an additional 100,000 police officers, who could pursue community-based approaches. This fulfills President Clinton's promise during last year's campaign. It's critically important, and I am very pleased we were able to identify the funds for this priority.

I would note, Mr. President, that the amendment also would fund boot camps for juvenile offenders, and additional prisons, to ensure that there is enough space to lock up violent offenders. Also included is the Violence Against Women Act, which I strongly support.

In sum, Mr. President, this is an important amendment that represents a significant step forward in the battle against crime. I am proud to be a cosponsor, and I urge my colleagues to support it.

Mr. DORGAN. Mr. President, I rise in support of the amendment of the distinguished President pro tem and chairman of the Appropriations Committee as he has modified it.

This amendment embodies very important provisions that I have been working on for many weeks with the chairman of the Judiciary Committee, Senator BIDEN; Senator GLENN; my good friend and colleague from North Dakota, Senator CONRAD; and Senators LIBERMAN, ROBB, and DASCHLE.

Mr. President, about half of the prisoners in State facilities are there because of a conviction for a nonviolent crime. Approximately 19 percent of State prisoners have never been convicted of a violent crime—yet they are taking up prison space that States could use for those who have committed violent crimes. I believe we can house these nonviolent prisoners in a manner that would cost far less, while still forcing them to serve their full prison sentence.

Last month, I introduced S. 1511, the Violent Crime Prevention Act of 1993. One of the major provisions of that bill authorizes $700 million to build—and convert unused military bases—to low- and minimum-security prisons. These prisons would house nonviolent criminals, and would free up space in existing higher-security prisons for violent criminals. It makes no sense to me that we are housing nonviolent prisoners in higher-security prisons while murderers are being released 10 years early because of prison over-crowding.

These minimum security prisons would also cost far less to build then high-security prisons. Last year Federal and State agencies spent an average of $35,889 per bed to build new prisons. However, the Bureau of Prisons converted an unused Air Force base in Florida into a minimum-security prison for only $265 per bed. Another example is Fort Dix in New Jersey, which is being turned into a low-security prison for one-fifth of the cost of building a new facility. Operating these low-security prisons will also be far less expensive because, for each prisoner, they cost $3,000 a year less to run than do high-security prisons.

Why should we be spending extra money on prisoners that do not require this level of security? These low-security prisons will save money, provide room for nonviolent criminals, and free up space to put violent prisoners where they belong—behind bars.

Mr. President, I am very pleased that this portion of my bill has become a part of Senator BYRD'S amendment. I thank him, Chairman BIDEN, and the entire Judiciary Committee for reaching this compromise amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong support for the Violence Against Women Act.

Before I begin, I would like to thank the distinguished Senator from West Virginia for offering the amendment that will fully fund this act and to recognize the hard work of Chairman BIDEN.

We have heard a lot about the "Year of the Woman."

We have heard a lot about change.

We have heard a lot about stopping the violence that is ravaging our country.

But until this discussion began about the Violence Against Women Act, there was little discussion of the silent victims of violence. Until now, we have not heard enough from the women who have been victims of violence.

Not until Chairman BIDEN and the Judiciary Committee came forward with this legislation, not until 60 Senators, including myself, came forward as cosponsors, not until today, have we seen legislation in this Congress that goes out of its way to ask to hear from the silent women who are victims of violence.

The silence today is so complete that 84 percent of all rapes each year are never reported, according to a report by the National Victim Center.

The only way to end this silence is to make a promise.

A promise that if a victimized woman speaks out, she will be heard, and a prosecution will take place.

The Violence Against Women Act will improve the chances of keeping that promise.

Without this act, there is no reason for women to break the silence.

Today, without this act, only one out of 10 rapes reported to the police results in the attacker serving prison time.

Today, without this act, a convicted rapist is 50 percent more likely to receive probation than a convicted robber.

Today, without this act, 98 percent of the victims of rape never see their attacker caught, tried, or imprisoned.

And, I believe, without this act, violent acts against women will continue to rise. Consider these facts:

Since 1988 the number of known rapes in the United States has risen 18 percent, and

In 1992 alone, there were 109,062 rapes in the United States.

And rape is not the whole story.

More than 1.1 million women are victims of reported domestic violence every year—by some estimates, as many as 3 million more domestic violence crimes go unreported each year.

Women have between a 1-in-3 and a 1-in-5 chance of being physically assaulted by a partner or ex-partner during their lifetime, according to the Journal of the American Medical Association.

The Violence Against Women Act will:

Add $300 million for additional police, prosecutors, and victims advocates;

Provide additional training for judges;

Expand rape shield laws;

Add offenses for interstate spousal abuse;

Increase funds for shelters and rape crisis centers;

Guarantee that restitution will cover the victim's lost income, necessary child care, and other expenses related to prosecution of the offense; and

Most importantly, the Violence Against Women Act will work to break the silence.

By approving the Violence Against Women Act, this Senate will send a loud and clear signal to women throughout the country.

It will truly be the Year of the Woman when violence against women is never ignored.

It will truly be our year when violent acts against women never go unchallenged.

This legislation is the first step toward meeting the challenge of the Year of the Woman.

Violence is about power. This bill is about shifting power.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the vote that is about to occur will be the last rollcall vote this evening. There will be a rollcall vote at 9 in the morning, 9 tomorrow morning. We will have a long day tomorrow, but we are making good progress on this bill.

I thank the managers for their cooperation.

The PRESIDING OFFICER. The hour of 11 p.m. having arrived, the question is on agreeing to the amendment offered by the Senator from West Virginia [Mr. BYRD], amendment No. 1103, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—94

Akaka	Faircloth	McConnell
Baucus	Feingold	Metzenbaum
Bennett	Feinstein	Mikulski
Biden	Ford	Mitchell
Bingaman	Glenn	Moseley-Braun
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boxer	Gramm	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pressler
Bumpers	Heflin	Pryor
Burns	Hollings	Reid
Byrd	Hutchison	Riegle
Campbell	Inouye	Robb
Chafee	Jeffords	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Sarbanes
Cohen	Kempthorne	Sasser
Conrad	Kennedy	Shelby
Coverdell	Kerrey	Simpson
Craig	Kerry	Smith
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Thurmond
DeConcini	Levin	Wallop
Dodd	Lieberman	Warner
Dole	Lott	Wellstone
Domenici	Lugar	Wofford
Dorgan	Mack	
Exon	McCain	

NAYS—4

Hatfield	Pell
Mathews	Simon

NOT VOTING—2

Durenberger	Helms

The amendment (No. 1103), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, there is a very important amendment that the minority and majority have agreed to, but I think it is important that it be offered tonight.

The distinguished Senator from California has an amendment. I would ask if she is prepared to present that amendment. There will be no vote required because the managers of the bill have accepted it. But it is an important addition to the bill, quite frankly, which we did not have. We welcome it. So I yield to the Senator from California, if that is appropriate.

Mrs. BOXER. I say to my friend that I do have——

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Chair.

I say to my friend that I do have the amendment ready. It was my understanding that Senator DOLE was going to have his amendment disposed of, which I have modified.

Mr. DOLE. It has been modified. I think we need to dispose of it.

The PRESIDING OFFICER. The Chair would notify the Senator from California the amendment of the Senator from Kansas, as modified, is at the desk.

Mr. DOLE. I think we are supposed to act on it. We vitiated the yeas and nays.

The PRESIDING OFFICER. Is there further debate on the amendment offered by the Senator from Kansas? If not, the question is on agreeing to the amendment.

The amendment (No. 1102), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE. I thank the Senator from California [Mrs. BOXER] for her modification which I think strengthens the amendment. I thank her.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

I thank the Republican leader for his good amendment, and I think, with the way it has been modified, it is going to really toughen the penalties for those who would set these fires and cause all the havoc and the heartache that we have been seeing out in California.

AMENDMENT NO. 1104

(Purpose: To call on the President to convene a national summit on violence in America)

Mrs. BOXER. Mr. President, I have an amendment I would like to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1104:

Subtitle D—Presidential Summit on Violence

SEC. 1731. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) violence in America has reached epidemic proportions;

(2) this epidemic reaches into communities large and small, affects the richest and the poorest among us, touches people of every ethnic and economic background, and affects all institutions, both public and private;

(3) actual violence and depictions of violence are so pervasive that they have an enormous impact on the lives and character of our children;

(4) every person, group, and institution in America has a role to play in ending the epidemic of violence; and

(5) we need a national conference in order to develop a shared understanding of the causes of violence in America and to build a national consensus on the solutions to this epidemic.

SEC. 1732. PRESIDENTIAL SUMMIT ON VIOLENCE.

Congress calls on the President to convene as soon as possible a national summit on violence in America. The President is urged to include participants from all regions of the country and all walks of life, both public and private.

Mrs. BOXER. Mr. President, I allowed the entire amendment to be read because I need not make a long speech about it. What we have laid out is the condition that we face in our Nation with this increasing violence, the fact that we all know, Republicans and Democrats, we must do something about it and that it is time to call attention to this problem in a very special way, the kind of way President Clinton called attention to this economy when he held an economic summit. This amendment simply is a sense of the Senate that the President call together the experts in the field of violence, real people who are affected by violence, people from every walk of life, and let us as a nation focus on this problem, find out what is working and really come together with a strategy so that our Nation can once again be a peaceful place.

I thank very much my friend and colleague from Delaware, the chairman of the Judiciary Committee, Senator BIDEN, and the ranking member, Senator HATCH, for their support of this idea, as well as to the administration which seems, frankly, very excited about this notion of having such a summit.

Again, I have not a long speech to make at this late hour, only to thank my colleagues both on the Republican side and Democrat side for their support of this amendment.

I yield the floor.

Mr. BIDEN. Mr. President, once again I compliment the Senator from California. I had taken the liberty to speak to the White House about this as well, and she is correct in that they are excited and plan on taking this suggestion of hers very seriously. It is something that I think Republicans and Democrats alike can support with some enthusiasm and hopefully out of this serious look at violence in America we may be able to gather additional consensus beyond what we have done here tonight.

So I thank her. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1104) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1105

(Purpose: To improve the rules of evidence)

Mr. DOLE. Mr. President, when we had our negotiations tonight we were able to agree on a couple of things and disagree on a couple things but we did agree it could be offered.

Mr. BIDEN. That is correct.

Mr. DOLE. One I would offer now that I think is self-explanatory and I will try to do it very quickly. Then I will send the amendment to the desk. It provides for admissibility of evidence of similar crimes in sex offense cases. First, evidence of similar crimes in sexual assault cases. Second, evidence of similar crimes in child molestation cases. And, finally, evidence of similar acts in civil cases concerning sexual assault or child molestation. It does change the rules.

Mr. President, the amendment I am offering tonight was originally part of the Sexual Assault Prevention Act of 1993, which I introduced on the first day of the session with several of my Republican colleagues.

In a nutshell, this amendment would create three new Federal rules of evidence that would provide helpful tools to prosecutors throughout the country in their efforts to prosecute and convict vicious sex crime offenders.

Mr. President, too often, crucial evidentiary information is thrown out at trial because of technical evidentiary rulings. This amendment is designed to clarify the law and make clear what evidence is admissible, and what evidence is not admissible, in sex crime cases.

The amendment would create a new rule 413 of the Federal Rules of Evidence. This new rule would provide that in a criminal case in which the defendant is accused of assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

The amendment would also create a new rule 414, similar to rule 413, that would apply to child molestation cases. This new rule would make clear that in a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

And finally, Mr. President, this amendment would create a new rule 415, making it clear that in civil cases, evidence of a defendant's commission of past offenses of sexual assault and child molestation is admissible and may be considered for whatever purpose is relevant.

Mr. President, I urge my colleagues to support this amendment—for this amendment would make it easier to prosecute sex offenders and provide justice for the victims of these crimes.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1105.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain or a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such late time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN. Mr. President, what the Senator from—what the Republican leader is doing is changing 404(b) of the Federal Rules of Criminal Procedure, and that is no big deal in and of itself except that by allowing evidence of—right now the rule in a courtroom in a Federal court is you go in and if you wish to introduce evidence of a similar crime, along the lines of what the Senator from Kansas is suggesting, you can only do it under very limited circumstances—I will get my glasses here to be precise—as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of a

mistake or accident. These are the only circumstances in which you can offer this as evidence to go to those items that I mentioned—intent, preparation, opportunity, et cetera. There is a reason for that. These rules of relevancy—and that is what they are referred to under the Criminal Code and rules of procedure for criminal cases—it took essentially 800 years to develop the rules of evidence under our English jurisprudence system. The reason it did is all these rules have come about as a consequence of how do you better acquire the truth? How do you better make available to the jury that which is the essence of what happens? What probative value do the things you wish to introduce into evidence have?

Let me just put it another way. If you are a juror and I am a prosecutor and I am able to turn and say to the defendant who is being accused of rape or child molestation that they had been, in the past 2 years, 10 year, 30 years, 2 months, 2 days, two decades ago, convicted of a similar crime, that is obviously very prejudicial. You say, wait a minute. He has done this before. I guess maybe that means he may do it again.

The truth of the matter is that is not how human nature necessarily functions, and it certainly does not go to the essence of what our system is about; that is, proving that this defendant in this case is guilty beyond a reasonable doubt of the specific charges against him or her at that moment before that jury.

So there is little probative value. The fact that the defendant may have done something 10 years ago, had done something 10 years ago, may or may not be relevant to whether or not he is at the scene of the crime of which he is being accused. But once you tell somebody on a jury that, "By the way, Charlie done it before," it is awfully hard to overcome the instinctive prejudicial judgment that will be arrived at by a jury.

So, for example, it is a little bit like if your child ever exaggerated to you once, every time he or she came up to you to tell you something, "Well, you are exaggerating to me again," and you point out, "By the way, years ago when you did this, you exaggerated to me." We would say, no, that is not a fair thing to do to our child.

That is not a fair thing to do to an individual because it does not speak to the elements of the crime. It does not speak to whether he was there at the place at the time and the moment and committed the crime.

But it tends to—we found out from 800 years of experience—to blind people to looking at the real facts before them and making an independent judgment, at this time, at this circumstance, at this situation, that this defendant did that thing.

So, that is why it was developed. That is why the law has developed the way it has.

Currently, the bill has a provision that directs the Judicial Conference—and the Republican leader knows this well—the Judicial Conference is authorized under the rules of Congress to be able to set up—our separation of powers system allows them to make rules relevant to how they conduct courts. Although we could make those rules for them, we authorize them to do it. We in this bill direct the Judicial Conference to complete a study and submit to Congress recommendations for amending rule 404—if it makes any sense, the rule here in question—within 180 days of enactment of this legislation.

This study includes a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rule, a recommendation as to whether rule 404 should be amended to introduce evidence of prior sex crimes, and, if so, whether such acts could be used to prove the defendant had a propensity to commit such crimes, and whether the evidence should be admitted for purposes other than to show character; also, a recommendation concerning whether evidence of similar acts should meet a certain threshold of similarity to be admitted.

For example, the fact that someone is accused of, let us say, statutory rape and that when they were 17 years old they had been found guilty of exposing themselves in public, well, there is not a lot of relationship necessarily between the two. If you are going to allow that into evidence——

Let me put it another way. What do you think the chances are the jury would keep an open mind if you were before the jury for having embezzled money, and the State was able to put in evidence, "By the way, when so and so was 19 years old, he was convicted of rape." It has nothing to do with whether he embezzled money, zero. But the tendency would be for the jury to say this person must be a bad person. The whole of our system is predicated on the notion that you are innocent of the crime for which you are accused until you are proven to be guilty of that particular crime and the elements of that crime beyond a reasonable doubt.

So I suspect we would not allow in evidence, for example, to suggest in a robbery case—this is not what this amendment would do, but to make the point—that you had been convicted of drunk driving. Why would not we allow drunk driving charges to be brought in a robbery case? Well, because it goes to your character, it makes you look like you are maybe the kind of guy if you broke that law, you may break this law. It is prejudice without any probative value. The ultimate prejudicial nonprobative kind of evidence to be introduced is to introduce evidence of a similar crime.

Well, the point here is in what we have written in the bill, the recommendation has to come from the Judicial Conference concerning whether evidence of similar acts should meet a certain threshold of similarity to be admitted or a recommendation concerning whether evidence of similar acts should be limited to certain periods of time; for example, only acts committed in the last 10, 20 years or some sort of finality to when in fact you can be forgiven for what you were accused of and what you were convicted of years ago.

The effect, if any, of the adoption of any change of rule 404 on rule 413, the rape shield law—the rape shield law is there to prevent the victim from being taken advantage of—what effect would this have on that law?

As the constitutionality and effect of amending rule 404 are unclear, this area bears further study and some clear-cut guidelines before Congress could enact any such legislation. The Violence Against Women Act provides for further study.

Therefore, I encourage my colleagues to oppose this amendment and await the outcome of the Judicial Conference report.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I will just make a couple of points.

This does not go to prior conviction; prior offenses. We are dealing here with sexual assaults and child molestation. There have been other changes of rules of evidence in the bill. I think if somebody is a repeat offender, if you brought in eight or nine women, for example, or eight or nine children, and he had one offense after another, it would be probative. If it had not happened for 10 years, it probably would not have any value.

We also provide protection for the defendant because we require the Government to disclose the evidence of the defendant, including a statement of witnesses or a summary of the substance of any testimony expected to be offered at least 15 days before the scheduled date of trial, or at such later time as the court may allow for good cause.

So I think again it is a question—the chairman is much more knowledgeable than this Senator in this area. But again, if we are really going to get tough, and if we are really going to try to make certain that justice is provided for the victim as well as the defendant, of course, then I think we ought to look seriously at this.

So I have nothing further to say.

Mr. DOLE. I ask for the yeas and nays on the amendment and that it occur at 9 o'clock.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BIDEN. Mr. President, I will be very brief.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. That would be a 9 o'clock vote.

Mr. BIDEN. Mr. President, I ask if my colleague would be willing to allow 5 minutes on each side at 9 o'clock to complete debate on this, or 3 minutes on a side.

Mr. DOLE. I know that two of our colleagues have meetings with the President. I am hoping they could slip in.

Mr. BIDEN. Maybe we could come in at 8:50 if we could come in and vote at 9 o'clock.

Mr. DOLE. I know the staff is pleased with that.

Mr. BIDEN. I can see that. They all cheered when we suggested that. I ask unanimous consent that we be able to come in at 8:50 and vote at 9 o'clock.

Mr. DOLE. I do not know who will be here. But you and I will be here.

Mr. BIDEN. Let me say very briefly, the last point my friend from Kansas raised underscores, I would argue, even more definitively why this is a dangerous precedent. Let me read from the legislation. It says:

> In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible.

Translated, that means you do not even have to be convicted. So someone can come in—if the Attorney General can find someone, or the district attorney—who says: You have this defendant here that has been accused or raping Mary, or molesting Billy. I want to tell you that 10 years ago, even though I never told anybody about it, he did the same thing to me. You can get four other people to come in and say, "He did the same thing to me," with no evidence ever having been admitted at that time, 2 years ago, 10 years ago, 20 years ago, and no ability of the defendant to go back and find a witness from 2 years ago, 10 years ago, 20 years ago, no ability to disprove the assertion made that, yes, they did it to me, too, and allow that in evidence in a trial where you are being accused of a similar crime now.

As one of my criminal law professors used to say, this lends a significant opportunity for mischief on the part of the prosecutor, not that any prosecutor would engage in mischief, but it has been known to happen occasionally. Think about what we are about to do here if we pass this. Anybody accused of a sexual offense will be in a position where, after being told by the prosecutor that they are going to traipse in people who will say the same thing or a similar thing happened to them, even though they never mentioned it before, even though it was never raised before, even though they never had a chance to disprove it before, even though they have never been convicted of it.

But think about it, I say to all my colleagues. What do you think the impact is that will have on the mind of a juror, whose solemn charge is to consider only the facts put before him or her as to the innocence or guilt of that defendant—not hearsay evidence, unable to be questioned because the time has passed, witnesses have died, people have gone away, and records are no longer in existence.

It is a very dangerous amendment. I admit that any amendment anyone would bring to the floor that has anything to do with child molestation or sexual offenses is likely to get 51 votes here, no matter what it is. I imagine that if we said in cases of sexual molestation of a child we should require the defendant to undergo electric shock treatment, we would probably get a vote for that here. We would probably get a vote for that here, because everybody is against those heinous crimes.

I conclude by saying, so you need not stay here any longer, Mr. President, these rules of evidence took 800 years to develop. They took that long in a figurative sense, Mr. President, because we have worked out over all this time means by which to separate the wheat from the chaff, the means by which to separate those things which are not at all dispositive or do not in any way shed light on the truth, but in fact only shed light on prejudice and keep those inquiries and rules that do in fact shed light on the truth. This is all about the truth.

Let me just point out that there are a number of—I, along with the Presiding Officer, wrote the, not too many years ago, the child safety legislation, dealing with violence against children. It was a major piece of legislation that passed. But one of the things we found out in all those times and in all that investigation is that occasionally, for example, children say things that are not true. Look at some of the most celebrated cases that have come up, and you read in Time Magazine and Newsweek and other places where innocent individuals have been accused of doing something wrong, where later they find out—the jury and judge finds out they just did not do it, because of the child's inability to make judgments and be accurate and the like. What happens in those kinds of cases where you bring in 2, 3, 4, 5, 7, or 10 other people who have never proven their case in a court of law and they say, "The same thing happened to me."

It does not seem like a very important amendment when you are talking about a $21 billion crime bill that is so significant. But in terms of our civil liberties, in terms of protecting the innocent in order to ensure that we get the guilty, this is a very dangerous amendment. I hope my colleagues tomorrow morning will conclude it makes no sense to support it.

Mr. COHEN. Will the Senator yield for a question?

Mr. BIDEN. I am delighted to yield.

Mr. COHEN. I know two of my colleagues wish to make a statement on a very important matter. I was going to inquire from the chairman. I heard him say to the chair he was going to "let him go" for the evening. So I will refrain tonight from offering another amendment. But perhaps after listening to the chairman debate this matter with Senator DOLE, I might be privileged to offer the amendment sometime early tomorrow?

Mr. BIDEN. I, quite frankly, have no opposition to you introducing it tonight. In the meantime, if the Senator will withhold, I ask unanimous consent that no second degree amendments be in order to the amendment that is pending.

The PRESIDING OFFICER. Is there objection?

Without objection, it so ordered.

Mr. BIDEN. I say to my friend from Maine—and I mean it sincerely—I am delighted to stay here and begin to discuss his amendment with him. I suggest that maybe we withhold doing that now.

MILITARY STYLE BOOT CAMPS POLICE CORPS PROGRAM

Mr. BOREN. Mr. President, I rise today to discuss two provisions of the Violent Crime Control and Law Enforcement Act of 1993. These provisions represent innovative responses to one of the most frightening problems of modern life: the unacceptably high level of crime.

Few of our past answers have been successful in controlling the escalating violence. Our primary solution has been to incarcerate more people for longer periods of time in conventional prison environments. The population of many prisons is at record levels, and most correctional systems are seriously overcrowded. It is time to try new solutions.

First, the bill authorizes funds to be used in grants for the operation of military-style boot camps for younger nonviolent offenders. This provision is similar to legislation that I introduced earlier this year, The Boot Camp Prison Act of 1993. The goals of a boot camp are rehabilitation, deterrence, building self-esteem, and prison population reduction. To achieve these objectives, the boot camp regime includes four major components: drills, work assignments, education classes, and counseling. Further, the boot camp concept includes the provision of post-release assistance to help youths make the transition from institutional life to life on the outside.

We cannot afford to miss an opportunity to help younger Americans reclaim their futures, to find order and meaning in their lives, and to return to

the civilian world ready to be productive citizens. My State's experience with boot camps indicates the promise of this solution. In 1984, Oklahoma opened what is now one of the Nation's oldest correctional boot camps for young, nonviolent, first-time offenders. Oklahoma's example has been followed by 24 other States. There are now at least 34 boot camps in the Nation, incarcerating over 400 people. In light of the success of boot camps on the State level, it is high time that we provided more Federal funding for these worthy projects.

I am also gratified at the inclusion of a second provision, the section establishing a national Police Corps program that would provide $200 million for Police Corps enrollees and $150 million for scholarships for police officers serving the Nation now. Modeled on the ROTC, the Police Corps program, which I have long supported, would provide education assistance in exchange for a commitment to post-graduation police service.

The Police Corps program offers a way to enlist the best and brightest Americans to combat violence in our country. They will gain not only the benefits of a good education, but they will also receive intensive Federal law enforcement training. Again, this provision offers an innovative solution to one of our most pressing crime problems: the need for more police in our communities. Since 1971, while violent crime has increased almost 300 percent, and spending on prisons has increased 154 percent, total spending on State and local police has increased only 12 percent.

Both of these provisions are practical and realistic responses to the problem of crime that threatens to overwhelm our cities and States. I am pleased that the comprehensive crime control package recognizes their promise and includes them as important components to an integrated approach.

AMENDMENT NO. 1099

Mr. GRASSLEY. Mr. President, I rise in support of the amendment of the Senator from Utah. I complement him and the Republican leader for including this amendment as part of the crime bill that I was pleased to cosponsor.

We can hire more police. That is important. And we can punish crimes with longer sentences and truth in sentencing. Those are also important. However, we will never make true progress in fighting crime without building prisons to hold the people that our police arrest and that will be necessary if sentencing is stiffened.

The bill before us fails to create sufficient prison space. Although unfortunate, this should surprise no one. As early as last spring, when the administration's proposed budget numbers were released, we first learned that cutting back on prison construction was an important administration goal. The amount of money proposed to be spent on new prison construction was slashed. That same philosophy has carried through to the administration's crime bill.

Drug treatment and boot camps should not be the first approach to incarceration. The amendment before us takes a much more effective approach. It provides $2 billion for the construction of new regional prisons and another $1 billion for grants to States to operate and maintain prisons.

We need more prisons because criminals today serve too little jail time.

We know what happens when criminals are released too soon for lack of prison space: They frequently commit more crimes. Michael Jordan's father's death was allegedly committed by youths who were on parole. The recent Florida killings were also allegedly committed by repeat offenders who had been released after serving only brief jail terms. And the results are in when it comes to experimentation with shorter sentences.

In the 1980's, Texas cut prison terms and increased parole population 400 percent. Punishment for serious crime fell 43 percent in Texas, while it rose 25 percent nationwide. Crime rates over the same period in Texas rose 29 percent, while they fell 4 percent across the country. Similarly, consider the Michigan experience. In the first half of the 1980's, Michigan cut back on prison construction. When national violent crime rates stabilized, the equivalent Michigan rate increased 25 percent by 1986, when the State began to build more prisons. The State's violent crime rate declined 12 percent by 1989, 3 years after the prison construction program began.

We hear the argument that prison construction is the wrong answer. We are told that it is too late by then, and that we should instead focus on preventing criminal activity. I disagree. Prison construction prevents crime. In 1989, a Florida newspaper followed what happened to prisoners that were given early release for lack of prison space. More than 30 percent were rearrested for a crime that occurred within the time they had been scheduled to remain in jail.

These 985 rearrested criminals were charged with 2,180 new crimes, including 11 murders or attempted murders, 63 armed robberies, 6 sexual assaults, 7 kidnapings, 104 aggravated assaults, 199 burglaries, and 451 drug offenses. And those are only the ones for which they were charged. Who knows how many others were committed for which they were not arrested?

The next time you hear someone say that it costs more to send someone to jail than to Harvard, consider how expensive it is not to send a criminal to jail.

Finally, Mr. President, the amendment of the Senator from Utah does not throw bad money after good. It does not merely give more money to States to keep doing what they have been doing. To have their prisoners serve time in the new regional prisons, and to receive new prison construction and operation grants, States will have to get tougher. Because the overwhelming number of criminals are violators of State crimes, we will never solve the problem of inadequate prison space unless the States change their procedures. To obtain these new Federal funds, States will need to adopt truth in sentencing.

Just as in the Federal system, qualifying States need to require criminals to serve at least 85 percent of their sentences, and to adopt sentencing procedures that limit judicial discretion. Today, that discretion frequently leads to grossly inadequate sentences, motivated in part by the lack of jail space to hold prisoners for longer periods. If they seek these new funds, States would also have to adopt pretrial detention procedures similar to those under Federal law. That approach will further reduce crime. Moreover, qualifying States would have to impose serious sentences for serious crimes, including firearms offenders, violent criminals, sex offenders, and child abusers, that were at least as stringent as those imposed under Federal sentencing guidelines. The States would also have to allow the perspective of crime victims to be considered at all appropriate stages.

While the States would not have any existing funding conditioned on adopting these measures, those States that wish to obtain some of these funds—funds which are fully paid for—will need to adopt the kinds of punishment that are necessary to reduce crime.

The amendment of the Senator from Utah thus represents the most effective approach to fighting crime that the Federal Government can undertake. Providing funds to States to build prison space, while at the same time requiring States to enact the kind of anticrime measures that are both effective and urgently needed. I urge my colleagues to vote for this amendment.

STATEMENT IN SUPPORT OF S. 1607

Mr. AKAKA. Mr. President, I am pleased that we are debating amendments to the Violent Crime Control Law Enforcement Act of 1993. I urge my colleagues to continue to put aside partisanship and enact this legislation without delay.

S. 1607 is a comprehensive, broad-based approach that focuses on tough criminal penalties, adequate resources for law enforcement activities, juvenile crime initiatives, and crime prevention and education programs.

The measure authorizes funds for a community policing program that will put 60,000 more police officers on the beat. There is authorization for college scholarships to students who commit

to 4 years service as police officers and a $150 million educational scholarship fund for in-service officers.

S. 1607 authorize funds for State and local law enforcement to support police, rural anticrime efforts, juvenile justice. corrections, and drug treatment in the criminal justice system.

Mr. President, we have travelled this route before. Regrettably, the 102d Congress failed to enact a major crime package after the threat of a Presidential veto prevented the Senate from voting on the crime bill conference report.

However, I am hopeful that we will work swiftly to ensure the safety of all Americans who should be able to walk through their neighborhoods without fear from violence. This measure reflects many of President Clinton's anticrime initiatives for expanding community policing, focusing on gang violence, and providing alternative punishment for young people through boot camps.

S. 1607, however, is only one part of the effort to curb violent crime. Other anticrime components include the Brady bill and the Violence Against Women Act.

I want to relate a recent meeting with the family of John Scully, a young attorney from Hawaii, who was one of eight people murdered by a lone gunman during a rampage through a San Francisco law firm this past summer.

As I sat with John's parents, Niall and Pegi Scully of Honolulu, his wife, Michelle Spiess Scully, who was injured during the shootings, his sister, Megin Scully-Minuth, and her husband. Reed, I became personally involved with the tragedy of a violent crime. Having one son who is a police officer with the Honolulu Police Department, and another who is a physician, I was no longer able to listen to these fine people as merely their Senator. I listened as a parent, a grandfather, and a friend. Despite their recent loss, the Scully family is channeling their grief through the establishment of the John and Michelle Scully Fund, which seeks to reduce handgun-related violence in this country. They were visiting Capitol Hill to urge Members of the Senate to support the Brady bill. Their selflessness was remarkable; their commitment to change Senators' minds steadfast; and their ability to relate as personal a tragedy as this inspiring. Pegi spoke of having to contact her six surviving children to tell them of John's death. Michelle, who was injured in the attack, quietly retold her husband's last words as he shielded her from the gunman. Megin explained that as a physician, the medical costs related to gun violence are staggering. And her father, also a physician, called gun-related violence a devastating public health issue.

Mr. President, I raise this incident because no family is safe from the threat of violence. In my own State of Hawaii, there were 42 murders in 1992. Although the number of murders in 1992 was three less than the year before, the number of reported forcible rapes increased 17.3 percent in that time. This represents the highest increase in the past 15 years, amounting to a 90.5 percent increase. I regret that violence against women continues to plague Hawaii. Of the seven murder victims killed by their spouses, all seven were women. And, there is one rape committed every 20 hours.

I am confident that S. 1607 will provide real answers to the serious problem of youth gangs and youth violence. I have spoken with law enforcement officials in Hawaii who have expressed deepening concern over the growing number of Hawaii youngsters who are joining gangs. Unlike their mainland counterparts, Hawaii gangs generally do not participate in criminal activities and do not sell drugs. However, mainland gang members are infiltrating the State, and of course, our State prison now houses members of some of the mainland's most notorious gangs. There is also the constant threat from international gang members who infiltrate criminal activities in the State.

Hawaii law enforcement officers believe they can, with adequate support, control the growing problem of youth violence and gangs. There are kids at risk and we cannot loose entire generations to our State and Federal prison systems, or worse. We can no longer allow young children to fear for their lives when they go to school. Childhood should be a wondrous time, and we must give back to our children the innocence they have lost.

S. 1607 directly attacks the issue of youth violence, gangs, and the juvenile justice system. This bill would increase penalties for drug trafficking and criminal street gangs, provide juvenile drug trafficking and gang prevention grants to the States and create a bindover system for certain violent juveniles. Moreover, the measure would expand proven programs that deter offenders such as boot camps.

Mr. President, as we debate the different provisions of the crime bill, let me remind my colleagues that there is a war waging within our borders that demand our immediate and diligent attention. We cannot abandon our friends, neighbors and loved ones whose lives are threatened daily by criminal activities that affect all of us.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business for up to 8 minutes, with Senators permitted to speak therein for up to 5 minutes.

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

IN MEMORY OF MARCIA VERVILLE

Mr. PELL. Mr. President, it is with great sadness that I rise to pay tribute to Marcia Verville, a valued member of the staff of the Foreign Relation Committee who died earlier this morning.

Marcia joined the committee staff in January 1987 after the retirement of Senator Tom Eagleton for whom she had worked for 16 years. It was in January 1987 that I became chairman of the Senate Foreign Relations Committee after the November 1986 election in which Democrats regained control of the Senate. The first person that I hired as part of the enlarged Democratic staff was Marcia Verville, and that was one of the best decisions I ever made.

I first came to know and admire Marcia when she was on the staff of the Labor and Human Resources Committee on which both Tom Eagleton and I served. She was a highly capable and dedicated professional who excelled in everything she did. When Senator Eagleton became a member of the Foreign Relations Committee during his final 2 years in the Senate, Marcia shifted gears professionally and did an outstanding job of staffing Senator Eagleton's fine work on the committee.

After Senator Eagleton's retirement, Marcia joined the Foreign Relations Committee staff and worked on foreign assistance and international economic issues. She did a superb job both for me and, later, for Senator SARBANES, the able chairman of our International Economic Policy Subcommittee. Many important pieces of legislation owe their existence to the imagination and skill of Marcia Verville.

Irrepressibly cheerful and witty, Marcia was liked by everyone. She had a wonderful sense of humor and a wry view of the world that helped to provide reality checks to all around her who needed them. She was kind, she was thoughtful, and she always wanted to help in any way she could. She did not have to be asked to do things; she instinctively knew what had to be done and did it. I cannot imagine better qualities for a member of the Senate family. We will miss her greatly.

Marcia was devoted to her daughter. Her office was festooned with Alexandra's photographs and artwork. Although Marica worked long, exhausting hours at the committee, she had arranged to spend as much time as possible with her family. Marcia had the right priorities. She was so enormously energetic and capable that devotion to family never diminished her enthusiasm or performance of her responsibilities as a Senate staffer.

Marcia is survived by her husband Richard, her daughter Alexandra, her sister Hazel Zimmerman, and her brother Vincent McCord. My heart goes out to all of them on this loss, and I want them all to know how much we in the Senate benefited from knowing and working with Marcia.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, today we mourn the tragic and untimely death of Marcia Verville, who passed away this morning after a long and valiant battle against cancer.

Marcia was a truly remarkable woman, known to many of us as a wise and exceptionally capable staff member, a dear and loyal friend, and a loving wife and mother.

She worked on the staff of the Senate Foreign Relations Committee since the beginning of 1987, having previously worked with our colleague, Senator Tom Eagleton, for some 16 years on the staff of the Senate Committee on Labor and Human Resources and the staff of the Senate Committee on Governmental Affairs.

This is a tremendous loss not only for her family and her friends, but, Mr. President, it is a tremendous loss for the committee, the Senate, and indeed the Nation that she is no longer here to share with us her extensive knowledge, her sharp wit, and her profound commitment to this Nation's highest ideals.

Many pieces of important legislation passed by this body were shaped by Marcia Verville, and her Nation's values and interests were enhanced by her efforts of more than 20 years as a Senate staffer.

It was a privilege to have worked with her. She was unmatched in her dedication and her effectiveness, admired and respected by all.

One thing that was particularly striking and endearing about Marcia was her ability in the midst of the daily crises and frustrations on the Hill to keep things in perspective, to understand what was truly important, and to maintain through all of it a wonderful sense of humor. She managed to perform an extremely difficult and demanding job with the utmost competence and what often seemed with the utmost ease while making time to spend with her daughter and her husband, who were so very important to her.

Mr. President, it is always a great tragedy and especially a great tragedy when someone is taken from us at such a young and vibrant age with so much yet to accomplish and so much yet to share.

We want Marcia's family to know that our thoughts are with them and that we all miss here deeply. We extend our profound sympathies to her husband, Dick, her daughter, Alexandra, and the other members of her family.

We learned of her death this morning at the very time that a meeting of the Senate Foreign Relations Committee was taking place at which the Secretary of State, Warren Christopher, was testifying. When the committee adjourned, Mr. President, at the conclusion of that hearing, it did so in memory of and in tribute to Marcia Verville. Her contributions, both personal and professional, were of extraordinary quality and will never be forgotten.

Mr. President, I yield the floor.

FEMA AND THE CALIFORNIA FIRES

Mrs. FEINSTEIN. Mr. President, California last week and this crackled with disaster, and I want to focus the attention of the United States Senate on the federal response to an unprecedented outbreak of wildfires.

Last week, after the first fires were reported, I traveled to California with Senator BARBARA BOXER and the new director of the Federal Emergency Management Agency, James Lee Witt, to see firsthand and up close how all levels of government were responding to the crisis. And again this week, as new fires transformed some of Southern California's most beautiful residential areas into grey and empty moonscapes, I closely monitored developments.

Over the past 2 weeks, 17 major fires raced out of control, sweeping more than 200,000 acres and destroying an estimated 1000 homes. Damage now exceeds $1.5 billion.

Tens of thousands of lives have been disrupted, but, miraculously, in these infernos only one life has been lost.

Many of the firestorms were touched off by arsonists for reasons that defy sanity. But as President Clinton said last night when he committed $15 million to assist the victims "you are not alone in facing these fires."

My concern is that as the fires die down our commitment to the victims remains steadfast. In the past, Californians have had a very poor experience with FEMA. Especially following the Loma Prieta earthquake in 1989 and this year's Los Angeles riots, the response by the federal government was slow, bureaucratic and riddled with problems.

More than two years after 3,200 homes were destroyed in the Oakland firestorm, many have still not been rebuilt. Because of the lapse of time, it was necessary for Congress to adopt legislation, which I authored, to give homeowners more time to rebuild and still qualify for income tax benefits.

Helping Californians recover from last week's and now this week's catastrophic wildfires will be a major test for FEMA. Quite frankly, I'm watching to see that it succeeds.

My purpose in spending time in the command centers and on the fire lines was to see how rapidly and effectively FEMA mobilized to assist those victimized by the disaster.

As I follow up, I assigned members of my California staff to each of the disaster assistance centers that have been established in the wake of the various fires. Additionally, I have asked for a status report of all outstanding complaints in California.

With 60-foot high flames pushed by winds gusting at more than 50 miles-an-hour, the fires left terrible devastation behind them.

Last week, 13 fires, raging from Ventura to the Mexican border, blackened more than 168,000 acres and turned 731 structures to ash, causing more than $500 million in damage.

On Tuesday of this week, again driven by strong Santa Ana winds, four new fires burst out of control, charring some 40,000 acres.

By far the most devastating of these fires exploded out of Topanga Canyon into Malibu north of Los Angeles and to the very shore of the Pacific. More than 200 homes were destroyed. By this morning, a containment line was holding around about 60 percent of the 18,000 acres burned so far, but hot spots continued to send flames curling skyward. It was this blaze that claimed a life. Damage in this fire is estimated at $1 billion.

Almost simultaneously, another fire broke out near Banning in Riverside County and swept 8,000 acres and destroyed at least 17 structures before it was brought under control yesterday. Yet another blackened 1,500 acres in Poway in San Diego County before it, too, was controlled.

Personally surveying the fires in Altadena, Riverside, and Laguna Beach, I was starkly reminded about the ferocity of fire: A major firestorm fueled by Santa Ana winds moves with unbelievable speed and without warning; fire often follows an illogical path—a single home on a block in Laguna Beach survived while all of the other homes were destroyed—this is a true testament to fire-resistant roofing and plants such as ice plants that are fire retardant; victims lose everything—and often escape only with the clothes they are wearing and their pets.

FEMA Director Witt, who flew to California last week when the first fires erupted, was again back in the State. Local, State, and Federal resources are pooled to respond to the latest conflagrations. I compliment the director for so swiftly responding to California's heartbreak.

For many, so many families, the dreams and years of effort have turned to ashes. They have lost everything, and in the weeks and months ahead they will need our assistance.

Our hearts go out to the victims of this disaster—and we all pray that the latest fires finally are controlled.

During the ground tour last week, one of the most impressive things I learned about was that California has a unique program known as FireScope.

It's a unified command system that coordinates all firefighting resources—local, state and national. Fire engines, ground crews, helicopters and aerial

tankers are mobilized from throughout California and from other states and joined in a single, concerted effort.

FireScope enabled the quick mobilizations of 80 strike teams of five engines each from all over California to re-enforce the embattled firefighters in Southern California. It provides an impressive model for all states in disasters.

I want to see if the FireScope program can be expanded nationwide—and I intend to work with FEMA director James Lee Witt to see if this is feasible.

In addition, I intend to work with my colleague, Senator BARBARA BOXER, to look at the current Small Business Administration loan program for disaster victims. Loans of 4 percent and 8 percent are available, but in today's marketplace where low commercial interest rate loans are available, these rates may be too high. We will work to see if the loan rate for individuals and businesses can be lowered to offer greater assistance.

In the days and weeks ahead, it is the job of federal agencies to work with local and state government officials to: Make Small Business Administration loans available in a timely fashion to small companies hit hard by the fire, reseed the hillside areas—in the Santa Monica Mountains, above Altadena, and on the hillsides of Laguna Beach and Malibu and in Riverside, San Diego and Ventura counties—to make sure that what the fire left desolate and barren aren't followed by the disaster of mudslides when the rainy season comes; collaborate with local law enforcement officials in apprehending and prosecuting those who deliberately set several of the larger fires. Arson is a wild and indiscriminate crime that selects no single victim but threatens entire communities.

In the Federal, state and local response, delays and excuses can not be tolerated—action is what the people of these hard-pressed communities need right now.

I know I join the entire California delegation in saying that we stand ready to assist—and if any reforms are necessary at FEMA or at any other federal agency to speed the recovery process, I will quickly offer such legislation.

COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order No. 214, S. 732, the Comprehensive Child Immunization Act of 1993.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 732) to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, REFERENCES AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Child Immunization Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) PURPOSE.—It is the purpose of this Act to ensure that children in the United States are appropriately immunized against vaccine preventable infectious diseases at the earliest appropriate age.

SEC. 2. MONITORING OF CHILDHOOD IMMUNIZATIONS.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle 3—Improved Immunization Delivery and Monitoring Systems

"Part A—List of Vaccines and Administration

"SEC. 2141. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR ADMINISTRATION.

"(a) RECOMMENDED PEDIATRIC VACCINES.—

"(1) IN GENERAL.—The Secretary shall establish a list of the vaccines that the Secretary recommends for administration to all children for the purpose of immunizing the children, subject to such contraindications for particular medical categories of children as the Secretary may establish under subsection (b)(1)(D). The Secretary shall periodically review the list, and shall revise the list as appropriate.

"(2) RULE OF CONSTRUCTION.—

"(A) The list of vaccines specified in subparagraph (B) is deemed to be the list of vaccines maintained under paragraph (1).

"(B) The list of vaccines specified in this subparagraph is the list of vaccines that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices, an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

"(b) RECOMMENDED SCHEDULE FOR ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a pediatric vaccine, the Secretary shall establish (and periodically review and as appropriate revise) a schedule of nonbinding recommendations for the following:

"(A) The number of immunizations with the vaccine that children should receive.

"(B) The ages at which children should receive the immunizations.

"(C) The dose of vaccine that should be administered in the immunizations.

"(D) Any contraindications regarding administration of the vaccine.

"(E) Such other guidelines as the Secretary determines to be appropriate with respect to administering the vaccine to children.

"(2) VARIATIONS IN MEDICAL PRACTICE.—In establishing and revising a schedule under paragraph (1), the Secretary shall ensure that, in the case of the pediatric vaccine involved, the schedule provides for the full range of variations in medical judgment regarding the administration of the vaccine, subject to remaining within medical norms.

"(3) RULE OF CONSTRUCTION.—

"(A) The schedule specified in subparagraph (B) is deemed to be the schedule maintained under paragraph (1).

"(B) The schedule specified in this subparagraph is the schedule that, for purposes of paragraph (1), is established (and periodically reviewed and as appropriate revised) by the advisory committee specified in subsection (a)(2)(B).

"(c) GENERALLY APPLICABLE RULES OF CONSTRUCTION.—This section does not supersede any State law or requirements with respect to receiving immunizations (including any such law relating to religious exemptions or other exemptions under such State laws).

"(d) ISSUANCE OF LIST AND SCHEDULES.—Not later than 180 days after the date of the enactment of this section, the Secretary shall establish the initial list required in subsection (a) and the schedule required in subsection (b).

"Part B—State Registry System for Immunization Information

"SEC. 2145. PURPOSE.

"It is the purpose of this part to authorize the Secretary, in consultation with State public health officials, to establish State registry systems to monitor the immunization status of all children.

"SEC. 2146. GRANTS FOR IMMUNIZATION REGISTRIES.

"(a) IN GENERAL.—For the purpose described in section 2145, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 2151. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 2150 on behalf of the chief executive officer of such State.

"(b) DESIGN OF STATE REGISTRIES.—To carry out the purpose described in section 2145, a State registry established under this part shall be designed to—

"(1) provide accurate and up to date surveillance data regarding immunization rates at the State and local levels;

"(2) assist in identifying localities with inadequate immunization rates to target for necessary remedial assistance;

"(3) assist in the effective administration and management of immunization programs at State and local levels by providing data to guide immunization program efforts;

"(4) assist the State in providing and receiving information on the immunization status of children who move across geographic boundaries that are covered by different State or local registries; and

"(5) facilitate the linkage of vaccine dosage information to adverse events reported to the Centers for Disease Control and Prevention under section 2125(b) and disease outbreak patterns, for the purpose of monitoring vaccine safety and effectiveness.

"(c) ELIGIBLE USE OF FUNDS.—The Secretary may make a grant under subsection (a) only if the State agrees to expend the grant for the purpose of—

"(1) collecting the data described in section 2147;

"(2) operating registries to maintain the data (and establishing such registries, in the case of a State that is not operating such a registry);

"(3) utilizing the data to monitor the extent to which children have received immunizations in accordance with the schedule established under section 2141;

"(4) notifying parents, as appropriate, if children have not received immunizations in accordance with such schedule;

"(5) coordinating and exchanging information with other State registries to allow the monitoring of the immunization status of children changing State of residence; and

"(6) such other activities as the Secretary may authorize with respect to achieving the objectives established by the Secretary for the year 2000 for the immunization status of children in the United States.

"(d) REQUIREMENT REGARDING STATE LAW.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved—

"(A) provides assurances satisfactory to the Secretary that, not later than October 1, 1996, the State will be operating a registry in accordance with this part, including having in effect such laws and regulations as may be necessary to so operate such a registry; and

"(B) agrees that, prior to such date, the State will make such efforts to operate a registry in accordance with this part as may be authorized in the law and regulations of the State.

"(2) RULES OF CONSTRUCTION.—

"(A) With respect to the agreements made by a State under this part, other than paragraph (1)(B), the Secretary may require compliance with the agreements only to the extent consistent with such paragraph.

"(B) The provisions of this part do not authorize the Secretary, as a condition of the receipt of a grant under subsection (a) by a State, to prohibit the State from providing any parent, upon the request of the parent, with an exemption from the requirements established by the State pursuant to this part for the collection of data regarding any child of the parent.

"SEC. 2147. REGISTRY DATA.

"(a) IN GENERAL.—For purposes of section 2146(c)(1), the data described in this section are the data described in subsection (b) and the data described in subsection (c).

"(b) DATA REGARDING BIRTH OF CHILD.—With respect to the birth of a child, the data described in this subsection is as follows:

"(1) The name of each child born in the State involved after the date of the implementation of the registry (in no event shall such date be later than October 1, 1996).

"(2) Demographic data on the child.

"(3) The name of one or both of the parents of the child. If the child has been given up for adoption, any information regarding the identity of the birth parent or parents of the child may not be entered into the registry, or if entered, shall be deleted.

"(4) The address, as of the date of the birth of the child, of each parent whose name is received in the registry pursuant to paragraph (3).

"(c) DATA REGARDING INDIVIDUAL IMMUNIZATIONS.—With respect to a child to whom a pediatric vaccine is administered in the State involved, the data described in this subsection is as follows:

"(1) The name, age, and address of the child.

"(2) The date on which the vaccine was administered to the child.

"(3) The name and business address of the health care provider that administered the vaccine.

"(4) The address of the facility at which the vaccine was administered.

"(5) The name and address of one or both parents of the child as of the date on which the vaccine was administered, if such information is available to the health care provider.

"(6) The type of vaccine.

"(7) The lot number or other information identifying the particular manufacturing batch of the vaccine.

"(8) The dose of vaccine that was administered.

"(9) A notation of the presence of any adverse medical reactions that the child experienced in relation to the vaccine and of which the health care provider is aware, in accordance with section 2125.

"(10) The presence of contraindications noted by the health care provider with respect to administration of the vaccine to the child.

"(11) Such other data regarding immunizations for the child, including identifying data, as the Secretary, in consultation with State public health officials, may require consistent with applicable law (including social security account numbers furnished pursuant to section 205(c)(2)(E) of the Social Security Act).

"(d) LIMITATION.—The Secretary may not establish information reporting requirements in addition to those described in subsection (c) if such requirements are unduly burdensome.

"(e) DATE CERTAIN FOR SUBMISSION TO REGISTRY.—The Secretary may make a grant under section 2146 only if the State involved agrees to ensure that, with respect to a child—

"(1) the data described in subsection (b) are submitted to the registry under such section as soon as possible but in no event later than 2 weeks after the date on which the child is born; and

"(2) the data described in subsection (c) with respect to a vaccine are submitted to such registry as soon as possible but in no event later than 4 weeks after the date on which the vaccine is administered to the child.

"(f) UNIFORMITY IN METHODOLOGIES.—The Secretary shall, in consultation with State public health officials, establish standards regarding the methodologies used in establishing and operating registries under section 2146, and may make a grant under such section only if the State agrees to comply with the standards. The Secretary shall provide maximum flexibility to the States while also retaining a reasonable degree of uniformity among the States in such methodologies for the purpose of ensuring the utility, comparability, and exchange of the data maintained in such registries.

"(g) COORDINATION AMONG STATES.—The Secretary may make a grant under section 2146 to a State only if, with respect to the operation of the registry of the State under such section, the State agrees to transfer that information contained in the State registry pursuant to section 2146 to other States upon the request of such States for such information.

"SEC. 2148. FEDERAL STANDARDS ON CONFIDENTIALITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall by regulation establish standards providing for maintaining the confidentiality of the identity of individuals with respect to whom data are maintained in registries under section 2146. Such standards shall, with respect to a State, provide that the State is to have in effect laws or regulations regarding such confidentiality, including appropriate penalties for violation of the laws. The Secretary may make a grant under such section only if the State involved agrees to comply with the standards.

"(2) USE OF DISCLOSURE.—

"(A) No personally identifiable information relating to a child or to the parent or guardian of such child that is collected or maintained by the State registry may be used or disclosed by any holder of such information except as permitted for—

"(i) the monitoring of a child's immunization status;

"(ii) oversight, audit, and evaluation of the immunization delivery and registry systems;

"(iii) activities relating to establishing and maintaining a safe and effective supply of recommended childhood vaccine;

"(iv) processing of insurance claims for payment for vaccine administration (but only to the extent necessary for processing claims); and

"(v) administration of the National Vaccine Injury Compensation Program under subtitle 2.

"(B) Information regarding immunizations provided as described in subparagraph (A)(i) may be used or disclosed only with the written authorization of the individual to whom it refers or to the parent with custody of such individual.

"(b) USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Any usage or disclosure of data in registries under section 2146 that consists of social security account numbers and related information which is otherwise permitted under this part may be exercised only to the extent permitted under section 205(c)(2)(E) of the Social Security Act. For purposes of the preceding sentence, the term 'related information' has the meaning given such term in clause (iv)(II) of such section.

"SEC. 2149. PROVIDER PARTICIPATION.

"(a) IN GENERAL.—The State shall monitor and enforce compliance by health care providers with the requirements of sections 2147 and 2148 and section 2155(b) for all doses of pediatric vaccine administered in the State. The State shall establish procedures satisfactory to the Secretary for discontinuing the distribution of federally purchased or State purchased vaccine for any health care provider who fails to comply with the requirements of section 2147 and for reinstating such vaccine supply to such provider upon receiving from such provider—

"(1) the reports necessary to make current and complete the information that would have been furnished to the State registry between the dates of the provider's termination and reinstatement; and

"(2) satisfactory assurances regarding the provider's future compliance.

"(b) REPORTS TO SECRETARY.—The Secretary may make a grant under section 2146 only if the State involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to the activities of the State under this part.

"SEC. 2150. APPLICATION FOR GRANT.

"An application by a State for a grant under section 2146 is in accordance with this section if the application—

"(1) is submitted not later than the date specified by the Secretary;

"(2) contains each agreement required in this part;

"(3) contains any information required in this part to be submitted to the Secretary; and

"(4) 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 part.

"SEC. 2151. DETERMINATION OF AMOUNT OF ALLOTMENT.

"The Secretary shall determine the amount of the allotments required in section 2146 for States for a fiscal year in accordance with a formula established by the Secretary that allots the amounts appropriated under section 2152 for the fiscal year on the basis of the costs of the States in establishing and operating registries under section 2146.

"SEC. 2152. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, other than section 2153, there are authorized to be appropriated $152,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, and $35,000,000 for each of the fiscal years 1996 through 1999.

"SEC. 2153. NATIONAL IMMUNIZATION SURVEILLANCE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a national immunization surveillance program for the purpose of assessing the effects of the programs and activities provided for in this

subtitle towards appropriately immunizing children and facilitating State immunization registries. The national immunization surveillance program shall—

"(1) provide technical assistance to States for the development of vaccination registries and monitoring systems; and

"(2) receive aggregate epidemiologic data (that is in a format that is not person specific) collected by States as provided for in section 2147 at intervals determined appropriate by the Secretary for the purpose of—

"(A) compiling accurate and up-to-date surveillance data regarding immunization rates at the State level in order to assess the progress made towards achieving nationally established immunization goals;

"(B) assisting in the effective administration and management of immunization programs at the State level by providing technical assistance to guide immunization program efforts at the request of the State;

"(C) providing technical assistance to States and localities to facilitate monitoring the immunization status of children who move across geographic boundaries that are covered by different State or local registries at the request of such States or localities; and

"(D) monitoring the safety and effectiveness of vaccines by linking vaccine dosage information with adverse events reporting under section 2125(b) and disease outbreak patterns.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize the release of person specific information to the Secretary for the purpose of immunization surveillance.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section in each of the fiscal years 1994 through 1999.

"SEC. 2154. REPORT.

"Not later than January 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the planning, development, operation and effectiveness of the national immunization surveillance program and the State immunization registries.

"Part C—Distribution of Vaccines, Public Outreach and Education

"SEC. 2155. DISTRIBUTION OF VACCINES.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS.—The Secretary shall provide for the distribution, without charge, of recommended pediatric vaccines (in accordance with section 2141) purchased by the Secretary to health care providers who serve children and who—

"(A) are members of a uniformed service, or are officers or employees of the United States;

"(B) are health centers (as defined in section 2162(2)); or

"(C) provide services under section 503 of the Indian Health Care Improvement Act or pursuant to a contract under section 102 of the Indian Self Determination Act.

"(2) STATES.—The Secretary shall provide for the distribution, without charge, of those recommended pediatric vaccines that are purchased by the Secretary and provided to States for the purposes of immunizing medicaid-eligible children, and additional vaccines that may be purchased by the Secretary for children within those States.

"(b) DUTIES OF HEALTH CARE PROVIDERS.—

"(1) FREE PROVISION TO CHILDREN.—A health care provider or entity receiving vaccine under this section may use such vaccine only for administration to children and may not impose a charge for such vaccine. A provider or health care entity may impose a fee that reflects actual regional costs as determined by the Secretary for the administration of such vaccine, except that a provider may not deny a child a vaccination due to the inability of the child's parent to pay an administration fee.

"(2) REPORTING REQUIREMENTS.—A health care provider receiving vaccine under this section shall report the information required under section 2147 to the applicable State registry operated pursuant to a grant under section 2146 if such State registry exists. The provider shall additionally report to such State registry any occurrence reported to the Secretary pursuant to section 2125(b). The provider shall also provide regular and periodic estimates to the State of the provider's future dosage needs for recommended childhood vaccines distributed under this section. All reports shall be made with such frequency and in such detail as the Secretary, in consultation with State public health officials, may prescribe.

"SEC. 2156. IMPROVED IMMUNIZATION DELIVERY, OUTREACH AND EDUCATION.

"(a) FEDERAL EFFORTS.—The Secretary, acting through the Centers for Disease Control and Prevention and in conjunction with State health officials and other appropriate public and private organizations, shall conduct the following activities to improve Federal, State and local vaccine delivery systems and immunization outreach and education efforts:

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary, in conjunction with State health officials and other appropriate public and private organizations, shall develop and implement a National Immunization Public Awareness Campaign to assist families (through bilingual means if necessary) of children under the age of 2 years, and expectant parents, in obtaining knowledge concerning the importance of having their children immunized and in identifying the vaccines, schedules for immunization, and vaccine provider locations, appropriate with respect to their children.

"(B) IMPLEMENTATION.—In implementing the Campaign under subparagraph (A), the Secretary shall ensure that—

"(i) new and innovative methods are developed and utilized to publicly advertise the need to have children immunized in a timely manner;

"(ii) print, radio and television media are utilized to convey immunization information to the public; and

"(iii) with respect to immunization information, efforts are made to target pregnant women and the parents of children under the age of 2.

"(2) INTERAGENCY COMMITTEE ON IMMUNIZATION.—The Secretary, in conjunction with the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Education, shall carry out activities through the Interagency Committee on Immunization to incorporate immunization status assessments and referral services as an integral part of the process by which individuals apply for assistance under—

"(A) the food stamp program under the Food Stamp Act of 1977;

"(B) section 17 of the Child Nutrition Act of 1966;

"(C) the Head Start Act;

"(D) part A of title IV of the Social Security Act;

"(E) title XIX of the Social Security Act;

"(F) any of the housing assistance laws of the United States; and

"(G) other programs determined appropriate by any of the Secretaries described in this paragraph.

"(3) EXPANDED OPPORTUNITY FOR NATIONAL SERVICE.—The Secretary, in conjunction with the Commission on National and Community Service and other independent agencies, is encouraged to develop opportunities for participants in national and community service programs to contribute to local initiatives for the improvement of immunization services, including public outreach and education efforts.

"(b) GRANTS TO STATES.—

"(1) IN GENERAL.—

"(A) The Secretary may award grants to States to enable such State to develop, revise and implement immunization improvement plans as described in paragraph (2).

"(B) To be eligible to receive a grant under subparagraph (A), 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.

"(2) DESIGN.—A State immunization improvement plan shall be designed to improve immunization delivery, outreach, education and coordination within the State. Such plan shall provide for the creation of—

"(A) a vaccine provider education campaign and the distribution of any other materials determined to be appropriate by State health officials—

"(i) to enable such providers to make the best use of vaccination opportunities; and

"(ii) to educate such providers concerning their obligation to report immunization information with respect to their patients to State registries;

"(B) expanded capacity for the delivery of immunizations through—

"(i) increasing the number or type of facilities through which vaccines may be made available and the capacity of such facilities to immunize more children;

"(ii) developing alternative methods of delivering vaccines, such as mobile health clinics;

"(iii) increasing the number of hours during which vaccines are made available by providers within the State; or

"(iv) coordinating with federally qualified health centers to reach and immunize underserved children through education, outreach, tracking, and the provision of services;

except that, the Secretary may waive any specific requirement of this subparagraph if the Secretary determines that State immunization delivery efforts are sufficient without the imposition of such requirement;

"(C) population-based assessment criteria through which the State is able to assess the effectiveness of immunization activities in the State, which may be fulfilled through the implementation of a State immunization registry under section 2146;

"(D) a public awareness campaign, in conjunction with the National Campaign established under subsection (a)(1), to provide parents with information about the importance of immunization, the types and schedules for the administration of vaccines, and the locations of vaccines providers;

"(E) coordinated community outreach activities among public or private health programs, including local health departments and health centers, and other public or private entities, to encourage and facilitate the ability of parents to obtain immunization services for their children; and

"(F) other activities that are not inconsistent with the purposes of this subtitle, subject to the approval of the Secretary.

"(3) IMMUNIZATION IMPROVEMENT PLAN APPROVAL.—

"(A) GOALS.—As part of the immunization improvement plan of a State, the State shall establish immunization rate goals for children residing within the State.

"(B) APPROVAL.—The immunization improvement plan developed by a State under this subsection shall be submitted to the Secretary for approval prior to the distribution of grant funds to the States under this subsection. The Secretary shall periodically review the progress

that the State has made under such plan in achieving the goals established under subparagraph (A).

"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grant awards will be equitably distributed between rural and urban areas. In determining such distribution, the Secretary shall take into account the added costs of supporting the health care delivery infrastructure in sparsely populated areas.

"(D) REPORTING.—A State shall annually prepare and submit to the Director of the Centers for Disease Control and Prevention a report concerning the implementation of the State immunization improvement plan. If the Director or the Secretary, in reviewing the reports submitted under this subparagraph determine that the State has exceeded the goals established under subparagraph (A), the Secretary may award a bonus to the State in an amount not to exceed 5 percent of the amount the State received under the grant for the purposes of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

"Part D—General Provisions

"SEC. 2161. REPORT.

"Not later than October 1, 1995, and biennially thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs, efficiency, and effectiveness of procedures established to deliver vaccine to health care providers.

"SEC. 2162. NATIONAL VACCINE PROGRAM.

"The Secretary shall authorize a report to be prepared by the National Academy of Sciences concerning the role of the National Vaccine Program established under this title in achieving progress towards the nationally established immunization goals for the year 2000, and recommendations with respect to the changes in such Program that would facilitate greater progress towards achieving such goals.

"SEC. 2163. DEFINITIONS.

"For purposes of this subtitle—

"(1) HEALTH CARE PROVIDER.—The term 'health care provider', with respect to the administration of vaccines to children, means an entity that is licensed or otherwise authorized for such administration under the law of the State in which the entity administers the vaccine, subject to section 333(e).

"(2) HEALTH CENTER.—The term 'health center' means—

"(A) a federally qualified health center, as defined in section 1905(l)(2) of the Social Security Act; or

"(B) a public or nonprofit private entity receiving Federal funds under—

"(i) section 329, 330 or 340;

"(ii) section 340A (relating to grants for health services for residents of public housing); or

"(iii) section 501(a)(2) of the Social Security Act (relating to special projects of regional and national significance).

"(3) IMMUNIZATION.—The term 'immunization' means an immunization against a vaccine-preventable disease.

"(4) PARENT.—The term 'parent', with respect to a child, means a legal guardian of the child.

"(5) PEDIATRIC VACCINE.—The term 'pediatric vaccine' means a vaccine included on the list established under section 2141.

"(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Republic of the Marshall Islands, Micronesia, the Northern Mariana Islands, and Palau.".

69-059 O—97 Vol. 139 (Pt. 19) 21

SEC. 3. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) AMENDMENT OF VACCINE INJURY TABLE.—

(1) ADDITION OF VACCINES.—Section 2114 (42 U.S.C. 300aa–14) is amended by adding at the end thereof the following new subsection:

"(f) ADDITION OF VACCINES TO TABLE.—

"(1) IN GENERAL.—The Vaccine Injury table contained in subsection (a) shall also include any recommended childhood vaccine included in the list promulgated by the Secretary under section 2141.

"(2) REVIEW OF INFORMATION AND REVISION.—Not later than 2 years after the addition of a new vaccine to the table contained in subsection (a), and on a regular basis thereafter, the Secretary shall review information obtained under sections 2125 and part B of subtitle 3, and based on such review (and other relevant information) shall, as appropriate, develop with respect to such new vaccine—

"(A) revisions with respect to illnesses, disabilities, injuries or conditions covered by such table;

"(B) appropriate specifications of the time period for the first symptom or manifestation of onset or of significant aggravation of such illnesses, disabilities, injuries or condition after vaccine administration, for purposes of receiving compensation under the Program; and

"(C) recommendations as to the amount of tax that should be imposed under section 4131 of the Internal Revenue Code of 1986 for each dose of vaccine.

"(3) LIMITATION.—The Secretary may modify the table contained in subsection (a) pursuant to paragraphs (1) and (2) only in accordance with subsection (c).

"(4) REVISION.—For purposes of section 2116(b), the addition of vaccine to the table contained in subsection (a) by operation of this subsection shall constitute a revision of the table.".

(2) ATTORNEYS' FEES.—Section 2115(e) (42 U.S.C. 300aa-15(e)) is amended by adding at the end thereof the following new paragraph:

"(4) The special master may award reasonable attorneys' fees whether or not an election has been made under section 2121(a) to file a civil action concerning such petition.".

(3) CONSENT FOR ANNUITY.—Subparagraphs (A) and (B) of section 2115(f)(4) are amended by striking ", with the consent of the petitioner," each place that such appears.

(4) TIME PERIODS FOR FEES AND COSTS.—

(A) IN GENERAL.—Section 2115(e) (42 U.S.C. 300aa–15(e)) (as amended by paragraph (3)) is further amended by adding at the end thereof the following new paragraph:

"(5) With respect to a petitioners' application for attorneys' fees and costs—

"(A) if the respondent enters no objection to such application within 21 days of the date on which the application was filed (unless such time period is extended by the special master with the consent of the petitioner) the special master shall enter a decision on such application within 30 days of such filing;

"(B) if the respondent files an objection to such application and the special master does not enter a decision with respect to the application within 60 days after the date on which the objection is filed, the special master involved shall, upon the written request of the petitioner, enter a decision within 15 days after the filing of such request; and

"(C) if the respondent files an objection to such application and the petitioner moves to reduce costs and fees as provided for in the objection, the special master shall enter a decision within 5 days after the receipt of the petitioner's motion.

The chief special master, upon the request of a special master, may waive the time limitations applicable to the special master under this paragraph if the special master demonstrates that complicating factors exist with respect to the issues involved to which the time limitation applies.".

(B) APPLICATION.—The amendment made by subparagraph (A) shall apply to all petitioners' applications for attorneys' fees and costs filed under section 2115(e) of the Public Health Service Act which are pending on the date of enactment of this Act.

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 2115(j) (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for each succeeding fiscal year" and inserting in lieu thereof "$110,000,000 for each succeeding fiscal year".

(6) LIMITATION OF ACTIONS.—Section 2116(b) (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(b) EXTENSION OF TIME FOR DECISION.—

(1) JURISDICTION.—Section 2112(d)(3)(D) (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for not more than 6 months at a time)".

(2) REPORT ON COLLECTIONS.—Section 2117 (42 U.S.C. 300aa–17) is amended by adding at the end thereof the following new subsection:

"(c) REPORT.—The Attorney General shall, on January 1 of each year, prepare and submit to the appropriate committees of Congress a report concerning amounts collected under this section.".

(3) INCREASED RESPONSIBILITIES OF COMMISSION.—Section 2119(f) (42 U.S.C. 300aa–19(f)) is amended—

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

(B) by striking the period at the end of paragraph (5) and inserting ", and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) monitor the balance of the Vaccine Injury Trust Fund established by section 9510 of the Internal Revenue Code and, as appropriate, recommend changes in the tax per dose of vaccine imposed under section 4131 of such Code.".

(c) SIMPLIFICATION OF VACCINE INFORMATION MATERIALS.—

(1) INFORMATION.—Section 2126(b) (42 U.S.C. 300aa–26(b)) is amended—

(A) by striking "by rule" in the matter preceding paragraph (1);

(B) in paragraph (1), by striking "90" and inserting "30"; and

(C) in paragraph (2), by striking ", appropriate health care providers and parent organizations".

(2) REQUIREMENTS.—Section 2126(c) (42 U.S.C. 300aa–26(c)) is amended—

(A) in the matter preceding paragraph (1), by inserting "shall be based on available data and information," after "such materials"; and

(B) by striking out paragraphs (1) through (10) and inserting in lieu thereof the following new paragraphs:

"(1) a concise description of the benefits of the vaccine;

"(2) a concise description of the risks associated with the vaccine;

"(3) a statement of the availability of the National Vaccine Injury Compensation Program;

"(4) a statement of the availability from the Secretary of more detailed written information concerning the information required under paragraphs (1), (2), and (3), that shall be made available to the parent, legal guardian, or other responsible person upon request; and

"(5) such other relevant information as determined appropriate by the Secretary.".

(3) OTHER INDIVIDUALS.—Subsections (a) and (d) of section 2126 (42 U.S.C. 300aa–26 (a) and (d)) are amended by inserting "or to any other individual" immediately after "to the legal representative of any child" each place that such occurs.

(4) PROVIDER DUTIES.—Subsection (d) of section 2126 (42 U.S.C. 300aa–26(d)) is amended—

(A) by striking all after "subsection (a)," the second place it appears in the first sentence and inserting "supplemented with visual presentations or oral explanations, in appropriate cases."; and

(B) by striking "or other information" in the last sentence.

(d) AUTHORIZATION OF APPROPRIATIONS.—Part A of subtitle 2 of title XXI (42 U.S.C. 300aa–10 et seq.) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2120. (a) SECRETARY.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986, to the Secretary, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.

"(b) ATTORNEY GENERAL.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Attorney General, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.

"(c) COURT OF FEDERAL CLAIMS.—For purposes of administering this part, there are authorized to be appropriated from the Vaccine Injury Compensation Trust Fund described in subsection (a), to the Court of Federal Claims, $3,000,000 for each of the fiscal years 1994, 1995, and 1996.".

SEC. 4. MISCELLANEOUS PROVISIONS.

Section 317(k) (42 U.S.C. 247b(k)) is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) and (4), respectively.

SEC. 5. FEDERAL TORT CLAIMS AMENDMENTS.

(a) CLARIFICATION OF COVERAGE OF OFFICERS AND EMPLOYEES OF CLINICS.—The first sentence of section 224(g)(1) of the Public Health Service Act (42 U.S.C. 233(g)(1)) is amended by striking "officer, employee, or contractor" and inserting the following: "officer or employee of such an entity, and any contractor".

(b) COVERAGE FOR SERVICES FURNISHED TO INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—Section 224(g) of such Act (42 U.S.C. 233(g)(1)), as amended by paragraph (1), is further amended—

(1) in the first sentence of paragraph (1), by inserting after "Service" the following: "with respect to services provided to patients of the entity and (subject to paragraph (7)) to certain other individuals"; and

(2) by adding at the end the following new paragraph:

"(7) For purposes of paragraph (1), an officer, employee, or contractor described in such paragraph may be deemed to be an employee of the Public Health Service with respect to services provided to individuals who are not patients of an entity described in paragraph (4) only if the Secretary determines—

"(A) that the provision of the services to such individuals benefits health center patients and general populations that could be served by the health center through community-wide intervention efforts within the communities served by such health center, and facilitates the provision of services to health center patients; or

"(B) that such services are otherwise required to be provided to such individuals under an employment contract (or other similar arrangement) between the individual and the entity.".

(c) DETERMINING COMPLIANCE OF ENTITY WITH REQUIREMENTS FOR COVERAGE.—

(1) IN GENERAL.—Section 224(h) of such Act (42 U.S.C. 233(h)), as added by section 2(b) of the Federally Supported Health Centers Assistance Act of 1992, is amended by striking "the entity—" and inserting the following: "the Secretary, after receiving such assurances and conducting such investigation as the Secretary considers necessary, finds that the entity—".

(2) FINDING.—Section 224 of such Act (42 U.S.C. 233) is amended by adding at the end thereof the following new subsection:

"(l) With respect to subsection (h), the finding of the Secretary that an entity meets all of the requirements under such subsection shall apply for the period specified by the Secretary, and shall be binding for all parties unless the Secretary reverses such finding for good cause shown at a later date.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Federally Supported Health Centers Assistance Act of 1992.

AMENDMENT NO. 1106

(Purpose: To provide for the establishment of a performance-based grant program)

Mr. BIDEN. Mr. President, on behalf of Senator KENNEDY and Senator KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for Mr. KENNEDY, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1106.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 31, line 4, strike "and".

On page 31, line 8, strike the period and insert "; and".

On page 31, between lines 8 and 9, insert the following:

"(C) has in effect such laws and regulations as may be necessary to ensure the following safeguards for the rights of parents:

"(i) An exemption for the parent, upon the request of the parent, from the requirements established by the State, pursuant to this part, for the collection of data described in subsections (b) and (c) of section 2147, or the collection of any other data regarding any child of the parent that the State may require for incorporation in the State immunization registry.

"(ii) Restrictions ensuring that no information relating to a child or to the parent or guardian of a child that is collected or maintained by the State immunization registry pursuant to this part, or the national immunization surveillance program established under section 2153, will be used as a basis for the criminal prosecution or the commencement of a criminal investigation of a parent or guardian.".

On page 50, line 3, add after the period the following new sentence: "The Secretary shall give special consideration to those States that have low childhood immunization rates and that submit plans that demonstrate the State's substantial effort and commitment to improving such rates.".

On page 50, line 8, strike "If the Director" and all that follows through line 15.

On page 50, between lines 19 and 20, insert the following:

"SEC. 2157. PERFORMANCE BASED GRANT PROGRAM.

"(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Centers for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2 year old residents of the State who have been fully immunized as described in subsection (c).

"(b) PAYMENTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2 year old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

"(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 64 percent of all 2 year old residents of the State, $50 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 50 percent amount;

"(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2 year old residents of the State, $75 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 65 percent amount; and

"(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2 year old residents of the State, $100 multiplied by the number of fully immunized 2 year old resident children in excess of the number of children equaling such 70 percent amount.

"(2) USE OF FUNDS.—

"(A) CONDITION.—As a condition of receiving amounts under this section a State that uses a combination of Federal and State funds in achieving the immunization goals described in paragraph (1) shall agree to reinvest, in activities related to improving immunization services, that percentage of the payments to the State under paragraph (1) that is equal to the amount of Federal contributions to immunization services in the State as compared to the amount of the State contributions to such services.

"(B) DISCRETIONARY USE.—A State that has demonstrated that the use of State-only funds was responsible for the increase in the immunization rate which qualified such State for payments under paragraph (1), may use amounts awarded under this section for other purposes, at the discretion of the State.

"(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

"(c) DEFINITION.—For purposes of this section, the term 'fully immunized' means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

On page 61, strike out line 3 and insert the following:

"SEC. 5. AMENDMENTS TO THE FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992.".

On page 63, between lines 6 and 7, insert the following:

(d) PAYMENT OF JUDGMENTS.—Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

On page 63, line 7, strike "(d)" and insert "(e)".

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1106) was agreed to.

Mr. KENNEDY. Mr. President, I urge the Senate to adopt S. 732, the Comprehensive Child Immunization Act of 1993. President Clinton has taken the lead in calling for a comprehensive plan for childhood immunizations. By passing this measure, we can bring that vision closer to reality. I commend the efforts of my colleagues, particularly Senator KASSEBAUM and her staff. Their outstanding contributions to this effort have made S. 732 an excellent example of what can be achieved through bipartisan cooperation on critical issues in health care.

This act addresses some of the most serious barriers to childhood immunization and provides worthwhile solutions and needed resources to overcome them.

As we know, major causes of low immunization rates include lack of access to immunization, inadequate public awareness of the importance of vaccinations, and missed opportunities by health care professionals to offer needed immunizations to children they see as patients.

This legislation provides the necessary resources to strengthen the public health system for the delivery of immunization services. It addresses the practical needs of local health departments and public clinics. It provides support to expand community outreach efforts and improves access to immunization.

This bill is also a significant step toward comprehensive health reform. Preventive health care, including immunization, avoids the tragedy of unnecessary illness and reduces costs at the same time. The savings are clear. For every $1 spent on immunization, $10 are saved in later costs of treating illnesses that should have been prevented. But beyond the facts and figures, this measure is important in human terms. Few measures we have considered this year are more important than protecting the lives of children from preventable diseases and disabilities. This is a promise we can make, and keep.

I urge the Senate to adopt this legislation, and I look forward to its enactment.

I ask unamious consent that the several letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, October 13, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the American Academy of Pediatrics, I want to lend our strong support to you and Senator Kassebaum for S.732, the "Comprehensive Child Immunization Act of 1993." This important piece of legislation completes the initiatives set out by the Administration in its childhood immunization initiative which was only partially addressed in the Budget Reconciliation bill.

Investments in the vaccine delivery infrastructure, health education and outreach and the development of a vaccine registry/tracking system are critical to our ability to improve our nation's immunization rates. We pay a high price for immunization failures in this country. Your bill finally breaks down the barriers that have frustrated the system for far too long.

Immunizations represent one of the most promising tools we have in getting children into personal, primary care with a doctor who knows his/her name. While we await the passage of national health care reform, I can think of no better interim measure to assure that our children do not have to wait while the broader policy issues are debated. The entire nation will reap the benefits of protecting our children from the ravages of preventable diseases.

We applaud your leadership on this initiative and look forward to working with you to secure its passage.

Sincerely yours,
HOWARD A. PEARSON, M.D.
President.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

Re childhood immunizations.

DEAR SENATOR KENNEDY: Immunization of children against vaccine-preventable diseases is the most effective preventive health action available. The United States has achieved an excellent record of immunizing children of school age because of the mandatory school immunization laws that have been adopted by all states. The record is much worse, however, for immunizing children by their second birthday against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, HiB, and HVB. Surveys of immunization levels of preschool age children document that nationally only 60% of children have completed the basic series of immunizations by age 2 and, in many cities and some rural areas in the United States, fewer than 40% of these children are fully immunized. As a consequence, vaccine-preventable diseases that were almost rare two decades ago have showed a resurgence and, in some instances such as measles, have again become epidemic during the last decade. To respond to this situation, one of the objectives in the national plan Healthy People 2000 is to achieve complete basic immunization for 90% of children by their second birthday by the year 2000.

The AMA supports this goal and commends the Congress and the Administration for making this issue such a high public health priority. The AMA supports a vaccine program that removes financial barriers to the immunization of young children and also addresses the need to educate and motivate parents.

The Comprehensive Child Immunization Act, S. 732 would create such a program. It would also encourage vaccines to continue to be provided as part of the primary health care system, which is highly beneficial from the standpoint of children's overall health. Also essential is creation of an efficient immunization recordkeeping system.

We urge you to include additional improvements to the National Vaccine Injury Compensation Program in any vaccine legislation you approve. We are concerned about the lapse in spending authority and collection of the vaccine excise tax. In addition, the AMA supports the recommendations of the Department of Health and Human Services to revise the existing Vaccine Injury Table and the section of the Act on "Qualifications and Aids to Interpretation" to more accurately reflect scientific findings and correct medical judgements.

Again, we commend you for placing high priority on improving our childhood immunization program. Significant public health benefits will surely result from an enhanced effort to reach our immunization goals for young children.

Sincerely,
JAMES S. TODD, MD,
Executive Vice President.

CHILDREN'S DEFENSE FUND,
Washington, DC, October 15, 1993.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to support wholeheartedly S. 732, the Comprehensive Child Immunization Act of 1993. This legislation is an essential companion to the pediatric vaccine purchase bill included in the Budget Reconciliation Act of 1993 and includes the key provisions needed for the U.S. to build a sound effort to immunize all of our pre-schoolers.

Our country's appallingly low immunization rate—only 56 percent of two years olds in America are appropriately immunized—is the result of many factors: high vaccine costs; lack of parental awareness of the importance of immunization; missed opportunities by providers to immunize children; and immunization services which are difficult to access. The provision of free vaccines for all Medicaid-eligible and uninsured children will remove cost as a barrier to timely immunization for millions of children. However, this alone will not be sufficient to raise the poor immunization rates of our nation's preschoolers to the levels we need. If we are to ensure that all children are immunized on time we must have a comprehensive strategy which addresses each of the contributing factors. The remaining pieces of such a strategy are embodied in S. 732.

Your bill provides grants for states to develop immunization implementation plans which propose specific solutions to the barriers to immunization and identify immunization rate goals for children in each state. These grants will enable states to improve access to immunization services by increasing the number of facilities which offer childhood immunization and increasing their hours and staffing levels. Missed opportunities will be reduced through provider education, and public awareness of the need for immunization will be heightened through a multi-media campaign. Underserved communities will gain access to immunization services by improved coordination between public and private programs. And states which exceed their stated immunization rate goals will be awarded a bonus.

In addition, grants to states for the establishment of registry and tracking systems are critical. It allows for the identification of communities with low immunization rates and enables these communities to target community outreach and education efforts. And the provision in the legislation requiring cooperation between federal agencies

with programs that can assess immunization status and make referrals for children, such as WIC, Food Stamps and Head Start, will be important to minimize the number of children who now fall through the cracks.

I want to thank you for your continued leadership on childhood immunization, and feel confident that this legislation will guarantee success in meeting our nation's goal of universal immunization.

Sincerely,

MARIAN WRIGHT EDELMAN.

STATEMENT OF SUPPORT FOR THE COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

We, the undersigned organizations, applaud President Clinton's initiative to protect all of America's children against preventable diseases. It is unacceptable that almost half of our nation's preschoolers are not fully immunized. The nation's shameful immunization record is a testament to the need for comprehensive health care reform to guarantee comprehensive health care coverage for all Americans. This legislation is an important step towards that goal.

The President's initiative will guarantee that no child will go unimmunized because his or her family cannot afford the shot. It is unacceptable that forty percent of American preschoolers are not fully immunized when each dollar invested in immunizations saves our society more than $10 in health care costs by preventing disease and disability. This legislation will also create a national immunization registry to follow the vaccination status of individual children. The registry will provide reminder notices to families for their children's shots and identify communities with low coverage rates for outreach and public education. The Act will also improve Medicaid coverage of immunizations for low-income children, and reauthorize the National Vaccine Injury Compensation Program.

Action for Families and Children of Delaware.
Advocates for Children and Youth.
American Academy of Family Physicians.
American Association of University Affiliated programs for Persons with Developmental Disabilities.
American College of Nurse-Midwives.
American Dental Association.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers.
American Hospital Association.
American Indian Health Care Association.
American Public Health Association.
American School Health Association.
American Speech-Language-Hearing Association.
The ARC (formerly the Association of Retarded Citizens.
Association for Supervision and Curriculum Development (ASCD).
Association for the Care of Children's Health.
Association of Junior Leagues International.
Association of Maternal and Child Health Programs.
Association of Schools of Public Health (ASPH)
Association of State and Territorial Health Officers
Bridgeport Child Advocacy Coalition
Catholic Charities, USA.
Child Welfare League of America.
Children Now.
Children's Advocacy Institute (California).
The Children's Alliance, Seattle, Washington.
The Children's Council of San Francisco.
Children's Defense Fund.
The Children's Foundation.
Children's Health Fund.
Children's Policy Institute of West Virginia.
Citizens for Missouri's Children.
Colorado Children's Campaign.
Community Services, Inc. (Head Start).
Consumers Union.
Flordia Children's Forum.
Friends Committee on National Legislation.
Georgia Alliance for Children.
Hadassah, the Women's Zionist Organization of America.
Hawaii Advocates for Children and Youth.
Human Development Center of Mississippi.
Interfaith Impact for Justice and Peace.
Jesuit Social Ministries, National Office.
Lutheran Office of Governmental Affairs (ELCA).
March of Dimes Birth Defects Foundation.
Maryland Committee for Children.
Massachusetts Advocacy Center.
Massachusetts Committee for Children and Youth.
Michigan Head Start Child Development Association.
Michigan League for Human Services.
Mid-Michigan District Health Department.
Mississippi Human Services Agenda.
Missouri Valley Human. Resource Head Start.
National Association for the Education of Young Children.
National Association of Children's Hospitals and Related Institutions.
National Association of Community Action Agencies.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Partners in Education, Inc. (NAPE).
National Association of WIC Directors.
National Black Child Development Institute, Inc.
National Black Nurses Association.
National Community Education Association (NCEA).
National Easter Seal Society.
National Indian Education Association.
National PTA.
National Parent Network on Disabilities.
New Hampshire Alliance for Children and Youth.
North Carolina Child Advocacy Institute.
Office of Domestic Social Development, U.S. Catholic Conference.
Pennsylvania Head Start Staff Association.
Pennsylvania Partnerships for Children.
Philadelphia Citizens for Children and Youth.
Planned Parenthood Federation of America.
Results, Inc.
San Francisco Child Abuse Council.
Service Employees International Union.
Statewide Youth Advocacy, Inc.
Sudden Infant Death syndrome Alliance (SIDS Alliance).
Unitarian Universalist Association of Congregations.
United Auto Workers of America.
United Cerebral Palsy Associations.
United Educators of San Francisco.
The Children's Council of San Francisco.
The Vaccine Project.
Vermont Children's Forum.
Virginia Perinatal Association.
Wisconsin Council on Children and Families, Inc.
Women's Legal Defense Fund.
Zero to Three/National Center for Clinical Infant Programs.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague Senator KENNEDY in requesting the immediate consideration of S. 732, the Comprehensive Child Immunization Act of 1993. This legislation, which was approved unanimously by the Committee on Labor and Human Resources, provides a broad-based strategy to improve our Nation's low pre-school immunization rates. S. 732's provisions were approved by the full Senate as part of the 1993 Omnibus Budget Reconciliation Act, but were dropped from the conference report due to Byrd rule considerations.

The measles epidemic of 1989 and periodic outbreaks of other preventable diseases reveal our Nation's alarmingly low preschool immunization rates. Fewer than 60 percent of 2-year olds in most States are fully immunized, and in some cities, fewer than 10 percent are fully immunized.

The National Vaccine Advisory Committee's 1991 study of the measles epidemic and its 1992 follow-up report and recommendations, as well as public health administrators across the Nation, have identified the lack of parental and public awareness of the importance of preschool immunizations, missed opportunities to vaccinate children when they receive other health care services, and overburdened, understaffed, and inaccessible public health service clinics as the major causes of our Nation's low immunization rates.

S. 732 addresses these problems by providing an additional $250 million to the States to develop and strengthen public and parental outreach and education programs and to expand clinic sites, hours, and staff to make immunization services readily available. While States are given broad flexibility in designing and carrying out plans to improve immunization rates, they must work with the Secretary of Health and Human Services to establish measurable outcome goals as to a condition of receiving grants.

I am especially supportive of provisions in S. 732 which make immunization a priority in all Federal and Federal/State programs serving children and their families. S. 732 makes the assessment of immunization status a routine part of the application for Medicaid, Head Start, food stamps, child nutrition, and similar programs, with referral for services as needed.

Another barrier to improving immunization rates is the lack of comprehensive, timely data on immunizations at the local, State, and national level. S. 732 authorizes optional grants to the States to develop immunization registries and to supply aggregate State data to the Centers for Disease Control and Prevention to guide Federal efforts to improve immunization rates.

I am aware that the immunization registry provisions as originally introduced provoked concern about the protection of parental rights and privacy and the potential use of registry data for purposes other than immunizations. During Committee consideration of S. 732, the original registry provisions were modified to clarify that nothing in the legislation would overturn or modify any State exemptions from immunization requirements, that States could permit parents to opt out of registries, and that the data in the registries could be used only for purposes directly relating to immunizations. In addition, provisions were adopted to limit the functions of the national registry to the collection of aggregate data from the States and the provision of technical assistance to the States at their request.

The floor manager's amendment to this legislation offered by Senator KENNEDY and myself further strengthens S. 732. It includes an amendment offered by Senator BUMPERS during the consideration of the 1993 Omnibus Budget Reconciliation Act to provide incentive grants to States that meet or exceed immunization target levels. It also includes provisions which further strengthen parental rights and privacy protections relating to immunization registries, which further clarify that registry data may not be used for criminal prosecutions for child neglect or abuse, and which require States to allow parents to opt out of participating in immunization registries.

Finally, S. 732 also amends the Vaccine Injury Compensation program to permit program improvements and to make information about immunizations more understandable and accessible to parents.

I urge my colleagues to join me in supporting the passage of S. 732 to achieve the goal I know we share of ensuring that our Nation's children are fully immunized against preventable childhood diseases.

Mr. DANFORTH. Mr. President, I rise today in support of childhood immunization legislation, S. 732 as it was reported by the Labor Committee and amended by the manager's amendment. I applaud the bipartisan approach with which this effort was undertaken, and I believe that this legislation focuses on many of the true barriers to childhood immunization in our country. I want to express my appreciation to Senators KENNEDY and KASSEBAUM for their leadership in this matter.

As we noted in the numerous hearings and meetings on childhood immunization this year, our Nation's rate of childhood immunization is disturbingly low. Although over 90 percent of children are fully vaccinated by the time they enter grade school only 40 to 60 percent are fully vaccinated by age 2. When I visited St. Louis Children's Hospital in 1989, the leading cause of admission was measles. There should not be even a single case of measles in St. Louis or anywhere else; we have the ability to protect children from the dreaded diseases that plagued children in past decades. In the years following the measles epidemic of 1989–90, we have learned alot about what is causing our low immunization rates. And overwhelmingly, we have heard that it is a problem of educating parents and providers about the urgency of timely immunization, improving outreach and improving the delivery of vaccines by expanding clinic locations and hours, making use of mobile vans, et cetera.

Education, outreach and delivery were the major focus of legislation I introduced earlier this year on behalf of myself and Senators KASSEBAUM, DURENBERGER, GREGG, and BOND—the National Immunization Improvement Act of 1993, S. 887—and I appreciate the fact that many aspects of that legislation were merged with a similar initiative introduced by Senator KENNEDY, S. 732.

I hope that with renewed focus on this issue and with the enlarged and appropriately targeted resources provided by this legislation, we are on the road to significant improvement in timely immunization our Nation's children.

Mr. HELMS. Mr. President, I thank the able managers of the bill for including as part of the manager's floor amendment my amendment to S. 732, the Comprehensive Child Immunization Act of 1993.

As most Senators are aware, S. 732 sets up a computerized registry—at both the State and national levels—to keep track of all the children in America and their immunization status. The stated purposes for having the public health authorities keep an eye on our children this way are admirable, but I am uncomfortable in permitting and enabling the Federal and State governments to maintain such an extensive and longtime surveillance over children and their parents.

Hundreds of parents from across the country agree; they have written me in opposition to legislation, which they see as an unwarranted governmental intrusion into their privacy, as well as a violation of their constitutional right to religious freedom.

Senators on the other side of the aisle may be interested to learn that even the liberal American Civil Liberties Union shares many of these concerns about big government and has joined with conservative pro-family groups in advocating changes and privacy protections in the bill.

Mr. President, the distinguished managers have agreed to incorporate a number of protections for parents. My amendment requires the States, as a condition for receiving funding under this bill, to have in effect laws safeguarding the rights and privacy of parents by:

First, providing parents with an exemption, at their request, from any State-imposed requirements for the collection of data about their children for the purpose of including such information in a computerized immunization registry; and second, prohibiting the use of any information relating to a child or parent, maintained in a computerized immunization registry, from being used as the basis for processing, or beginning a criminal investigation of, a parent or legal guardian of a child.

Mr. President, while this provision does not, and cannot, guarantee that the national immunization surveillance network—created by this bill—will never be misused by overzealous government bureaucrats, it does go a long way toward ensuring that parents have some rights and protections if actual attempts to misuse the national registry do in fact occur.

Again, I thank the managers of the bill for agreeing to my amendment. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (S. 732), as amended, was passed, as follows:

(The text of S. 732, as passed, will appear in a future edition of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1993

Mr. BIDEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 616), a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rates Amendments of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of

an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

Section 1114 is amended—

(1) by striking out "$85" in subsection (a) and inserting in lieu thereof "$87";

(2) by striking out "$162" in subsection (b) and inserting in lieu thereof "$166";

(3) by striking out "$247" in subsection (c) and inserting in lieu thereof "$253";

(4) by striking out "$352" in subsection (d) and inserting in lieu thereof "$361";

(5) by striking out "$502" in subsection (e) and inserting in lieu thereof "$515";

(6) by striking out "$632" in subsection (f) and inserting in lieu thereof "$643";

(7) by striking out "$799" in subsection (g) and inserting in lieu thereof "$819";

(8) by striking out "$924" in subsection (h) and inserting in lieu thereof "$948";

(9) by striking out "$1,040" in subsection (i) and inserting in lieu thereof "$1,067";

(10) by striking out "$1,730" in subsection (j) and inserting in lieu thereof "$1,774";

(11) by striking out "$2,152" and "$3,015" in subsection (k) and inserting in lieu thereof "$2,207" and "$3,093", respectively;

(12) by striking out "$2,152" in subsection (l) and inserting in lieu thereof "$2,207";

(13) by striking out "$2,371" in subsection (m) and inserting in lieu thereof "$2,432";

(14) by striking out "2,698" in subsection (n) and inserting in lieu thereof "$2,768";

(15) by striking out "$3,015" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,093";

(16) by striking out "$1,295" and "$1,928" in subsection (r) and inserting in lieu thereof "$1,328" and "$1,978", respectively; and

(17) by striking out "$1,935" in subsection (s) and inserting in lieu thereof "$1,985".

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$103" in clause (A) and inserting in lieu thereof "$105";

(2) by striking out "$174" and "$54" in clause (B) and inserting in lieu thereof "$178" and $55", respectively;

(3) by striking out "$71" and "$54" in clause (C) and inserting in lieu thereof "$72" and $55", respectively;

(4) by striking out "$82" in clause (D) and inserting in lieu thereof "$84";

(5) by striking out "$191" in clause (E) and inserting in lien thereof "$195"; and

(6) by striking out "$160" in clause (F) and inserting in lieu thereof "$164".

SEC. 4 CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$466" and inserting in lieu thereof "$478".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) in subsection (a)(1), by striking out "$750" and inserting in lieu thereof "$769";

(2) in subsection (a)(2), by striking out "$165" and inserting in lieu thereof "$169";

(3) by striking (a)(3), by striking out the table therein and inserting in lieu thereof the following:

"Pay grade	Monthly rate
E–7	$794
E–8	838
E–9	[1]875
W–1	812
W–2	844
W–3	869
W–4	920
O–1	812
O–2	838
O–3	897
O–4	948
O–5	1,044
O–6	1,177
O–7	1,271
O–8	1,392
O–9	1,492
O–10	[2]1,636

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Crops, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $943.

[2] "If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,753.";

(4) in subsection (c), by striking out "$191" and inserting in lieu thereof "$195"; and

(5) in subsection (d), by striking out "$93" and inserting in lieu thereof "$95".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$319" in clause (1) and inserting in lieu thereof "$327";

(2) by striking out "$460" in clause (2) and inserting in lieu thereof "$471";

(3) by striking out "$595" in clause (3) and inserting in lieu thereof "$610"; and

(4) by striking out "$595" and "$117" in clause (4) and inserting in lieu thereof "$610" and "$120", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$191" in subsection (a) and inserting in lieu thereof "$195";

(2) by striking out "$319" in subsection (b) and inserting in lieu thereof "$327";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$166".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 1993.

Amend the title so as to read: "An Act to amend title 38, United States code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.".

VETERANS' COMPENSATION RATES AMENDMENTS OF 1993

Mr. ROCKEFELLER. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise today to urge the Senate to pass S. 616, the proposed Veterans' Compensation Rates Amendments of 1993.

Mr. President, effective December 1, 1993, this bill would increase the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation, or DIC, paid to the survivors of certain service-disabled veterans. The rates would increase by 2.6 percent, the same percentage as the increase in Social Security and VA pension benefits for fiscal year 1994.

Mr. President, there are 2.2 million service-disabled veterans and 345,000 survivors who depend on these compensation programs. These individuals have made enormous sacrifices on behalf of this Nation. As chairman of the Committee on Veterans' Affairs, I am committed to ensuring that these veterans and veterans' survivors receive the benefits they deserve. I believe strongly that we have a fundamental obligation to meet the needs of those who became disabled as the result of military service, as well as the needs of their families. This measure fulfills one of the most important aspects of that obligation.

Mr. President, ever since I began my career in public service, I have worked closely with the veterans of my home State of West Virginia, and now, as chairman of the Committee on Veterans' Affairs, I have had the opportunity to work with veterans all across the country. Consequently, I am keenly aware of the fact that the compensation payments that would be increased by this bill have a profound effect on the everyday lives of the veterans and veterans' survivors who receive them. It is our responsibility to continue to provide cost-of-living adjustments in compensation and DIC benefits in order to guarantee that the value of these essential, service-connected VA benefits is not eroded by inflation.

I am very proud that Congress consistently has fulfilled its obligation to make sure that the real value of these benefits is preserved by providing an annual COLA for compensation and DIC benefits every fiscal year since 1976. Most recently, on October 24, 1992, Congress enacted Public Law 102–510, providing a 3.0-percent increase in these benefits, effective December 1, 1992.

Mr. President, we cannot ever repay the debt we owe to the individuals who have sacrificed so much for our country. Service-disabled veterans and the survivors of those who died as the result of service-connected conditions are reminded daily of the price they have paid for the freedom we all enjoy. The very least we can do is protect the value of the benefits they have earned through their sacrifice.

Mr. President, I urge all of my colleagues to support this vitally important measure.

Mr. DOMENICI. Mr. President, I rise today as a strong support of this bill, S. 616, the veterans' compensation COLA bill of 1993. This bill will provide our veterans with a 2.6 percent cost-of-living adjustment—a well-needed and well-deserved increase in their monthly compensation benefits.

Through this bill, approximately 2.5 million veterans and their survivors will received increases in their monthly compensation payments. This increase is intended to boost the payment we give to veterans who have suffered a loss in their earning capacity due to a service-related injury.

This compensation increase also benefits survivors by making up for the loss of family income caused by the death or disability of a service person. In my home State of New Mexico, approximately 19,000 veterans will receive increases in compensation and an additional 2,600 survivors will collect additional funds in their dependency and indemnity compensation checks.

These payments will be included in the monthly checks issued on December 4, 1993. Today, the number of veterans who are affected by this legislation is steadily growing as more military personnel leave the forces. The House and Senate Veterans' Affairs Committees should be congratulated for shepherding this bill through the legislative process in a timely manner. I also want to commend both chairmen for reporting legislation that complies with the provisions of the Budget Enforcement Act of 1990 and the Omnibus Budget Reconciliation Act of 1993.

I am pleased the Senate is completing the process of passing this legislation which means so much to our nation's veterans. It is crucial we support our armed services personnel—support those who made such a tremendous sacrifice to keep our country safe and I certainly believe we will do so through passage of this legislation.

Mr. BIDEN. Mr. President, I move that the Senate concur en bloc in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware.

The motion was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON THE CALENDAR—H.R. 3350, H.R. 3353, H.R. 3354, H.R. 3355

Mr. BIDEN. Mr. President, I ask unanimous consent that H.R. 3350, H.R. 3353, H.R. 3354, H.R. 3355, bills related to crime just received from the House, be placed on the Calendar.

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

MEASURE PLACED ON THE CALENDAR—H.R. 2814

Mr. BIDEN. Mr. President, I ask unanimous consent H.R. 2814, the Civil Rules Amendments Act of 1993, just received from the House, be placed on the Calendar.

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

DESIGNATING THE ROBERT F. PECKHAM U.S. COURTHOUSE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 243, H.R. 1345, a bill designating the Robert F. Peckham U.S. Courthouse and Federal building in San Jose, CA, that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; that any statements relating thereto appear in the RECORD at the appropriate place.

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

The bill (H.R. 1345) was deemed read three times and passed.

AUTHORIZING THE FBI TO OBTAIN CERTAIN TELEPHONE SUBSCRIBER INFORMATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 175, a bill to authorize the FBI to obtain certain telephone subscriber information, and that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table; that any statements relating to this measure appear in the RECORD at the appropriate place and as if given.

The PRESIDING OFFICER. Without objection it is so ordered.

The bill (H.R. 175) was deemed read three times and passed.

FBI ACCESS TO CERTAIN TELEPHONE SUBSCRIBER INFORMATION

Mr. LEAHY. Mr. President, H.R. 175 is an amendment to section 2709 of the Electronic Communications Privacy Act. In 1986, Congress passed the Electronic Communications Privacy Act [ECPA] which updated the Federal wiretap statute to cover emerging electronic communications. At that time, Congress provided that the Government could obtain subscriber identifying information from telephone companies only pursuant to a subpoena or court order, and only if the information is relevant to a criminal investigation—18 U.S.C. 2703. I note that this bill does not change the fundamental requirements of section 2703.

Section 2709 is a limited exception to that rule. It requires a certification by a designated FBI official that the information sought is relevant to an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978.

Some time ago, the FBI came to Congress seeking to expand the scope of section 2709 to compel wire and electronic communications service providers to identify those persons who have been in contact with foreign powers or suspected agents of foreign powers. Initially, I was concerned that the proposal was simply too broad. After lengthy discussions between the Senate and House Judiciary Committees, the Intelligence Committees and the Bureau, Congressman EDWARDS and I worked out this compromise language that would allow the FBI to get subscriber information—name, address, and length of service—of a person who is in communication with a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

Finally, the current law provides that on a semiannual basis the Director of the FBI fully inform the permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made by the Bureau under subsection 2709(b). H.R. 175 requires that this same notice be given to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as well.

I believe that this bill is an appropriate balance of the FBI's need to conduct counterintelligence investigations with the rights of Americans to preserve both their first amendment rights and their right to privacy.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION TO IMPLEMENT THE NORTH AMERICAN FREE-TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am pleased to transmit today legislation to implement the North American Free-Trade Agreement, an agreement vital to the national interest and to our ability to compete in the global economy. I also am transmitting a number of related documents required for the implementation of NAFTA.

For decades, the United States has enjoyed a bipartisan consensus on behalf of a free and open trading system. Administrations of both parties have negotiated, and Congresses have approved, agreements that lower tariffs and expand opportunities for American workers and American firms to export their products overseas. The result has been bigger profits and more jobs here at home.

Our commitment to more free and more fair world trade has encouraged democracy and human rights in nations that trade with us. With the end of the cold war, and the growing significance of the global economy, trade agreements that lower barriers to American exports rise in importance.

The North American Free-Trade Agreement is the first trade expansion measure of this new era, and it is in the national interest that the Congress vote its approval.

Not only will passage of NAFTA reduce tariff barriers to American goods, but it also will operate in an unprecedented manner—to improve environmental conditions on the shared border between the United States and Mexico, to raise the wages and living standards of Mexican workers, and to protect our workers from the effects of unexpected surges in Mexican imports into the United States.

This pro-growth, pro-jobs, pro-exports agreement—if adopted by the Congress—will vastly improve the status quo with regard to trade, the environment, labor rights, and the creation and protection of American jobs.

Without NAFTA, American business will continue to face high tariff rates and restrictive nontariff barriers that inhibit their ability to export to Mexico. Without NAFTA, incentives will continue to encourage American firms to relocate their operations and take American jobs to Mexico. Without NAFTA, we face continued degradation of the natural environment with no strategy for clean-up. Most of all, without NAFTA, Mexico will have every incentive to make arrangements with Europe and Japan that operate to our disadvantage.

Today, Mexican tariffs are two and a half times greater than U.S. tariffs. This agreement will create the world's largest tariff-free zone, from the Canadian Arctic to the Mexican tropics—more than 370 million consumers and over $6.5 trillion of production, led by the United States. As tariff walls come down and exports go up, the United States will create 200,000 new jobs by 1995. American goods will enter this market at lower tariff rates than goods made by our competitors.

Mexico is a rapidly growing country with a rapidly expanding middle class and a large pent-up demand for goods—especially American goods. Key U.S. companies are poised to take advantage of this market of 90 million people. NAFTA ensures that Mexico's reforms will take root, and then flower.

Moreover, NAFTA is a critical step toward building a new post-cold war community of free markets and free nations throughout the Western Hemisphere. Our neighbors—not just in Mexico but throughout Latin America—are waiting to see whether the United States will lead the way toward a more open, hopeful, and prosperous future or will instead hunker down behind protective, but self-defeating walls. This Nation—and this Congress—have never turned away from the challenge of international leadership. This is no time to start.

The North American Free-Trade Agreement is accompanied by supplemental agreements, which will help ensure that increased trade does not come at the cost of our workers or the border environment. Never before has a trade agreement provided for such comprehensive arrangements to raise the living standards of workers or to improve the environmental quality of an entire region. This makes NAFTA not only a stimulus for economic growth, but a force for social good.

Finally, NAFTA will also provide strong incentives for cooperation on illegal immigration and drug interdiction.

The implementing legislation for NAFTA I forward to the Congress today completes a process that has been accomplished in the best spirit of bipartisan teamwork. NAFTA was negotiated by two Presidents of both parties and is supported by all living former Presidents of the United States as well as by distinguished Americans from many walks of life—government, civil rights, and business.

They recognize what trade expanding agreements have meant for America's economic greatness in the past, and what this agreement will mean for America's economic and international leadership in the years to come. The North American Free-Trade Agreement is an essential part of the economic strategy of this country: expanding markets abroad and providing a level playing field for American workers to compete and win in the global economy.

America is a Nation built on hope and renewal. If the Congress honors this tradition and approves this agreement, it will help lead our country into the new era of prosperity and leadership that awaits us.

WILLIAM J. CLINTON

THE WHITE HOUSE, *November 3, 1993.*

REPORT RELATIVE TO THE NORTH AMERICAN FREE TRADE AGREEMENT-MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

By separate message, I have transmitted to the Congress a bill to approve and implement the North American Free Trade Agreement (NAFTA). In fulfillment of legal requirements of our trade laws, that message also transmitted a statement of administrative action, the NAFTA itself, and certain supporting information required by law.

Beyond the legally required documents conveyed with that message, I want to provide you with the following important documents:

—The supplemental agreements on labor, the environment, and import surges;

—Agreements concluded with Mexico relating to citrus products and to sugar and sweeteners;

—The border funding agreement with Mexico;

—Letters agreeing to further negotiations to accelerate duty reductions;

—An environmental report on the NAFTA and side agreements;

—A list of more technical letters related to NAFTA that have previously been provided to the Congress and that are already on file with relevant congressional committees.

These additional documents are not subject to formal congressional approval under fast-track procedures. However, the additional agreements provide significant benefits for the United States that will be obtained only if the Congress approves the NAFTA. In that sense, these additional agreements, as well as the other documents conveyed, warrant the careful consideration of each Member of Congress. The documents I have transmitted in these two messages constitute the entire NAFTA package.

I strongly believe that the NAFTA and the other agreements will mark a significant step forward for our country, our economy, our environment, and our relations with our neighbors on this continent. I urge the Congress to seize this historic opportunity by approving the legislation I have transmitted.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 4, 1993.*

MESSAGES FROM THE HOUSE

At 4 p.m., a message from the House of Representatives, delivered by Mr.

Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2684. An act to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes.

H.R. 2814. An act to permit the taking effect of certain proposed rules of civil procedure, with modifications.

H.R. 3188. An act to prohibit fishing in the Central Sea of Okhotsk, and for other purposes.

H.R. 3350. An act to establish a program of residential substance abuse treatment within Federal prisons.

H.R. 3353. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking.

H.R. 3354. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

H.R. 3355. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

H.J. Res. 271. Joint resolution designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month."

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 616. An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and it appoints the following Members as managers of the conference on the part of the House: from the Committee on Ways and Means, for consideration of the House bill, and Senate amendment No. 2, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. FORD of Tennessee, and Mr. ARCHER; from the Committee on Post Office and Civil Service, for consideration of Senate amendment No. 1, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, and Mr. MYERS of Indiana.

At 9:11 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1308. An Act to protect the free exercise of religion.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2685. An act to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3188. An act to prohibit fishing in the Central Sea of Okhotsk, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 271. Joint resolution designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolutions were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2814. An act to permit the taking effect of certain proposed rules of civil procedure, with modifications.

H.R. 3350. An act to establish a program of residential substance abuse treatment within Federal prisons.

H.R. 3353. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking.

H.R. 3354. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

H.R. 3355. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative effects between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1723. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on continued production of the naval petroleum reserves beyond April 5, 1994; to the Committee on Armed Services.

EC-1724. A communication from the Assistant Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report of the joint officer promotion rates; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-312. A resolution adopted by the Council of the County of Hawaii, Hilo, Hawaii relative to natural disaster insurance; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S.J. Res. 143. A joint resolution providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 103-170).

S.J. Res. 144. A joint resolution providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 103-171).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 161. An original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. 1510. A bill to amend title 38, United States Code, to increase the amount of the loan guaranty for loans for the purchase or construction of homes.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. 1620. An original bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased Reservists and the dependents of such reservists.

S. 1621. An original bill to revise certain authorities relating to Pershing Hall, France.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment and with a preamble:

S.J. Res. 129. A joint resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration:

Michael F. DiMario, of Maryland, to be Public Printer.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Joseph A. Dear, of Washington, to be an Assistant Secretary of Labor.

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 1995.

Diane B. Frankel, of California, to be Director of the Institute of Museum Services.

Charles C. Masten, of Virginia, to be Inspector General, Department of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, and Mr. SIMON):

S. 1618. A bill to establish Tribal Self-Governance, and for other purposes; to the Committee on Indian Affairs.

By Mr. METZENBAUM:

S. 1619. A bill to create the Insurance Regulatory Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 1620. An original bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased Reservists and the dependents of such reservists; from the Committee on Veterans Affairs; placed on the calendar.

S. 1621. An original bill to revise certain authorities relating to Pershing Hall, France; from the Committee on Veterans Affairs; placed on the calendar.

By Mr. BREAUX:

S. 1622. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1623. A bill to require the Secretary of Agriculture to carry out procedures for debarment of persons engaged in nonprocurement programs and activities with the Department of Agriculture who have violated the regulations of a program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 1624. A bill to standardize withdrawal options for Thrift Savings Plan participants, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BROWN (for himself and Mr. MOYNIHAN):

S. 1625. A bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1626. A bill to amend title 38, United States Code, to revise the Veterans' Home Loan Program; to the Committee on Veterans Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE) (by request):

S. 1627. A bill to implement the North American Free Trade Agreement; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, pursuant to 19 U.S.C. 2191(c).

By Mr. CONRAD:

S. 1628. A bill to encourage each State to adopt Truth in Sentencing laws and to help fund additional spaces in the State correctional programs as needed; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD:

S. Res. 161. An original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, and Mr. SIMON):

S. 1618. A bill to establish tribal self-governance, and for other purposes; to the Committee on Indian Affairs.

TRIBAL SELF-GOVERNANCE ACT OF 1993

Mr. MCCAIN. Mr. President, this year much fanfare has been given to the idea of reinventing Government. The Vice President recently released his report entitled: "Creating a Government That Works Better and Costs Less." This report makes a number of recommendations for changing the way the Federal Government does business today. Unfortunately, the administration's report overlooked one of the true success stories about reinventing government that is taking place right now: the tribal self-governance demonstration project.

The self-governance demonstration project is a tribally driven initiative that was first enacted into law in 1988. The goal of this project is to examine the benefits of allowing Indian tribal governments to assume more control over programs and services to their members which are now largely provided through the Bureau of Indian Affairs. The project permits participating tribes to enter into compacts for self-governance and annual funding agreements with the Federal Government. Pursuant to these agreements, management authority over specific programs and services is transferred from the BIA to Indian tribal governments. In turn, each participating tribal government is allowed to redesign and operate those programs and services with minimal regulation and BIA involvement.

Last week the Committee on Indian Affairs held an oversight hearing to review the status of the project. Despite continued foot-dragging by the Bureau of Indian Affairs—a bureaucratic virus that has also afflicted the Indian Health Service, all of the self-governance tribes expressed continued enthusiasm for the project and urged the committee to establish the project on a permanent basis. Based on their individual experiences, the tribes collectively believe that permanent status is necessary because the Bureau of Indian Affairs continues to view the self-governance project as a temporary program. Once the demonstration period is over, the Bureau apparently believes that it can simply return to business as usual. In this instance, however, the BIA has seriously miscalculated its ability to stifle change. Self-governance is here to stay. The reason self-governance is here to stay is best captured in a statement by the Lummi tribe:

> The Self-Governance Demonstration Project is an historic effort to break a pattern of dominance and dependency. While some Federal programs in the past have allowed Indian Tribes to implement certain limited programs, Self-Governance offers the chance for us to assume total control of our economic, political, and social futures, and to demonstrate that we can accomplish what the BIA has not been willing or able to do in 120 years.

I have received numerous letters from self-governance tribes endorsing permanent self-governance legislation. These letters include examples of the many positive effects that tribes have experienced under self-governance, such as improvements in education, economic development, law enforcement, tribal courts, forestry, public works, community services, cultural programs, and tribal government operations. In general, Indian tribes feel: First, they are able to more effectively design programs and services to the needs of tribal members; second, self-governance has made tribal governments more responsive to the concerns of tribal members; and third, self-governance has allows the tribes to be more independent from the Bureau of Indian Affairs.

I want to emphasize that the self-governance program is purely voluntary. No tribe is forced to participate; in fact, such a requirement would be contrary to the whole concept of self-governance. I also want to emphasize that this program is not about equity funding. Unfortunately, Federal Indian programs are already severely underfunded. It is my hope that the Congress will not only increase funding for Indian programs, but will also ensure that such funding actually goes toward meeting the needs of the Indian people rather than the needs of a bloated Federal bureaucracy. Under self-governance, tribes have the opportunity to accomplish the latter goal. In fact, the tribal leader for the Mille Lacs Band of Ojibwe Indians, testified that her tribe has gone from receiving 11 cents on the dollar under BIA administration to 50 cents on the dollar

under self-governance. That is what self-governance is all about. Allowing tribes to utilize Federal funding that is intended for their benefit and well-being.

Mr. President, our Constitution confers on the Congress the ultimate authority and responsibility for the relations between the Federal Government and the tribes. With this authority and responsibility comes the duty to ensure the fulfillment of the trust. These are not passing whims or fancies of the day. They are solemn legal and, I believe, moral obligations which are deeply embedded in our history as a Nation. Unfortunately, for the better part of two centuries, the Congress has so poorly exercised that authority that Federal Indian policy has become infamous for its shortsightedness, inconsistency, and disruptive consequences. President Nixon best summarized the situation in his 1970 special message to the Congress on Indian Affairs.

* * * The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before. * * * The very threat that this (trust) relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disown its responsibility and cut them adrift.

In short, one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving.

I believe we have a chance to write a new chapter in Federal-Indian: relations. As we do, it is important to remember that from time immemorial, Indian tribes have been and will continue to be permanent governmental bodies exercising those basic powers of government, as do Federal and State governments, to fulfill the needs of their citizens. Under our constitutional system of government, the right of tribes to be self-governing and to share in our Federal system must not be diminished.

Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

Mr. President, on behalf of all of the current self-governance tribes and their members, and on behalf of all those who seek to give true meaning to the concept of Indian self-determination, I am pleased to introduce today legislation to make self-governance permanent. I am joined in this effort by the distinguished chairman of the Indian Affairs Committee, Senator INOUYE, and Senators MURKOWSKI, GORTON, and SIMON.

The bill I am introducing today would make self-governance permanent within the Department of the Interior. The bill also provides the opportunity each year for up to 20 new tribes to negotiate self-governance agreements. The limitation on the number of tribes is based on the current ability of the Office of Self-Governance to annually process new self-governance agreements. As the ability of the office to process more agreements becomes apparent, the committee will respond accordingly. Finally, the bill provides for negotiated rulemaking. The inclusion of the negotiated rulemaking concept—first enacted by the Congress in 1990—is consistent with the goals of the program. That is, negotiated rulemaking procedures are generally designed to require a Federal agency to negotiate with the interests most affected, in this case the self-governance tribes, in the process of developing proposed regulations subsequently published for public review and comment. I would also note that this particular portion of the bill is consistent with the President's Executive Order No. 12875, calling upon the various Federal agencies to reduce the imposition of unfunded mandates upon State, local and tribal governments, in particular, the excessive micromanagement and unnecessary regulation from the Federal Government.

Noticeably absent in this bill is the application of permanent status to the Indian Health Service. Although some participating tribes argued for such application, in the final analysis it became apparent that because self-governance authority was not applicable to the Indian Health Service until 1992, an additional period for demonstration purposes is required. The committee fully intends, however, to revisit the issue of making self-governance permanent for the Indian Health Service in the near future.

In closing, I want to read from a letter I recently received from one tribal leader which, I think, provides a tribal perspective on this debate:

The Federal bureaucracy, predominantly through the Bureau of Indian Affairs and the Indian Health Service, have dominated, controlled and manipulated our lives and government operations to the point that American Indians are the most regulated peoples in America.

Other Federal Agencies have sought to redefine our presence to fit uniformity and convenience with labels such as organizations, corporations, associations, constituents, or even vendors. On the other side of the definition game, the Office of Management and Budget generally rules that Tribal governments are not included in Congressional assistance legislation intended for the common "State and Local Units of Government and Trust Territories" designation. Through the Tribally driven Self-Governance legislation, Tribes and Congress are finally setting the record straight and forcing the bureaucracies to recognize our governmental status. We certainly expect this tension of a Federal bureaucracy predisposition to uniformity against the Tribal demand for clear recognition to continue on into the future. But the fundamental principle is established in the Tribal Self-Governance permanent legislation regarding our unique relationships with the United States and the individual Indian Tribes and our inherent right of Self-Governance.

Mr. President, I ask unanimous consent that a copy of the bill, a section-by-section analysis, letters of support from various tribal governments, and Executive Order 12875, be printed in the RECORD.

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

S. 1618

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 "Tribal Self-Governance Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-governance flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States Government with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States, and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities intended to benefit Indians, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of this Act to permanently establish and implement Self-Governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in Self-Governance;

(3) to co-exist with the provisions of the Indian Self-Determination Act relating to provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (referred to in this title as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (referred to in this title as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF TRIBES.

"(a) CONTINUING PARTICIPATION.—Each tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL TRIBES.—In addition to those tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year, from the applicant pool described in subsection (c), to participate in Self-Governance.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance; and

"(3) has demonstrated, for the previous 3 fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities administered by the Department of the Interior that are otherwise available to Indian tribes or Indians, including—

"(A) the Act of April 16, 1934 (popularly known as the 'Johnson-O'Malley Act') (48 Stat. 596, chapter 147; 25 U.S.C. 452 et seq.); and

"(B) the Act of November 2, 1921 (popularly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13);

"(2) subject to the terms of the agreement, authorize the tribe to redesign programs, services, functions, or activities, and to reallocate funds for such programs, services, functions, or activities;

"(3) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) to the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(4) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(5) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(6) provide for retrocession of programs or portions of programs pursuant to section 105(e);

"(7) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(8) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Committee on Natural Resources of the House of Representatives.

"(d) PAYMENT.—

"(1) IN GENERAL.—At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) AMOUNT.—Subject to paragraph (3) of this subsection and paragraphs (1) and (3) of subsection (b), the Secretary shall provide funds to the tribe for one or more programs, services, functions, or activities in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members.

"(3) TRUST SERVICES.—Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(e) CIVIL ACTIONS.—

"(1) DEFINITION OF 'CONTRACT'.—Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) PROFESSIONAL CONTRACTS.—For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(f) FACILITATION.—

"(1) INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2) WAIVER.—

"(A) REQUEST.—A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) DECISION.—Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is expressly prohibited by Federal law.

"(C) APPEAL.—Not later than 60 days after denial of a waiver request, the Secretary shall, at the request of a tribe, provide the tribe with a hearing on the record and opportunity for an appeal.

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress, any funds proposed to be included in Self-Governance.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—Not later than January 1 of each year after the date of enactment of this title, the Secretary shall submit to Congress a report regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and

their members, and the corresponding reductions in the Federal bureaucracy; and

"(3) include the separate views of the tribes.

"SEC. 406. EFFECT ON OTHER AGREEMENTS AND LAWS.

"Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"SEC. 407. NEGOTIATED RULEMAKING.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section, shall have as it members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this title.".

SECTION-BY-SECTION ANALYSIS ON THE TRIBAL SELF-GOVERNANCE ACT OF 1993

SECTION 1—SHORT TITLE

This section sets forth the short title of the bill as the "Tribal Self-Governance Act of 1993"

SECTION 2—FINDINGS

This section sets forth certain findings of Congress related to the unique relationship between the United States Government and Indian tribal governments, to each tribe's inherent right of self-governance, and to the success of the Tribal Self-Governance Demonstration Project in improving and perpetuating that relationship by strengthening tribal control over Federal funding and program management intended to benefit Indians.

SECTION 3—DECLARATION OF POLICY

This section declares that the policy of this Act is to permanently establish Self-Governance within the Department of the Interior in order to accomplish certain goals set forth in this section. These include—

Improving the government-to-government relationship between the United States Government and Indian tribes;

Permitting each tribe to choose the extent of its participation in Self-Governance;

Having Self-Governance co-exist with other Indian Self-Determination Act arrangements with tribes;

Ensuring the perpetuation of the trust responsibility of the United States to Indian tribes and Indian individuals; and

Permitting an orderly transition from Federal domination of programs and services benefitting Indians to tribal authority and control over those benefits with an accompanying reduction in the Federal bureaucracy.

SECTION 4—TRIBAL SELF-GOVERNANCE

This section amends Public Law 93-638, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), by adding at the end therof the following new "Title IV—Tribal Self-Governance".

TITLE IV—TRIBAL SELF-GOVERNANCE

Section 401. Establishment. This section establishes a permanent program within the Department of the Interior to be known as Tribal Self-Governance.

Section 402. Selection of Tribes.

(a) Continuing Participation. This subsection clarifies that Title IV governs the Department of the Interior's implementation of Self-Governance and Title III governs the Indian Health Service's implementation of Self-Governance.

(b) Additional Tribes. This subsection permits the Interior Department to increase the number of tribes permitted to participate in Self-Governance by up to twenty (20) additional new tribes per year. Interior may add new tribes only if they meet certain requirements set forth in subsection (c).

(c) Applicant Pool. This subsection sets forth the requirements for a tribe to be considered a qualified applicant to begin participation in Self-Governance. Such a tribe must have successfully completed a planning activity described in subsection (d), it must have requested to participate in Self-Governance, and its financial stability and financial management capability must be demonstrated by the tribe having for the past three fiscal years no material audit exceptions in the required annual audits of its self-determination contracts under Public Law 93-638. This subsection is virtually identical to provisions in Title III regarding qualifications for participation.

(d) Planning Phase. This subsection requires each tribe applying to begin participation in Self-Governance to complete a planning phase that includes legal and budgetary research and internal tribal government planning and organizational preparation. Each such tribe is eligible to receive a grant from the Department of the Interior to carry out planning and negotiation activities. This subsection is more specific than are comparable provisions in Title III regarding required planning activities.

Section 403. Funding Agreements.

(a) Authorization. This subsection directs the Interior Secretary to enter into written annual funding agreements with the governing body of each participating tribal government. This subsection is virtually identical to provisions in Title III.

(b) Contents. This subsection sets forth the authorities and general terms that each annual funding agreement must contain. This subsection is virtually identical to provisions in Title III. The authorities and terms of agreement include—

Tribal authority to plan, conduct, consolidate and administer Interior Department programs, services, functions, and activities available to Indian tribes and Indians, including but not limited to those authorized under the general authorization statutes known popularly as the Johnson O'Malley Act and the Snyder Act;

Tribal authority to redesign or reallocate Interior Department funds negotiated for programs, services, functions, and activities;

Consistent with Title III, Title IV excludes certain Indian education funds (Tribally Controlled Community Colleges and elementary and secondary school formula funds) and Interior irrigation funds (Flathead Agency Irrigation Division or Flathead Agency Power Division) from being included in a Self-Governance annual funding agreement;

The specific services to be provided, functions to be performed, and the responsibilities of the tribe and the Secretary under the agreement;

The authority of the tribe and the Interior Department to reallocate funds or modify budget allocations during the year under specific procedures;

Tribal authority to retrocede programs or portions of programs under procedures employed with Indian Self-Determination Act contracts under Public Law 93-638;

A prohibition against a participating tribe contracting for the same funds at the same time it has included those funds in a Self-Governance annual funding agreement;

An Interior Department assurance that a participating tribe is eligible for new programs, benefits, and funds on the same basis as are tribes not participating in Self-Governance;

A tribal assurance that it will be responsible for administering the programs, services, functions and activities pursuant to the annual funding agreement; and

A prohibition against the Secretary waiving, modifying, or diminishing in any way the trust responsibility of the United States to Indian tribes and Indian individuals.

(c) Submission for Review. This subsection requires the Interior Department to submit a copy of a participating tribe's Self-Governance compact and annual funding agreement entered into under this Title to each tribe directly served by the Bureau of Indian Affairs Agency Office directly serving the participating tribe, and to the House Committee on Natural Resources and the Senate Committee on Indian Affairs. This submission must be done ninety (90) days before the proposed effective date of the agreement. This subsection is virtually identical to provisions in Title III.

(d) Payment. This subsection requires the Interior Department to provide funding to the tribe as negotiated in the funding agreement. This provision is virtually identical to provisions in Title III. This subsection also requires the Secretary to provide the same level of funding from one or more programs, services, functions or activities as the tribe would have been eligible to receive under a Indian Self-Determination Act contracts and grants under Public Law 93-638. This provision is virtually identical to provisions in Title III. This subsection additionally requires the Secretary to provide funds specifically or functionally related to the Interior Department's provision of services and benefits to the tribe and its members. This provision is similar to comparable provisions in Title III, but clarifies the intent of Congress to include funds functionally as well as specifically related to the Department's provision of services and benefits. This subsection excludes from availability those funds providing trust services to individual Indians unless the participating tribe provides the same services to individual Indians that would have been provided by the Interior Department. This provision is virtually identical to provisions in Title III.

This subsection clarifies the requirement in existing law by emphasizing that the Interior Department negotiate into a tribe's annual funding agreement all funds and resources sought by the tribe which the federal government would have used to carry out its programs and operations if it had provided

services and benefits, either directly or through contracts, grants or other agreements, to the tribe or its members in lieu of a Self-Governance annual funding agreement. With respect to the Department of the Interior, this would include the funds and resources of the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Fish & Wildlife Service, the Office of Policy Management and Budget, the National Park Service, the Bureau of Land Management, the Minerals Management Service, the U.S. Geological Service, the Office of Surface Mining and Enforcement, and the Bureau of Mines. This section also requires inclusion of those funds or resources that otherwise would have been spent or provided at the reservation or Indian community, area/regional, and national/central levels if the Secretary were carrying out the federal government's responsibilities to the tribe and its members in lieu of a Title IV agreement. This section also requires inclusion of those funds or resources which originate from or are appropriated to other federal agencies but which are transferred to the Secretary's administrative access or control through inter-agency agreements or other authority. Federal funds and resources covered by this section include those which do not appear on the Secretary's budget as a cost item or activity but are nonetheless used by the Secretary or are otherwise functionally related to the Secretary's capacity to carry out its responsibilities to the tribe or its members in lieu of an annual funding agreement.

(e) Civil Actions. This subsection provides the same legal relief to agreements entered into under Title IV as is provided for Indian Self-Determination Act contracts under Section 110 of Public Law 93-638. This provision is virtually identical to provisions in Title III. This subsection also exempts a participating tribe's professional contracts from the usual requirement of review and approval by the Secretary. This provision is virtually identical to provisions in Title III.

(f) Facilitation. This subsection requires the Interior Department to interpret federal laws and regulations in a way that facilitates including Interior programs, services, functions and activities in agreements negotiated under Title IV and in a way that facilitates the flexible implementation of these agreements. This provision is virtually identical provisions in Title III. This subsection also establishes procedures and standards to guide the Interior Department in approving or disapproving a participating tribe's request for waiver of the application of a federal regulation to an agreement under Title IV. This provision provides specific structure in comparison to the more general waiver authorities of Title III.

Section 404. Budget Request. This section directs the Indian Department to identify in its annual budget request submission to Congress the funds it proposes to include in Self-Governance agreements. This provision is virtually identical to provisions in title III.

Section 405. Reports. This section sets forth the requirement of an annual report to be filed with Congress by the Interior Department that analyzes the relative costs and benefits of Self-Governance, identifies all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to participating tribes or their members, and identifies reductions in the federal bureaucracy corresponding to the amounts transferred to tribes with agreements under this title. The Interior Department is to include in the report the opportunity for the separate views of the participating tribes. This provision provides somewhat more specific structure to comparable report provisions in Title III.

Section 406. Effect on Other Agreements and Laws. This section declares that no one may accurately interpret title IV to limit or reduce in any way the services, Self-Determination Act contracts, or funds that any other Indian tribe or organization is eligible to receive under section 102 of Public Law 93-638 or other federal law. Section 110 of Public Law 93-638 provides a cause of action to any tribe or tribal organization harmed by violation of this section. This provision is virtually identical to provisions in Title III.

Section 407. Negotiated Rulemaking.

(a) In General. If a majority of the tribes with agreements under Title IV so request, this subsection requires the Secretary to use procedures under the Negotiated Rulemaking Act of 1990, as amended, Public Law 101-648, to begin the process of developing proposed regulations to carry out title IV. These procedures are generally designed to require a federal agency to negotiate with the interests most affected by rulemaking, in this case the participating tribes, in the process of developing proposed regulations subsequently published for public review and comment.

(b) Committee. This subsection requires the Interior Department to establish a negotiated rulemaking committee, a majority of whose members are representatives of participating tribes. The Committee would also include federal representatives. The Interior Department may also include representatives of tribes not participating in Self-Governance.

(c) Adaptation of Procedures. This subsection gives broad authority to the Interior Department to adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship that the United States has with each participating tribe.

(d) Effect. This subsection clarifies that Title IV is effective on the date of enactment and is not limited in its effect by the absence of promulgated regulations.

Section 408. Authorization of Appropriations. This section provides a general authorization of such sums as are necessary to carry out Title IV.

[From the Federal Register, Oct. 28, 1993]

ENHANCING THE INTERGOVERNMENTAL PARTNERSHIP

(Presidential Documents—Executive Order 12875 of October 26, 1993)

The Federal Government is charged with protecting the health and safety, as well as promoting other national interests, of the American people. However, the cumulative effect of unfunded Federal mandates has increasingly strained the budgets of State, local, and tribal governments. In addition, the cost, complexity, and delay in applying for and receiving waivers from Federal requirements in appropriate cases have hindered State, local, and tribal governments from tailoring Federal programs to meet the specific or unique needs of their communities. These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal Government.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce the imposition of unfunded mandates upon State, local, and tribal governments; to streamline the application process for and increase the availability of waivers to State, local, and tribal governments; and to establish regular and meaningful consultation and collaboration with State, local, and tribal governments on Federal matters that significantly or uniquely affect their communities, it is hereby ordered as follows:

Section 1. Reduction of Unfunded Mandates. (a) To the extent feasible and permitted by law, no executive department or agency ("agency") shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless:

(1) funds necessary to pay the direct costs incurred by the State, local, or tribal government in complying with the mandate are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of regulations containing the proposed mandate, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate.

(b) Each agency shall develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Sec. 2. Increasing Flexibility for State and Local Waivers. (a) Each agency shall review its waiver application process and take appropriate steps to streamline that process.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State, local, or tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State, local, and tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the fullest extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements of the programs that are discretionary and subject to waiver by the agency.

Sec. 3. Responsibility for Agency Implementation. The Chief Operating Officer of each agency shall be responsible for ensuring the implementation of and compliance with this order.

Sec. 4. Executive Order No. 12866. This order shall supplement but not supersede the requirements contained in Executive Order No. 12865 ("Regulatory Planning and Review").

Sec. 5. Scope. (a) Executive agency means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(b) Independent agencies are requested to comply with the provisions of this order.

Sec. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. Effective Date. This order shall be effective 90 days after the date of this order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

QUINAULT INDIAN NATION,
Taholah, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: I urge you to introduce and support prompt passage of Tribal Self-Governance permanent authorization legislation. The Quinault Indian Nation has been a participant in the Self-Governance Demonstration Project since the initial authorization in 1988 and is now entering the fourth Fiscal Year of implementation of our Self-Governance Compact. Our experience and progress under Self-Governance clearly has demonstrated the positive results of providing Tribal governments the management decision-making empowerment and administrative authority over Tribal programs, services and development.

The Quinault Nation believes the permanent Self-Governance legislation is the cornerstone statute in the development of comprehensive and real government-to-government relationships between Tribal governments and the United States. Although American Indian Tribes are addressed in the U.S. Constitution and our Treaties, Executive Orders and Acts of Congress clearly establish in law our rightful presence, we have struggled with political and economic pressures over the last two centuries by the dominant society to erode, diminish and even extinguish our cultures, languages, reservation land titles and rights to exist as legitimate, independent governments.

The sovereign status of Tribal governments is certainly not a new or radical idea, but is clearly embodied in American law. Chief Justice John Marshall in the 1832 Supreme Court decision of *Worcester* v. *Georgia* clearly stated the obvious:

"The Indian Nations had always been considered as distinct, independent political communities * * * and the settled doctrine of the law of nations is that a weaker power does not surrender its independence—its right to self-government—by associating with a stronger, and taking its protection."

Due to convenience and connivance, elements of American society have sought to redefine, subvert and twist the definition of Tribal governments and Tribal rights to our collective disadvantage. The Federal bureaucracy, predominantly through the Bureau of Indian Affairs and the Indian Health Service, have dominated, controlled and manipulated our lives and government operations to the point that American Indians are the most regulated peoples in America.

Other Federal Agencies have sought to redefine our presence to fit uniformity and convenience with labels such as organizations, corporations, associations, constituents or even vendors. On the other side of the definition game, the Office of Management and Budget generally rules that Tribal governments are not included in Congressional assistance legislation intended for the common "State and Local Units of Government and Trust Territories" designation. Through the Tribally driven Self-Governance legislation, Tribes and Congress are finally setting the record straight and forcing the bureaucracies to recognize our government status. We certainly expect this tension of a Federal bureaucracy predisposition to uniformity against the Tribal demand for clear recognition to continue on into the future. But the fundamental principle is established in the Tribal Self-Governance permanent legislation regarding our unique relationships with the United States and the individual Indian Tribes and our inherent right of Self-Governance.

Self-Governance has empowered the government of the Quinault Nation to determine priorities, allocate resources and manage our affairs with minimal Federal intrusion. We have consolidated and expanded education and social services to cost-effectively meet the needs of Tribal members according to their personal situation rather than a superimposed set of rules. Our Tribal justice system has been strengthened to ensure adequate protections and judicial services for our people as the legitimate concern of any government. Funds expended on our forests, fisheries and environment are now effectively coordinated for logical, comprehensive management. More Quinaults are employed now than ever before. More Quinaults are furthering their education and returning home to work for their people.

There is no doubt that Self-Governance has benefitted the Quinault Indian people on the Quinault reservation. We have problems, difficulties and challenges facing us that need to be addressed. But the decisions made on priorities and the determination of means and methods to address the future are being made by our people, here at home. Self-Governance is really the forerunner of the Clinton Administration's "Reinvent Government" plans to streamline the Federal bureaucracy and "Creating a Government that Works Better and Costs Less."

I am concerned, as I expressed at the Senate Committee on Indian Affairs Oversight Hearing on Self-Governance, that the law clearly direct the Federal bureaucracy to deal with our Tribal governments as independent, sovereign governments in the future. The new Indian Affairs foundation must be carefully, methodically and systematically built on the principle of sovereignty. The bureaucratic obstructions and resistance to change is well known as we've struggled to establish Self-Governance. The Clinton Administration will soon understand this Federal tenacity to maintain and expand power and control.

The Federal bureaucracy has two centuries of experience and an extensive arsenal of resources available to misinterpret, misunderstand and determine Congressional intent for its own interest. New Federal bureaucracies becoming involved in Self-Governance will employ their own tactics, traps and shallow reasoning to frustrate and subvert Self-Governance. The provisions for negotiated rulemaking in the permanent Self-Governance legislation must be unmistakably clear to a child's level of reasoning that the Federal bureaucracy is negotiating government-to-government, nation to nation.

We don't want Congress to micro-manage each Federal bureaucracy with thousands of pages of legislative directives to advance Self-Governance. Therefore, our government role in negotiations between governments needs to be crystal clear so even Federal lawmakers can comprehend this basic principle. Hopefully, we can creatively negotiate future rules and regulations to implement policies and procedures that finally make sense and support Tribal government realities.

The permanent Self-Governance legislation, as a cornerstone to a new Indian Affairs foundation of government-to-government relationships between individual Indian Tribes and the United States, is a beginning. There will be those detractors in the Congress, Courts and the public arena who will seek to diminish Tribal jurisdiction due to peripheral concerns such as gaming, water rights or the myriad special interest agendas employed against Tribes over the centuries. The Indian Affairs foundation, however, recognizes our rights and responsibilities as independent governments to exist and develop according to our Tribally-determined priorities. In the future, I envision that permanent Self-Governance will involve multiple Federal Departments and Agencies with negotiated agreements over multi-year periods. This permanent Self-Governance statute is a most important first step to an improved future.

I have stated many times to many audiences and forums my basic belief:

"No right is more sacred to a nation, to a people, than the right to freely determine its social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself."

On behalf of the Quinault Indian Nation, I want to express our deep appreciation for the understanding, support and respect you have shown to Tribal governments in the development of Self-Governance. We strongly encourage immediate introduction and prompt passage of permanent Self-Governance legislation. We look forward to working together with Congress as we enter new frontiers in establishing meaningful government-to-government relationships between American Indian Tribes and the United States.

Sincerely,

JOSEPH B. DELACRUZ,
President.

JAMESTOWN S'KLALLAM TRIBE,
Sequim, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

Re permanent self-governance legislation.

DEAR SENATOR MCCAIN: I am writing on behalf of the Jamestown S'Klallam Tribe to express our strong support for passage of permanent Self-Governance legislation this Congressional session. As one of the first seven Tribes to negotiate a Compact of Self-Governance in FY1991, the Jamestown S'Klallam Tribe has operated in a highly dynamic political environment during the past three fiscal years. Our Tribe has experienced tremendous growth, opportunity, and change; and, many accomplishments have been achieved, both internally and on the national level. The goal of the Tribe has been to demonstrate that successful and effective Tribal Self-Governance is not only possible, but can serve as a model for future Federal Indian policy implementing the "government-to-government" relationship with all Tribal governments, if they so choose. As part of this Tribally-driven initiative, the Jamestown S'Klallam Tribe has made progressive change a reality.

SELF-GOVERNANCE AT THE TRIBAL LEVEL

At the Tribal level, this positive change is exemplified in numerous ways. The governing body and administrative staff now fully

understand the flexibility and opportunities available through Self-Governance. The Jamestown S'Klallam Tribal Council and Program Directors actively participate in prioritizing, planning and justifying program needs. An internal Tribal budget process has been developed and adopted by the Tribal Council. Tribal programs have been restructured to reflect specific activities and meet actual Tribal needs and priorities. An internal Executive Committee, established during the initial year of Self-Governance, has facilitated greater cooperation among departments. Finally, community awareness about Self-Governance has been enhanced by providing information through the Tribal newsletter, community events, and general membership meetings.

TRIBAL ORGANIZATIONAL CHANGES

The Jamestown S'Klallam Tribe recognizes that BIA or other Federal funding will never meet all the needs of the Tribe and the Tribal community. The Tribe never had the opportunity under P.L. 93-638 contracting to actually analyze true needs and budget according to Tribally-specific priorities. Additionally in the past, the shuffling of staff people and division of very diverse responsibilities, due to multiple contract requirements, often created inefficiencies in use of time and skills of particular individuals. Much energy was spent throughout the year with this "juggling" act in an attempt to utilize existing employees in the most effective and efficient manner with insufficient and restrictive funding under BIA 638 contracts.

The Self-Governance concept has provided the flexibility to restructure our programs to build and address Tribal priorities and needs. The Tribe views Self-Governance as a way in which funds can be used in the most effective and Tribally-specific manner possible without diminishing the United States' trust responsibility to Indian peoples and Tribes.

The Tribe has made several changes to the historical way in which funds were distributed to Tribal programs. The Tribe chose not to budget funds as specifically negotiated by line item, but rather re-design and shift funds according to priorities within those line items. General Budget Categories, or Departments, were developed, and Program Managers of each Department have been required to work with the Executive Director and Tribal Council in planning programs and setting priorities based on combined knowledge of needs. These major Tribal Departments include: (1) General Services, (2) Planning, (3) Social Services, (4) Economic Development, (5) Social & Health Services, and (6) Self-Governance implementation. The following information highlights key areas in which funding was reprogrammed to benefit more specific Tribal needs:

Education—Scholarships, Adult Education, and Adult Vocational Training were consolidated into one Education program under the Department of Social Services. Education is a high priority of the Tribe, and funds are budgeted for tuition and books for all educational purposes at the beginning of the fiscal year based on information supplied by the Tribe's Education/Employment Counselor. Additionally, the Tribe recognized the need for a full-time staff person to provide an effective educational assistance service to prospective Indian students. Additional funding was added to the Department of Social Service's budget during the initial year of Self-Governance to increase this position to full-time.

Cultural Enhancement & Restoration—Cultural enhancement, preservation, and restoration has never been available under BIA 93-638 funding. The Tribe's culture has struggled for survival due to conflicts with the non-Indian cultural values and systems. Due to lack of programmatic support, our efforts towards restoring and preserving traditional ways are key to community cultural survival. The tribal Council considers cultural enhancement a priority, allowing the Department of Social services to use Self-Governance funding to assist in meeting some cultural project expenses. Projects that were minimally assisted by Self-governance funds include a weekly children's program, the summer Culture Program, expenses for a Summer Open House, and supplies for basket weaving, drum-making, and woodcarving classes.

Housing—The Tribe historically has been provided approximately $32,000 to $38,000 per year through the BIA Housing Improvement Program (HIP). These funds have always been insufficient for construction of a new home, and the Tribe has been forced to delay new home construction one to two years in order for sufficient funds to accumulate for such a project. Under Self-governance, the Tribal Council has determined the need for re-programming additional funding into the Housing Program which more accurately addresses the unique conditions of our Tribal community.

Economic Development—In the past under P.L. 93-638 contracts, the Tribe did not receive funding for development of its economic base. Because the development of successful businesses to sustain Tribal Operations has always been key to future self-sufficiency, the Tribe budgeted additional funding to the Economic Development Department. This funding has complemented and enhanced existing business development activities being temporarily funded through the HHS's Administration for Native Americans (ANA).

Natural Resources Development—Historically, the Tribe has been funded primarily for harvest management and some initial development of acquaculture. Limited funding has never allowed the Tribe to expand this program. Under Self-Governance, the Tribe has been able to re-prioritize funding resources to the Natural Resources Department in order to encompass new resource areas, particularly in water resource and shellfish management. Water resource management activities include both protection of water quality affecting fish and shellfish habitat, and, the planning and restoration of water quantity in our traditional fishing rivers. Other enhancement options in the Tribe's primary area of fisheries could not be pursued in the past, but through Self-governance and other new funding sources, the Tribe has become involved in innovative projects to restore and protect critically depleted stocks of salmon in cooperation with Federal, State, and private enhancement initiatives.

Construction—With the new additions to staff and programs under Self-Governance, IHS, and other program/project resources, the need for expansion of Tribal administrative facilities remains critical. Under Self-governance, the Tribal Council passed a budget modification to refurbish an older building, that was purchased with Tribal funds, to accommodate additional Tribal social and health programs.

We firmly believe that our experiences under Self-Governance have provided the Jamestown S'Klallam Tribe the opportunity to exhibit its ability to enhance Tribal operations to make the "government-to-government" policy a meaningful relationship. We can now control and decide how to best utilize the Federal resources made available to our communities.

The key purpose of this proposed Self-Governance legislation is to establish a clear message to the Administration that the negotiated transfer of resources and allowing the Tribe to assume management responsibilities is sufficient evidence to justify making it a permanent option. In conclusion, it is time to set the foundation for which we will build or future. We believe in our vision and have moved forward in making the goals of Self-Governance a reality. We look forward to continuing to work with you and thank you again for your support.

Sincerely,

W. RON ALLEN,
Tribal Chairman/Executive Director.

PORT GAMBLE S'KLALLAM TRIBE,
Kingston, WA, October 26, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: The Port Gamble S'Klallam Tribe is entering it's third year of implementation and experience under the Self-Governance Demonstration Project. As Congress considers permanent legislation to make this Self-Governance opportunity available to all tribal governments, I want you to be aware of the many positive developments for our Tribe through the budget and management empowerment of Self-Governance.

EDUCATION

Increased the funding of education from pre-compact levels of $41,000 to $100,000 enabling:

26 students to enroll in a pilot project sponsored by the Evergreen State College allowing participants to attend classes on the reservation while earning a Bachelor's Degree at the end of five years. This is enabling many tribal employees the only opportunity available to further their college education.

Provided new Education Clinic space for after-school tutoring of grade school, junior high and high school students.

Increased the ability of our new high school graduates to attend colleges and universities throughout the United States. (The Class of 1993 was the first S'Klallam class in history to complete high school without any dropouts).

ECONOMIC DEVELOPMENT

Established and funded the Port Gamble Development Authority to advance economic development. Major accomplishments:

Contracted the construction of a road on the reservation thereby retaining profits for the Tribe that otherwise would have gone to off-reservation businesses.

Contracted the remodeling of the Health Clinic, again retaining profits for Tribal use.

Constructed and leased back to the Tribe an office building with profits to be used for further economic development of the Tribe's Salish Business Park.

Currently assisting in the planning and research necessary to evaluate the entry of the Port Gamble S'Klallam Tribe into the gaming industry.

LAW ENFORCEMENT

Increased the Tribal Police Force to provide 24 hour coverage of the reservation.

COURTS

Employed a Probation Officer and a Tribal Attorney to provide our Tribal government with adequate Legal Services.

FORESTRY

Initiated a Tribally-funded Forest Intern Program and development of a comprehensive long-term Forestry plan designed to provide yearly income to the Tribe.

PUBLIC WORKS

Created a Utility Department funded jointly by user fees and Self-Governance funds. This new Department cleaned the reservation's water tanks which greatly improved overall water quality.

COMMUNITY SERVICES

Established the following improvements to the quality of life on the reservation:

Funded Senior, Youth and Adult recreation programs.

Established a Senior lunch and Activities program.

Built a new Park on the reservation and rehabilitated the Community Activities Building.

Provided Self-Governance funded Day Care Services for families in order to allow parents to seek employment or educational opportunities off the reservation.

CULTURE

Created a Heritage Department to preserve and maintain the Tribe's cultural, artistic and historical heritage in modern society.

TRIBAL GOVERNMENT

Improved Tribal Government management and administration processes as follows:

Created a new budget and reporting system to facilitate input from the community; allow the Council a better understanding of the financial status of the Tribe; and, provide Tribal Council priority-setting and allocation authority over the Tribal Budget.

Enhanced the involvement of the Tribal Council in Tribal affairs through an increased amount of funds available for travel on the Tribe's behalf.

Established a Youth Council to acquaint our younger people with the governmental functions of the Tribe and to foster a pride in the accomplishments of the Self-Governance process.

I feel that these accomplishments would not have occurred without Self-Governance. Our people are beginning to experience a better life, which, I trust, will extend many hundreds of years into the future.

Sincerely,

GERALD J. JONES,
Chairman.

DUCKWATER SHOSHONE TRIBE,
Duckwater, NV, October 29, 1993.

Hon. JOHN MCCAIN,
Vice-Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR HONORABLE MCCAIN: The Duckwater Shoshone Tribe supports the Self-Governance Permanent Legislation in the Bill that is being submitted by Senator John McCain. Self-Governance is a fine program, it is a program that has helped our Tribe and has helped the other tribes that we have worked with during the demonstration stage. The program has allowed our Tribe to show that we can provide more services and better services to our community than can any federal agency. And it has allowed us to show that we will remain accountable to our people and to the United States as we operate our programs. It is time for Self-Governance to move past the demonstration trials to move into permanent program status, and to prepare for expanding it into the federal/tribal relationships in all federal departments.

In the Tribe's opinion, Self-Governance is better. It is an improvement over 638 and over federal services. Self-Governance gives the Tribe more freedom to concentrate resources on needs and plans and to make decisions and changes based on tribal priorities. Self-Governance makes decision making and accountability local, a situation that has both pluses and drawbacks.

Under Self-Governance, the Tribe has reduced its problems with the BIA. The Duckwater Shoshone Reservation has always been hard to get to so the BIA mostly hassled the Tribe from far away. BIA staff questioned or lost the Tribe's proposals, budgets, and reports. BIA staff questioned the Tribe's shared use of the equipment and the Tribe's administrative procedures. BIA staff forgot to tell tribal staff about meetings or forgot to send out new information. BIA staff delayed or simply did not forward the Tribe's requests or suggestions up through the system. Because of Self-Governance, the Tribe receives timely information. The Office of Self-Governance people try to help solve problems and Office of Self-Governance is able to get more cooperation from the Agency and Area staff than the Tribe ever could.

Under Self-Governance, the Tribe has increased its program and resource coordination. As an example, the Tribe increased coordination between the social service program, law enforcement, and the school on substance abuse prevention during its first Self-Governance budget planning and revision session. This and other budget changes improved program services and increased the efficient use of funding. And the Self-Governance authority to coordinate decreased our people's worries about monitoring hassles from the BIA.

For the first time, the Tribal Manager and Tribal Council worked on a comprehensive budget that covers all programs. Previous budgets were always focused on individual fund sources. This year was the first where the Tribe tried to develop a comprehensive budget for the staff and Council to understand and use. This has made it easier to focus on tribal programs and services rather than to just think about the fund sources.

Under Self-Governance, the Tribe has identified the need to improve its long range planning, its record keeping, and its internal policies and procedures. Before Self-Governance, long range tribal planning was sometimes as frustrating as it was rewarding. The Tribe would prepare its long range plan and often was able to reach its multi-year objectives. But the Tribe was unable to get the BIA or IHS to take the plans seriously. Federal staff would not help the Tribe to gain resources that it needed to carry out the plan. That changed under Self-Governance since the Tribe could make its own planning and operation decisions.

The Tribe has found a similar situation with its policies and procedures and its record keeping. The current policies and procedures were usually developed in response to a P.L. 93-638 or other federal program administrative requirement. Tribal staff paid attention to following the policies and procedures but did not spend a lot of time thinking about what the policies were really trying to address or how to improve the policies.

Now staff are discussing the fact that Self-Governance freedom brings the potential for severe and frequent changes. And staff are worried that severe changes could hurt rather than help local services. Staff are recommending that the Council prepare to review new and revised tribal administrative and operating policies, that the Council prepare for developing an administrative code that includes strong budget and personnel controls, and that new policies tie primarily to local processes and A-128 compliance.

The Tribe supports permanent status for the Self-Governance program and requests Congressional support for and passage of the McCain Bill. We strongly believe that tribes that seek the opportunity to operate their own programs will do a better job than will federal agencies. We strongly believe that tribes that want this responsibility should have this opportunity. The McCain Bill expands the opportunity and brings it to more tribes each year. We hope that all Congressional members will support this opportunity and will support the tribes that wish to take on this responsibility. Please contact me or my staff if you have any questions about our experience or our support for this program.

Sincerely,

BOYD GRAHAM,
Tribal Chairman.

SHOSHONE PAIUTE TRIBES,
Owyhee, NV, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Shoshone-Paiute Tribes of the Duck Valley Indian Reservation are participating in the Self Governance Demonstration Project as authorized by Congress.

The Shoshone-Paiute Tribes fully support permanent legislation for Self Governance. Self Governance is working in Indian Country including the Duck Valley Indian Reservation and this process should continue on a permanent basis. It would be very difficult for the Shoshone-Paiute Tribes to go back to doing business the "old way" with the Bureau of Indian Affairs. We, as Indian people, are taking a more active role in determining our own priorities, setting our own goals and accepting the consequences of our actions.

Since so much is at stake we have been more conscientious in providing for our own people's services, activities and functions which have improved our way of life and have given us much more pride in our achievements.

Under the Self Governance Demonstration Project the Tribes' membership have enjoyed an increase in employment, a decrease in welfare cases, we have been able to create more youth work programs, give our students more financial assistance in their higher education endeavors and fund more students in adult vocation training. Under the Self Governance Project the Tribes have gone from two people participating in the Forest Service Cooperative Agreements to at least 12 people, and over half of these people have become permanent employees of the Forest Service. We are able to keep our Tribal Courts open year round. We are able to provide for a full time employee for the Human Development Center. We are providing for funds to improve twice the amount of homes in the Housing Improvement Program.

We have been able to do more in the way of community development by installing street lights, completing paving projects, providing more assistance to the Senior Citizens. We no longer have to lay people off in the middle of the year and we can provide year round services in many other areas of natural resource development. There have been many other advantages to Self Governance we have only named a few and we have only just begun to benefit from this "new way" of doing business.

The Self-governance demonstration Project has proven to be a resounding success and should be permanently placed in the system along with allowing additional Tribes to participate. Thank you Senator McCain for your support.

Sincerely,

LINDSEY W. MANNING,
Tribal Chairman.

KAWERAK, INC.,
Nome, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re support for permanent self-governance legislation.

DEAR SENATOR MCCAIN: I am writing on behalf of Kawerak, Inc., a tribal consortium consisting of 20 federally recognized tribes in the Bering Straits region of Alaska, and a current Self-Governance participant, to express our full support for the passage of the proposed "Tribal Self-Governance Act of 1993."

Kawerak began planning under the Self-Governance Demonstration Project (SGDP) in November, 1990. Our Compact was signed in late 1991, and we began to implement our first Annual Funding Agreement on January 1, 1992. In our view, passage of title III (creating the SGDP) ranks as one of the most important positive actions yet taken by Congress in the area of Indian affairs and policy. Its importance can perhaps only be overshadowed by passage of a permanent bill.

Kawerak would rate the SGDP as implemented thus far as an unqualified success. Although the Project continues to have its up and downs, periods of frustration and periods of excitement, for Kawerak and the 19 participating member tribes, the SGDP provides a considerably improved environment for meeting the needs of our respective tribal governments and individual tribal members. The basis for this improved environment is directly related to three key factors which are truly unique to the SGDP.

First is the ability to gather greater resources under the control of tribal leaders through the Annual Funding Agreement negotiation process; second is the flexibility to direct those resources to tribally determined needs and priorities, third is the programmatic and administrative flexibility associated with the Project. These are real and extremely significant changes and improvements from 638 contracting, and Kawerak is actively moving to take full advantage in all 3 areas. This statement is clearly illustrated by an examination of Kawerak's FY 93 budgets.

Excepting programs with earmarked funding, every singe FY 93 Kawerak program budget has been modified since the beginning of the fiscal year—many of the budgets more than once—through the internal budgeting process set up in response to the SGDP. The changes were made quickly, and efficiently. Had these changes been made under the old 638 contracting system, the time, effort and paperwork involved would have been tremendous. A process that used to take weeks or months has been reduced to minutes, hours or in some cases perhaps days. In short, because of the administrative and bureaucratic burdens imposed under the old system the changes simply would either not have occurred at all, or certainly would not have occurred at anything close to the same level that has occurred under the opportunities provided through the SG Project. It is clear that the Project goal of allowing tribal needs and priorities to be reflected by tribally determined budgets is occurring. Changes may not be dramatic in many cases, but there is no question that significant change is taking place.

Specific tribal budgetary actions worth noting include: (1) The movement of new and existing funds to create a tribal coordinator/manager program, to assure that every one of the 19 participating villages has at least a part-time administrative staff person to coordinate the governmental activities of their IRA/Traditional council; (2) The creation of a Tribal Employment Rights Office, or "TERO" program, made possible by using tribal funds in conjunction with other funding; (3) The addition of funds to a very underfunded subsistence advocacy and protection program; and (4) Subsidizing a Village Planning Assistance Program with tribal funds to allow it to continue for the purpose of training planner/grantwriters in each of our villages and providing direct grantwriting and planning services. Perhaps the key point at this time is not the specifics of the numbers themselves, or the specific actions taken, but the fact that the SG Project goal of providing maximum tribal budgeting flexibility is being realized. Kawerak is utilizing this flexibility at an ever increasing level resulting in improved and more efficiently provided services to tribal members.

In the area of administrative and programmatic flexibility, Kawerak has seen a significant reduction in processed paperwork and reporting. The goal of freeing program personnel from unnecessary administrative tasks, thereby allowing increased time for service delivery is being met. There is also a greater sense that the reporting that is done serves a more tangible benefit. That is, with limited exception, the only reporting that is now done is that which is aimed at and produced exclusively for Kawerak's Board of Directors. (Of course much if not all of this information is shared with the village councils and members as well.) All program directors are able to have a direct personal link with the individuals who are reading and responding to the reports that are produced. The production of extraneous information or forms is discouraged. The bottom line is that SGDP reporting regime has resulted in an increase or improvement in both accountability and service delivery. No longer do staff have the feeling that reports are produced for some vague or unknown reason, only to disappear into that mysterious "black hole" of the federal administrative bureaucracy. Kawerak is also pursuing program waivers in our HIP and General Assistance programs.

Another positive result of the SGDP is that Kawerak is now in a much different position than we used to be in with regards to the Bureau of Indian Affairs. Almost without exception we now call upon the BIA only when we truly need information, technical assistance or some other narrowly defined service. Most contacts are initiated by Kawerak. In the past, it seemed that Kawerak was much more in a position of responding or reacting to requests by the Bureau. This reversal of roles regarding contacts is a significant change. Essentially, the relationship seems to be shifting from one of tribes being led by the Bureau, to the much more desirable relationship of tribes leading the Bureau. The result of the reversal of roles is not that tribal dependence on, or the need for a continuing partnership with the Bureau is being eliminated, but that this partnership and dependence is taking on a much healthier nature. BIA is no longer the convenient scapegoat it has been in the past, nor is it a barrier. One would hope that this new relationship is viewed in the same positive light by the Bureau as it is by Kawerak.

The changes and improvements brought about by the SGDP are subjective as well as objective. The subjective changes may be harder to document, but are also clearly noticeable even after our first two years in the Project. Attitudes are changing in a positive way. The empowerment which takes place when a tribe fully participates under the SGDP is a potent force. The consequences will take time to be fully realized and appreciated, but these subjective attitudinal changes will continue to drive positive objective action. Tribal members are beginning to look to themselves and their own institutions for solutions, with the realization that there is real meaning and opportunity in doing so.

In summary, I would like to state that it is inconceivable to us that Self-Governance would not become a permanent option for tribes. In our view, the sooner the better. Self-Governance is the logical next step in the evolving federal-tribal relationship. We ask for your full support in passage of The "Tribal Self-Governance Act of 1993," and thank you for your efforts regarding this historic initiative.

Sincerely,

LORETTA BULLARD,
President.

SITKA TRIBE OF ALASKA,
Sitka, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Sitka Tribe of Alaska, one of five Southeast Alaska tribes taking part in a self-governance demonstration project compact, endorses enactment of the proposed Tribal Self-Governance Act of 1993. The Act would authorize continued and increased self-governance activity, and would significantly improve the ability of the Sitka Tribe of Alaska to serve its citizens.

Our Tribe has been a signatory to the Southeast Alaska Self-Governance Compact for the past two years and has recently signed our third Annual Funding Agreement. We have experienced many positive results of participation in self-governance. The Sitka Tribe has received increased tribal funds as the Bureau of Indian Affairs bureaucracy has been reduced in our region; had the advantage of increased flexibility in redirecting funds toward economic development; and, have been able to increase and improve services to our members in the key areas of social services, education, and employment.

We join those many other tribes eager to have the demonstration project made permanent at the Interior Department and ask that you pass this bill into law before the end of the year. We support the fact that the scope of the bill has been limited to ensure that no controversial provisions delay quick enactment this year.

If there is anything more we can do to ensure this bill's passage, please let us know.

Sincerely,

TED A. WRIGHT,
General Manager.

CENTRAL COUNCIL, TLINGIT AND
HAIDA INDIAN TRIBES OF ALASKA,
Juneau, AK, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I am writing this letter on behalf of the Central Council of the Tlingit and Haida Indian Tribes of Alaska (Tlingit & Haida) in support passage of legislation that would make the self-governance program permanent.

Tlingit & Haida is a federally recognized tribe that has been involved in the self-governance movement since the beginning. Our programs play a very important part in the lives of many needy Natives in Southeast Alaska. Permanent legislation will stabilize this very important program so that there will be no question as to whether the program will be around in future years.

The positive aspects of our experience with self-governance are flexibility in funding and program design, the increase of the funding base, and the reduction of federal oversight and monitoring.

In conclusion, I ask your support for the passage of this very important legislation. The benefit to our tribal members will continue to increase with each passing year that this program is in existence. Any support you can give this program is very much appreciated.

Sincerely,

EDWARD K. THOMAS,
President.

TANANA CHIEFS CONFERENCE, INC.,
Fairbanks, AK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: Tanana Chiefs Conference, Inc. (TCC) has recently entered into a Compact of Self-Governance with the Department of the Interior (DOI) concerning the Bureau of Indian Affairs (BIA) programs and projects we administer.

In the TCC region, Self-Governance is the key to achieving meaningful Tribal development. Self-Governance allows programs to be redesigned to better meet the needs of Tribes and Tribal members. As such, TCC is now able to offer, for the first time, an administrative position in each of our participating villages. The Tribal Administrators will handle the day to day operations of their Tribes and seek new opportunities to develop and enhance their Tribal governments.

Under Self-Governance, TCC will be responsive to the needs of our member Tribes rather than the bureaucratic whims of the BIA.

Self-Governance must be preserved. As such, the Tanana Chiefs Conference, Inc. supports your efforts to pass permanent Self-Governance legislation this session.

Sincerely,

WILL MAYO,
President.

LOWER ELWHA TRIBAL COUNCIL,
Port Angeles, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN, I write to you today in support of your sponsorship of legislation which will amend Title III of the Indian Self Determination and Education Assistance Act, PL 93-638, and make the Self Governance Demonstration Project permanent. The Lower Elwha S'Klallam Tribe became a self governance tribe in 1993, after many years of experience in contracting under PL 93-638.

We have experienced many benefits under self governance, the foremost of which I can mention is the ability to design and fund tribal programs which we would not otherwise be able to offer our youth. As the Committee is well aware, the lure of drug and alcohol abuse among our young people is the greatest problem we face. Under self governance, we can support programs in cultural, educational and recreational activities, which we call Prevention Programs. These are highly successful in diverting children and adolescents from drug and alcohol abuse, while providing them educational enhancement, building pride in their tribal heritage, and developing and strengthening their minds and bodies. Without the flexibility of self governance reprogramming of tribal funds, we would be unable to provide these valuable programs for our young people. As well, we were able to provide financial support to our tribal day care program from self governance funds; we were able to do this only through reprogramming.

We thank the Committee for holding a hearing on this legislation October 20 and look forward to working with the Committee to further strengthen Tribal Self Governance.

Cordially yours,

BEVERLY J. BENNETT,
Chairperson.

ELY SHOSHONE TRIBE,
Ely, NE, November 2, 1993.

To: The Honorable John McCain, Vice-Chairman, Senate Committee on Indian Affairs.

From: Jerry Charles, Tribal Chairman, Ely Shoshone Tribe.

Subject: Permanent self-governance authority, Department of the Interior.

I wish to remark on Senator McCain's newly introduced legislation to apply permanent authority to the Tribal Self-Governance initiative of the Department of the Interior, now ending its 4th year as a demonstration project.

After concluding, I will ask for your support and co-sponsorship of this bi-partisan bill. It is difficult for me to imagine a more important piece of Native American legislation to come before the Congress the past 75 years.

I represent the Ely Shoshone Tribe, a small Western Shoshone tribe in the State of Nevada. When officials make speeches about the Self-Governance Demonstration Project, they generally include a line to the effect that Self-Governance funding ranges between Tribes receiving $530,000 to Tribes' receiving $10.2 million. We are the $530,000 Tribe.

But as the majority of tribes in this country are also small, I believe our experience may predict what theirs will be if Self-Governance is made permanent and extended to all.

Paticipation in the Tribal Self-Governance project has enabled my tribe to double its police protection for our community. It has enabled us to help our kids by expanding our educational services from a funding level of $5,600 to a funding level of $56,000. It has enabled us to relieve overcrowding in our homes by building room additions and bathrooms. None of this would have been possible were we not a part of the Self-Governance Demonstration Project.

The specifics are important, and I could spend a page listing them. But I want to ask something instead: do you remember, as a child, having to clear every decision you made, every penny you spent, with a parent, a teacher, another authority figure? This is how it has been with us vis-a-vis the Bureau of Indian Affairs.

This is the yoke Self-Governance removes. We now make local decisions about programs and spending levels that fit the values of our community. Furthermore, I believe we make and implement decisions far more efficiently and economically than the Federal bureaucracy ever did.

The tribally-initiated Self-Governance Demonstration Project has had the strong support of Congress and Presidents Reagan, Bush and Clinton. Whether the reasons for that support were couched in terms of "efficiency in government", "reduction of the federal bureaucracy", or "re-inventing government", we are grateful that the support has remained . . . on both sides of the aisle.

I ask you now for your support and cosponsorship of this bill. This measure returns the keystone of tribal government back to tribal government, returning those powers of self-governance which we exercised in America for thousands of years. It removes, once and for all, a big colonial yoke from around our collective neck, and enables us to take our place within the sovereign family of governments in this nation.

THE SAULT STE. MARIE
TRIBE OF CHIPPEWA INDIANS,
Sault Ste. Marie, MI, November 3, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington DC.

DEAR SENATOR MCCAIN: The Sault Ste. Marie Tribe of Chippewa wholeheartedly supports the introduction to introduce permanent Self-Governance legislation. We believe the concept of Self-Governance is logical step towards achieving true tribal self-sufficiency.

The Tribal Self-Governance Program is a demonstration project authorized in 1988 by Congress. It was a concept originated by then Interior Assistant Secretary Ross Swimmer which establishes a direct funding relationship between tribes and the U.S. Government.

Currently, there are 30 tribes involved in the demonstration project in various states of development with 18 of these tribes having signed working "compacts" with the Department of Interior and the Indian Health Service.

In order to complete a compact a comprehensive planning process needs to take place at the tribal, agency, and area office levels. Essentially, all of the budgets pertaining to the participating tribe are analyzed and eventually a dollar amount is assigned in regards to direct dollars and administrative support given. Once all the programs have been analyzed in this manner, a total budgetary figure is arrived at. All parties are then convened at a negotiating session and a formal compact is then executed. The tribe then receives a "lump sum" amount of funds at the beginning of a fiscal year to cover all of designated programs. All Interior programs as well as all Indian Health Service Programs are eligible to be compacted with the exception of any "trust-responsibility" related functions.

Currently, no additional tribes are being accepted into the demonstration, however, the Sault Ste. Marie Tribe of Chippewa Indians supports the enact of legislation making the Self-Governance Program permanent.

Your assistance in this matter is greatly appreciated.

Sincerely,

BERNARD BOUSCHOR,
Tribal Chairman.

MILLE LACS BAND OF CHIPPEWA INDIANS, EXECUTIVE BRANCH OF TRIBAL GOVERNMENT,
Onamia, MN, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington DC.

DEAR SENATOR MCCAIN: First, I wish to extend my sincere appreciation to you for inviting me to testify on behalf of the Mille Lacs Band of Ojibwe at the October 20, 1993 hearing on the Self-Governance Demonstration Project. Second, I am writing to convey the Mille Lacs Band's strongest support for swift enactment of legislation making the Self-Governance Demonstration Project permanent.

At Mille Lacs, Self-Governance is the highest administrative priority for our tribal government. As a first-tier tribe, Mille Lacs is now in our sixth year of implementation of the demonstration project. We have found the project to be a tremendous success, and urge you to introduce and seek passage of permanent legislation as soon as possible.

Self-Governance is truly the "reinvention of government" for Indian tribes, because carried to its ultimate conclusion, the federal bureaucracy will reinvent itself to provide for tribal control and management over programs meant to benefit Indian tribes and people. As I noted at the hearing, Mille Lacs has determined that of every dollar appropriated by the Congress which should be the share benefiting the Mille Lacs Band, we have moved from accessing just eleven cents of each dollar in 1988 to over fifty cents of each dollar today in 1993. It is critical that other tribes across the United States have the opportunity, if at their option they choose, to participate in this project. But only through permanent legislation will that opportunity be created.

In addition, at some point the Congress will have to conclude the demonstration. In my opinion, it would not only be irresponsible, but criminal, if the Congress allowed the project to die and the clock were turned back to 1988 for the Mille Lacs Band and other tribes who have achieved so much success through self-governance.

On behalf of the Mille Lacs Band, I urge you to continue forward with permanent legislation. As you have observed the project over the last five years, your personal support for Self-Governance has been outstanding. We greatly appreciate the assistance which you and your fine staff have provided to Mille Lacs since 1988. If there is any way that the Mille Lacs Band can assist in this legislative effort, please do not hesitate to call upon me.

I may be reached at (612) 532-4181, along with Karen Ekstrom, Coordinator of Self-Governance at Mille Lacs. Or you may contact Emily Segar, of the Band's Washington Office, at (202) 543-8170. Thank you for you consideration and support.

Sincerely,

MARGE ANDERSON,
Chief Executive.

YAKUTAT NATIVE ASSOCIATION,
Yakutat, AK, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR HONORABLE MCCAIN: The Yakutat Native Association strongly supports quick enactment of the proposed Tribal Self-Governance Act of 1993. This bill would apply permanent authority to Self-Governance at the Department of the Interior and would increase the number of Tribes eligible to sign Compacts and Annual Funding Agreements with Interior.

Our Tribe has been a Signatory Tribe to the Southeast Alaska Tribes Self-Governance Compact for the past two years and recently signed our third annual funding agreement. Our Tribe has experienced many positive things as a result of our participation in Self-Governance.

In the near future we would also request to have our own individual Tribal Compact with the Office of Self-Governance. And request that language be included, to allow all Tribes the option to have their own compact in the future.

We have been able to increase the number of Tribal Staff, which provides more employment for our members. With the increased staff we are able to out reach to our clients better, improving the quality and amount of services we can provide to our clients.

We would like to see the demonstration project made permanent at the Interior Department and ask that you pass this bill into law before the end of the year.

Please let us know how we can support this bill getting into law this year.

Sincerely,

NELLIE VALE,
Executive Director.

MUCKLESHOOT INDIAN TRIBE,
Auburn, WA, November 1, 1993.

Senator JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR SENATOR MCCAIN: The Muckleshoot Indian Tribe is writing to strongly endorse the introduction and swift passage of legislation to make permanent the Bureau of Indian Affair's Self-Governance program.

While the current 30-Tribe limit to the Self-Governance program precludes Muckleshoot's official entry into the program, our Tribe's planning efforts have been sanctioned by the Bureau of Indian Affairs, and we are actively pursuing becoming a Self-Governance Tribe.

The Muckleshoot Indian Tribe feels that legislation to authorize additional Self-Governance Tribes and make the program permanent is needed and justified. By treaty, Tribal governments have retained their inherent rights to self-govern and, as a matter of principle, should be afforded the opportunity to fully exercise that right under the BIA Self-Governance program. The current 30-Tribe limit is inconsistent with such principles and is a major inhibitor to Tribal growth and development.

Moreover, the Self-Governance program has proven to be a most cost-effective and streamlined means for ensuring maximum utilization of limited Federal resources. The Self-Governance program eliminates a number of the bureaucratic layers of the BIA by channeling Congressionally-appropriated funds more directly to Tribal governments at the local level. The efficiencies and cost-savings associated with the Self-Governance program are particularly relevant to the Congress's and the Administration's initiatives to enact savings by reducing Federal bureaucracies.

We wholeheartedly endorse and support the introduction and swift passage of legislation to make permanent the Bureau of Indian Affair's Self-Governance program. Your efforts and those of your colleagues in the Senate would be most welcomed and appreciated in this regard.

Sincerely,

VIRGINIA CROSS,
Chairman.

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA,
Shawnee, OK, October 25, 1993.

Senator JOHN MCCAIN,
Senate Committee on Indian Affairs, Hart Senate Building, Washington, DC.

DEAR SENATOR MCCAIN: Please find enclosed the testimony of the Absentee Shawnee Tribe of Indians of Oklahoma expressing support and concurrence with a measure which would make Self Governance for Indian Tribes and Nations a permanent program.

This office was present during the Oversight Hearings conducted regarding this subject on October 20, 1993, and greatly appreciate your continuing support of this vital issue.

Should questions arise, or additional information be deemed necessary, please do not hesitate to contact this office.

Sincerely,

LARRY NUCKOLLS,
Governor,
Absentee Shawnee Tribe of Oklahoma.

OFFICE OF THE GOVERNOR,
THE CHICKASAW NATION,
Ada, OK, November 1, 1993.

Hon. JOHN MCCAIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: We understand that this week you will be introducing legislation in the Senate for permanent self-governance in relation to Indian tribal governments. We wholeheartedly endorse the concept of making self-governance a permanent program.

The Chickasaw Nation is now a self-governed tribe with its programs through the Bureau of Indian Affairs. Through self-governance, we have finally realized the potential that we have as an Indian nation. The direct input from our citizens has been phenomenal and the program has allowed us to exercise freedoms in meeting the needs of those we serve at a level that we have never before experienced. Tribal self-governance is a realization of an ideal that many Indian nations have had for more than a hundred years. It is indeed an idea whose time has come.

We encourage you to continue in your efforts and we express our willingness to work with you in the passage of legislation which will make the Self-Governance Program permanent.

Sincerely,

BILL ANOATUBBY,
Governor, the Chickasaw Nation.

LEECH LAKE TRIBAL COUNCIL,
Cass Lake, MN, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Leech Lake Band of Chippewa is a current participant in

the Public Law 93-638 Title III Self-Governance Demonstration Project. As a fourth tier tribe, fiscal year 1994 is our first year of operation under our Compact/Funding Agreement.

During the planning and negotiation phases in preparation for entering into this new way of doing business with the Federal government, we were constantly reminded that Title III, Self-Governance was a temporary, experimental demonstration. This attitude was present at all levels of the Bureau of Indian Affairs and hindered negotiations.

The Leech Lake Tribal Council supports your sponsoring and introducing legislation which will make Self-Governance compacting a permanent option for tribes. Such legislation is necessary to move the Self-Governance process forward and to remove any doubt that this tribally driven initiative is here to stay. We feel it is important that the legislation be completed by the end of the year.

Your sponsorship of this legislation, and your continuing efforts on behalf of American Indians, is greatly appreciated.

Sincerely,

ALFRED R. PEMBERTON,
Chairman.

CHEROKEE NATION,
Tahlequah, OK, October 29, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: It is my understanding that on November 3rd or 4th you intend to introduce a bill making Self-Governance permanent. I want you to know that you have my unqualified support in your effort to make the Self-Governance project a permanent program.

To many students of Indian affairs, Self-Governance represents a natural, even inevitable progression in modern federal Indian policy which began with the enactment of PL 93-638, the Indian Self-Determination and Education Act. Although I firmly believe that Self-Governance will continue building upon itself and eventually become the centerpiece of federal Indian policy, its impact and goals will be greatly facilitated with permanent legislation. As long as Self-Governance remains a "demonstration project," there is a real danger that the two federal agencies primarily involved in executing Congress' Indian policy will not take Self-Governance seriously.

Your draft bill would make Self-Governance permanent only with respect to the BIA. If I understand correctly, your reasoning is that including IHS in the bill will cause it to be referred out to various other committees, substantially diminishing the chances for enactment of the bill into law in 1994. I fully support your position and agree that, for the time being, IHS should be left out of the bill. However, I would request that you consider including a provision requiring IHS to submit a written plan for permanent implementation of Self-Governance within that agency. If this, too, would lead to referral out to other committees, strong language expressing congressional intent to make Self-Governance permanent within IHS should be included.

For the record, I want to identify some of the many positive effects Self-Governance has had on Cherokee Nation. These include:

Significant improvements in law enforcement and the tribal court system, including new criminal and juvenile codes, a multi-jurisdictional cooperative agreement with the State of Oklahoma and various political subdivisions, establishment of a civil and criminal trial court system, with two district judges, a court clerk and a tribal prosecutor.

Expansion of the Cherokee Nation Environmental Protection Agency's scope of activities and a dramatic improvement in its technical expertise. Under Self-Governance, for example, Cherokee Nation recently submitted an application for determination of adequacy of its solid waste disposal regulatory program under Subtitle D of RCRA.

A substantial increase and improvement in community development programs such as Construction, Environmental Health, Youth Services, Elderly Assistance, Community Involvement and Special Projects. Over 75 persons have been assigned to this area with specific responsibilities to extend the services of Cherokee Nation throughout its fourteen-county jurisdictional service area.

Cherokee Nation has not yet implemented its IHS Compact, but during FY 1994 the Nation's objectives include development of a health care benefit plan for all eligible users of Cherokee Nation health services, establishment of cooperative agreements with state agencies and private facilities, development of epidemiological data generation and analysis and an automated health management information network.

The improvements in tribal government and services were the direct result of the program and budget consolidation and the greater flexibility in allocation of financial resources made possible by Self-Governance under Title III. Compared to Self-Governance, contracting under PL 93-638 is at once cumbersome and rigid, and assumes a much higher level of federal oversight. In fact, as a consequence of Cherokee Nation's compact with the Interior, the entire Tahlequaqh Agency of BIA was eliminated and its former superintendent transferred to the Area Office as a Self-Governance Officer. Self-Governance has brought dramatic changes in tribal government and the Nation's ability to deliver comprehensive, high-quality social and health services to Indian country in northeastern Oklahoma. The time has come to make the Demonstration Project into a permanent federal program.

Sincerely,

WILMA P. MANKILLER,
Principal Chief.

SAC AND FOX NATION,
Stroud, OK, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Sac and Fox Nation has participated in the Self-Governance Demonstration Project since the fall of 1991. As a "Compact" tribe, the Nation has been provided with the flexibility to determine its own future whether it be in the area of funding or in the area of service provision to the people in our jurisdiction. Through the Demonstration Project, we have been provided the vehicle for which the Nation can operate in a true government to government relationship.

It is time for permanent Self-Governance legislation to be introduced and enacted. As sponsors of and participants in the recent working conference to draft the permanent legislation, we fully support the enactment of permanent legislation.

Your continued efforts in pursuing permanent legislation on behalf of the tribes is appreciated.

Sincerely,

ELMER MANATOWA,
Principal Chief.

ORGANIZED VILLAGE OF KAKE,
Kake, AK, November 1, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re permanent tribal self-governance legislation.

DEAR SENATOR: The Organized Village of Kake (OVK), as a Federally recognized Indian Tribe, strongly supports the speedy enactment of the proposed Tribal Self-Governance Act of 1993. This bill would apply permanent authority to Self-Governance at the Department of the Interior and would increase the number of Tribes eligible to sign Compacts and Annual Funding Agreements with Interior.

OVK has been a signatory to the Southeast Alaska Self-Governance Compact for the past two years and recently signed our third Annual Funding Agreement. OVK has experienced many positive benefits as a result of our participation in Self-Governance. We have realized the benefit of increased Tribal program funds as a result of our Compact reducing one layer of the Bureau of Indian Affairs (BIA) bureaucracy; thus, providing a significant enhancement to, and/or development of new, programs and services for our Tribal Membership. Specific examples include 1) targeting funds towards the economic development priorities of the Tribe as a result of increased flexibility; 2) responding to immediate Tribal needs through the ability of the IRA Council to authorize Tribal budget modifications; and 3) increased and improved services to our Membership in the key areas of education and social services.

OVK is eager to have the demonstration project made permanent at the Department of the Interior and ask that you pass this bill into law before the end of the year. We support the fact that the scope of the bill has been limited so that no controversial provisions will delay quick enactment this year.

In closing OVK wishes to thank the U.S. Senate Committee on Indian Affairs for the invitation to report our progress under Self-Governance at the October 20, 1993 Oversight Hearing. As we understand our concern, noted in our testimony, regarding our ability to move directly into a separate and independent Compact under permanent legislation is being addressed in the bill's report language to meet our needs.

Sincerely,

HENRICH B. KADAKE, Sr.,
IRA Council President.

LUMMI INDIAN BUSINESS COUNCIL,
Bellingham, WA, November 2, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

Re permanent self-governance legislation.

DEAR SENATOR MCCAIN: The Lummi Nation requests your continued support and assistance in the development of the Tribal Self-Governance Legislative Authorization as a permanent way for Tribes to conduct their business. The Lummi Nation has been a part of this historic tribally-driven initiative since it's inception. On October 27, 1987, our Tribal Chairman at that time, Larry Kinley, presented testimony before the House Interior Appropriations Subcommittee regarding

"Problems and Solutions in the Tribal-Federal Relationship." In that testimony the Lummi Nation stated:

"The basic issue confronting us today is a cumbersome, unwieldy bureaucracy built layer upon layer over the years being pressured by frustrated Tribal governments yearning for independence in the management of their affairs and seeking a larger share of resources allocated for their benefit.

"I truly believe that American Indian Tribes and Congress over the next several years should restructure the Federal service and resource delivery system to Indian Country to efficiently and effectively address the broad spectrum of Tribal government needs from those totally dependent Tribes to Tribes desiring true self-government. The process of change is always unsettling and painful, but the new system could still provide strong trust protection and allocate a greater share of existing resource expenditures to Tribes without drastically increasing government appropriations."

With the passage of permanent legislation, we can better realize the full potential of this initiative. Without Self-Governance, as a permanent option for Tribal governments, it is likely that the Federal bureaucracy would return to the "business as usual" relationship with Tribal Governments and tie Tribal entities to the constraints of the 98-638 contracting relationship. If, this initiative were to continue as simply another one time "experiment," these Tribally-proposed principles would not be taken seriously. The Demonstration Phase of the Self-Governance initiative is a living example of the Clinton/Gore's concept of reinventing Government. We have only scratched the surface of the creative and innovative possibilities for the restructuring operations of Tribal government and effective Tribal/U.S. relationships. The Lummi Nation supports and commends your efforts in moving forward with permanent legislation

The Lummi Nation has helped develop and evolve this initiative for over six (6) years. We are in our fourth year of implementation with our Compact of Self-Governance with the Department of the Interior and will begin to implement our Compact with the Indian Health Service on January 1, 1994. We have also coordinated and administered the Self-Governance Communication/Education project (since 1989), in coordination with the Jamestown S'Klallam, Quinault Indian Nation, and the Hoopa Valley Indian Tribe. In this short period of time, the Lummi Nation has realized a great deal of positive change due to Self-Governance.

TRIBAL COMMUNITY

Budget Ordinance: With the adoption of this ordinance, the Tribal community members are actively involved in the decision-making processes of their Tribal government. This has resulted in greater Tribal control and fiscal accountability of all programs and resources. In 1988, prior to Self-Governance, only 20% of our members voted; in 1993, 58% of our eligible voters participated in our General Elections.

TRIBAL GOVERNMENT

Lummi Indian Business Council: Restructuring of the Tribal Government has occurred to accommodate new responsibilities and authorities. The Council now meets weekly rather than monthly. For the first time in Lummi Nation history we have a full-time paid Tribal Chairman. The Council focus now is on planning for the future, in sharp contrast with the past of simply reacting to crisis situations.

Tribal Staff: A new awareness has occurred among Tribal Staff. They have become accountable to the people and to the Business Council rather than to an outside Federal entity and/or representative.

Priorities: The Business Council now establishes meaningful Tribal priorities and determines the resource allocations for those priorities. Tribal members are part of this decision-making process under the auspices of the Tribal Budget Ordinance.

TRIBAL PROGRAMS

Veteran Affairs Office: This office was created to service Veterans in meeting their social, educational, health, employment, and housing-related needs. The Lummi Nation has over 330 Lummi Veterans with unique and different needs than the general Lummi population. The Office was created in 1992 with Self-Governance monies. The program is recognized as a regional and national model Veterans program for Native Americans.

Culture: A new Department was established under Self-Governance. A new Ordinance is completed for the Protection of Cultural Resources, Burial and Archaeological Sites.

Education: The Johnson O'Malley program has expanded from servicing 370 students, to providing services to over 800 youth. Tribal School teacher salaries were supplemented to bring them closer to that of the Washington State teachers. Under our Scholarship program, funding has assisted over 80 students to further their education. We established a Youth Program to supplement educational services. This program has serviced over 350 youth.

Law & Order: A full-time criminal investigator has been employed. We have cleared the record of many pending cases. A new drug code has resulted in drug-related and criminal arrests.

Court: The staffing has stabilized and an accumulated backlog of cases have been reviewed, evaluated and processed. Tribal code revisions for Criminal, Traffic and Rules of Court are being updated.

Program Support: Support for the following programs: Safe Streets; Senior Citizens; Education Commission; Budget committee; and, our local volunteer Fire Department.

Business Assistance Center: This center, in coordination with the Northwest Indian College, provided technical assistance to 150 tribal members who own or operate small businesses.

EXTERNAL

Self-Governance Communication/Education: Since 1989, we have accomplished the following: conducted 21 workshops across the Nation, with participation of over 250 Tribes; made over 200 presentations; wrote, edited, published and distributed over 13,550 copies of publications on the Project, the Red Book and Workshop Manual; currently publish and distribute a national Self-Governance monthly newsletter, and, we have recently completed a one-half hour documentary video on Self-Governance.

With potential permanent legislative authorization of the Self-Governance Initiative, the Lummi Nation is excited and we look forward to the future with a new vision for our Tribal community. Our vision includes: the reaffirmation and re-establishment of the government-to-government relationship with the United States; to move forward towards greater self-sufficiency, the possibility of becoming a community that is proactive rather than reactive; and, the realization of a Tribal government that is accountable and responsible to the people we are here to serve. Through Self-Governance, these visions, ideas and hopes for the future can and have become realities. Our experiences have proven that through Self-Governance, positive change can occur within our Tribal community. We know what our problems are, but most importantly, we know what the solutions are and how they can best be implemented.

We understand the need to proceed at a steady, calculated pace in the development of Self-Governance as a permanent way of implementing our government-to-government relationship. Yet, it is very difficult to explain to our people why we are self-governing in some areas, but not in others. Why we can be flexible in meeting the needs with some funding, but still restricted with others. Let us not lose sight of the need to address the inclusion of the rest of the Federal system that provides services, activities and functions to Indians in the very near future. We envision a future in which the Tribal governments can comprehensively manage services and development according to Tribally-established priorities and Tribally-oriented guidelines.

We know that Self-Governance does not answer all of our Tribal problems and that Self-Governance may not be appropriate for all Indian Nations, but for the Lummi Nation, it is our road to the future. For the first time in over 100 years, we are beginning to determine our own successes and learn from our own failures.

Bill Clinton and Al Gore said it the best with regards to, "*Putting People First,*"

"We can no longer afford to pay more for—and get less from—our government. The answer for every problem cannot always be another program or more money. It is time to radically change the way government operates—to shift from top-down bureaucracy to entrepreneurial government that empowers citizens and communities to change our country from the bottom up. We must reward the people and ideas that work and get rid of those that don't work."

This is the Tribal Self-Governance Initiative—the empowerment of Tribal governments to improve the quality of life of the Tribal people in our Tribal communities. Your support of legislation in making this initiative permanent is encouraged. We appreciate and commend you and your many supportive efforts on behalf of Indian people.

Sincerely,

HENRY M. CAGEY,
Chairman, Lummi Indian Business Council.

SQUAXIN ISLAND TRIBE,
November 3, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The Squaxin Island Indian Tribe urges the prompt introduction and passage of permanent Tribal Self-Governance authorization legislation. We are certainly encouraged and excited over the positive bi-partisan expressed support from Congress on the principles of Tribal Self-Governance. We envision this permanent legislative authorization as an important step in the careful and deliberate process of re-establishing meaningful government-to-government relationships between Tribal governments and the United States.

The Squaxin Island Tribe is probably the most recent Tribal government to officially enter the Self-Governance Demonstration Project as our negotiated Compact and Annual Funding Agreement with the Interior

Department was implemented on October 1, 1993. We are redesigning our Tribal government operations according to our unique Tribal situation, needs and plans. We are also establishing procedures to more effectively manage our expanded responsibilities and more efficiently administer government services to our people. The Tribal Self-Governance principles provide us with both challenges and opportunities to improve the quality of life for the Squaxin Island Tribal people today and the generations to come.

We are concerned that the entrenched Federal bureaucracy will be creating extremely difficult obstacles and hurdles in the Self-Governance path with their extensive arsenal of regulatory restrictions and policy requirements. Hopefully, the proposed "negotiated rule-making process" will clearly offer a constructive, creative and productive negotiation procedure to facilitate change and improvements in the management of Indian Affairs. We want to be afforded our rightful government status at the negotiation table with the real possibility to develop, in the spirit of cooperation, regulatory guidelines that reflect both Tribal goals and Congressional intent. Tribal governments have been entangled, manipulated and controlled by the dominant Federal system for over a century. There will certainly be a Federal inclination to cling to past practice and traditions. Tribal governments, however, want to concentrate on improvements for the future. This important permanent Self-Governance legislation should focus our attention on both the present and the future of our government operations. Clearly, the time for change is now.

We are heartened by the October 26, 1993 Presidential Executive Order 12875 on "Enhancing the Intergovernmental Partnership" and the reasoned National Performance Review recommendations on "Creating a Government That Works Better & Costs Less." President Clinton's Executive Order concludes for Tribal, State and local governments that:

These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal government.

The Squaxin Island Tribe certainly agrees with this Presidential premise. Self-Governance is a very historic initiative at a very critical time of change in the Federal system. We are indeed hopeful for a better future.

We truly appreciate the support from you and bipartisan Congressional members in making Self-Governance a reality for Indian Country. I urge that this cornerstone legislation for future Indian Affairs policy be passed as soon as possible so that, together, we can create meaningful government-to-government relationships.

Sincerely,

DAVE LOPEMAN,
Chairman.

THE CHIPPEWA CREE TRIBE OF THE
ROCKY BOY'S RESERVATION,
Box Elder, MT, October 28, 1993.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

THE HONORABLE JOHN MCCAIN: The Chippewa Cree Tribe of the Rocky Boy's Reservation in North Central Montana would like to voice our support of the draft bill to apply permanent authority to the Interior Department Self-Governance Program.

Although we are in the infant stages of implementation the tribe has experienced many positive results already. The primary benefit of the Self-Governance program is the tribe's ability to prioritize for themselves programs they feel need funding. With education being our number our priority we have been able to fund fifty-nine more Higher Education and Adult Vocational Training students. This accomplishment alone will have a major impact on our education department. We have also been able to create a Natural Resources Department which we will finally have total control over. Water and Solid Waste programs have also been created and funded which will directly benefit every tribal member.

Lastly, the new attitude we are experiencing with tribal employees has been very positive. The new responsibilities for employees and the accountability of the tribal council has made everyone realize that we are now truly deciding for ourselves, our own future.

We totally support the permanent legislation proposed, and feel every tribe should be given the opportunity to participate if they choose.

Respectfully yours,

JOHN SUNCHILD, Sr.,
Chairman.

By Mr. METZENBAUM:

S. 1619. A bill to create the Insurance Regulatory Commission; to the Committee on Commerce, Science, and Transportation.

INSURANCE PROTECTION ACT OF 1993

• Mr. METZENBAUM. Mr. President, today I introduce the Insurance Protection Act of 1993.

Consumer confidence in the insurance industry is shattered. An atmosphere of trust has been replaced with one of suspicion and uncertainty. For the first time, consumers are beginning to question whether their insurance company will make good on its promise of financial protection. They fear that their company will be the next insolvency to make national headlines.

Consumers cannot ignore the fact that between 1981 and 1990 there were 98 life and health insurance company insolvencies and 241 property and casualty insolvencies. They cannot ignore that in 1991 alone, a number of multibillion-dollar life insurance companies, most notably Executive Life of California, First Capital Life Insurance Co., and Mutual Benefit Life Insurance Co., were taken over by State regulators.

Consumers also question the ability of State insurance regulators to effectively regulate the over 8,000 insurance companies doing business in the United States. Most States, due to limited funds, staff, and other resources, are severely lacking in their ability to monitor the financial solvency of insurance companies. In many instances, regulators have not demonstrated a strong will to take timely, appropriate, and decisive action.

Determined to take matters into their own hands, some consumers have made runs on their insurance companies. Reminiscent of the runs on banks in the 1930's, several recent large insolvencies were precipitated by runs on the insurance company after State regulatory action was delayed, stalled, or otherwise ineffective. Consumers, increasingly aware of an insurance company's deteriorating financial condition and regulators' inability to do anything about it, have chosen to take their money and run, rather than take a chance on the possible financial failure of their company.

To compound the problem, some States have strong insurance laws, while others have weaker laws. The variations occur in critical areas such as capital requirements, licensing, loss reserves, and other solvency issues. The National Association of Insurance Commissions [NAIC], for all its efforts, has not been successful in bringing uniformity to State insurance laws or solvency standards.

It is because of these problems and others that I introduce the Insurance Protection Act of 1993. There is an urgent need to restore consumer confidence in the insurance industry. With assets over $1.5 trillion and annual insurance premiums over $500 billion, we cannot stand on the sidelines and watch one of our Nation's largest financial systems deteriorate.

The Insurance Protection Act of 1993 creates a Federal agency, to be known as the Insurance Regulatory Commission [Commission]. Among other things, the Commission will set standards for State accreditation and for consumer disclosure of insurance information. Most importantly, the Commission will set national solvency standards, including capital and surplus requirements. This agency, similar in structure to the Securities and Exchange Commission, would not supersede State regulation but would establish specific solvency standards in areas where uniformity and Federal oversight are needed. State insurance departments would be required, as part of their accreditation, to implement the standards established by the Commission, and under Federal direction and oversight, would continue to be responsible for the day-to-day regulation of insurance companies.

The Insurance Protection Act of 1993 also establishes the Office of Reinsurance Regulation for the sole purpose of regulating the 3,500-plus reinsurance companies, both foreign and domestic, doing business in the United States.

Reinsurance regulation has fallen through the regulatory cracks. No one is consistently, comprehensively, or uniformly keeping a regulatory eye on the operations of reinsurance companies doing business in the United States. Some reinsurance contracts are nothing more than financial shams designed to puffup an insurance company's balance sheets with phony or inflated assets. To add to this regulatory nightmare, the more than 2,200 offshore, unlicensed reinsurers located in

over 100 jurisdictions are virtually unregulated, yet they handle tens of millions of dollars of policyholders' hard-earned premium money.

Title III of the Insurance Protection Act of 1993 requires all reinsurers to meet and maintain certain prescribed financial solvency standards established by the Commission and in some cases, to establish a trust account in a qualified financial institution before the reinsurer can obtain a license to conduct the business of reinsurance in the United States.

Title IV of the bill creates the National Insurance Guaranty Corporation [Corporation]. The mission of that Corporation is to provide equitable and uniform guaranty fund protection to all policyholders no matter where they live.

Last year's Senate Subcommittee on Antitrust, Monopolies and Business Rights hearing on guaranty funds found that the so-called safety net that is supposed to protect consumers when their insurance company fails is riddled with holes. For example, a GAO study found that State life/health guaranty funds are not uniform in the protection they provide. They differ in who is protected, what policies are covered, and how much the funds will pay in benefits and policy claims. In an insolvency of a multistate insurer, these differences can result in unequal treatment of policyholders of the same failed insurer; some may have no protection at all. There is also concern as to whether the funds have sufficient capacity to handle the failure of one or more large insurers. The establishment of a national guaranty fund program is paramount to restoring consumer confidence in the safety net.

Title V of the bill establishes a Federal liquidation program. This is done to assist the Corporation in finding and liquidating all assets, no matter where they are located, belonging to the defunct insurance company. No more fights over assets belonging to the insolvent insurance company. No more hammering out agreements as to how a multistate liquidation will be handled. A national liquidation program will better insure that consumer and creditor claims will be paid as fully and as quickly as possible.

The bill also contains a title that makes insurance fraud a Federal offense. Title VI of the bill recognizes that in order to stop insurance fraud by insiders, you must go after the executives, directors, officers, agents, and others who participate in fraudulent schemes, loot insurance companies, and leave consumers holding an empty bag. Specifically, title VI would: First, make it a Federal crime to knowingly file fraudulent financial statements with a State insurance regulator; second, ban embezzlement and theft from an insurance company; third, prohibit the falsification of insurance records with the intent to defraud; and fourth, outlaw the criminal obstruction of proceedings before State insurance authorities.

In the words of Insurance Commissioner Tim Ryles as reported in the Journal of Commerce on November 2, 1992:

Insurance fraud is on the rise because the fraud artists are moving away from securities and the Savings and Loans and into insurance which has always been loosely regulated.

Title VI will provide new tools for law enforcement authorities to deal with white collar crime in the insurance industry.

Mr. President, I introduce the Insurance Protection Act of 1993, because I, like many of my distinguished colleagues, am concerned about the financial future of our insurance industry and the financial security of insurance policyholders. We cannot afford to close our eyes to the critical financial problems that plague the industry, or refuse to hear the woes of consumers who are not getting what they were promised. Time is of the essence. We must act now before we are left with another financial mess to clean up.

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

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

THE INSURANCE PROTECTION ACT OF 1993—SUMMARY

Consumer confidence in the insurance industry is shattered. An atmosphere of trust has been replaced with one of suspicion and uncertainty. For the first time, consumers are beginning to question whether their insurance company will make good on its promise of financial protection. Consumers fear that their company will be the next insolvency to make national headlines. Consumers also question the ability of state insurance regulators to effectively regulate the 8,000 insurance companies doing business in the United States.

Most states, due to limited funds, staff, and other resources, are severely lacking in their ability to monitor the financial solvency of companies. In many instances, regulators have not demonstrated a strong will to take timely, appropriate and decisive action. To compound the problem, some states have strong insurance laws, while others have weaker laws. The variations occur in critical areas such as capital requirements, licensing, loss reserves and other solvency issues.

It is because of these problems and others that the "Insurance Protection Act of 1993" is introduced. There is an urgent need to restore consumer confidence in the insurance industry. With assets over $1.5 trillion and annual insurance premiums over $500 billion, we can not stand on the sidelines and watch one of our nation's largest financial systems deteriorate.

TITLE I—INSURANCE REGULATORY COMMISSION

Establishes an independent agency, the Insurance Regulatory Commission ("Commission"), with five members appointed by the President with the advice and consent of the Senate. The Commission would accredit states based on the state's adoption and implementation of federal standards. An accredited state would be authorized to issue interstate insurance licenses to companies domiciled in the state and would be responsible for the day-to-day regulation of those companies. The Commission would periodically review the accreditation of each state and examine individual insurance companies in order to monitor compliance with the standards promulgated and determine the effectiveness of a state's regulation.

TITLE II—FEDERAL MINIMUM STANDARDS

The Commission will set the national standards in areas critical to the solvency of insurance companies operating in the United States. This includes setting federal standards for: state insurance department resources; capital and surplus requirements; the valuation of real estate and other assets; the use of surplus notes; and credit for reinsurance. The Commission would also set limitations on the involuntary transfer of insurance policies, require meaningful consumer disclosure of policy information, and establish standards for the simplification and, where appropriate, the standardization of insurance policies.

With respect to consumer disclosure, the Commission would prescribe the type of information that must be provided by the insurer to the consumer prior to the purchase of any insurance policy. Such information must be conveyed in a manner that will allow the consumer to make meaningful cost and coverage comparisons of similar policies offered by other insurers and of different policies offered by the same insurer.

An "Insurance Advisory Committee" would be established to investigate and study issues and problems relating to the federal regulation of insurance. The Advisory Committee's findings and any recommendations for legislative or administrative action shall be submitted to the President, the Congress, and the Commission.

TITLE III—REINSURANCE

The "Office of Reinsurance Regulation" is established within the Commission. This office would have the authority to grant or revoke licenses to professional reinsurers and other reinsurers seeking to transact the business of reinsurance in the United States. Implementing standards adopted by the Commission, the Reinsurance Office would be responsible for regulating both domestic and foreign reinsurers. All reinsurers will be required to meet and maintain certain prescribed financial solvency standards and where appropriate, establish a trust account in a qualified financial institution.

TITLE IV—NATIONAL INSURANCE GUARANTY CORPORATION

The bill establishes the "National Insurance Guaranty Corporation" ("Corporation"), comprised of seven members: the five members of the Commission, the Secretary of Treasury, and the Comptroller of the Currency. The Corporation would provide equitable and uniform guaranty fund protection to all policyholders of member insurers operating in interstate commerce.

TITLE V—LIQUIDATION OF MEMBER INSURERS

The Corporation would serve as the national liquidator of member insolvent insurers operating in interstate commerce.

TITLE VI—CRIMINAL AND CIVIL PENALTIES

Insurance fraud would be a federal offense. Specifically the bill would: (1) make it a federal crime to knowingly file fraudulent financial statements with a state insurance regulator; (2) prohibit embezzlement and

theft from an insurance company; (3) prohibit the falsification of insurance records with the intent to defraud; and (4) outlaw the criminal obstruction of proceedings before state insurance regulators.•

By Mr. BREAUX:

S. 1622. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Finance.

DRILLING COSTS LEGISLATION

• Mr. BREAUX. Mr. President, I rise to introduce legislation vitally important to strengthening the energy security of the United States. This legislation would also lead to greater technological advancements.

One very important fact about the domestic oil and gas industry that is too often overlooked, is that it is an extremely high-technology industry. particularly now that reserves are harder to recover, exploring and producing these remaining reserves requires very sophisticated technology. Some of the most sophisticated technology used in any industry, even more sophisticated than that used in the air and space industry, is the use by the oil and gas industry of 3-D seismic technology. The basic purpose of these tools are to survey and interpret subsurface geology.

Obviously, this very sophisticated technology is extremely costly. Currently, this kind of technology is the most economically viable for the major oil and gas producers. Independent oil and gas producers, who produce 31 percent of domestic crude oil and about 6 percent of domestic natural gas production, need greater financial access to this type of equipment.

Therefore, this legislation that I am introducing today would allow oil and gas producers that incur geological and geophysical [G&G] costs to expense those costs rather than capitalize those costs.

I understand the administration is also considering supporting a similar initiative on which I hope to work with them.•

By Mr. LEAHY:

S. 1623. A bill to require the Secretary of Agriculture to carry out procedures for debarment of persons engaged in nonprocurement programs and activities with the Department of Agriculture who have violated the regulations of a program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

USDA DEBARMENT ACT OF 1993

• Mr. LEAHY. Mr. President, today I speak about a problem that, believe it or not, has a solution. The problem is cheating on Government contracts, bid-rigging, price fixing—whatever you want to call it—I call it breaking the law. The bill I am introducing today, the USDA Debarment Act of 1993, sends the message that we have had it with corporations cheating the Government and American taxpayers.

If a corporation or individual cheats on a Federal contract, rigs bids, fixes prices, or violates regulations—the taxpayer can get stuck with the tab.

The solution is simple. If a corporation or individual breaks the rules, they should be punished. The punishment needs to be so stiff that rich corporations will take notice.

Fines are not enough. Government programs are sometimes so lucrative that even if corporations get caught, the corporations are willing to pay the fine as a cost of doing business. I have had enough. We need to throw out the rule breakers, terminate their contracts, and bar them from doing business with the Government.

For too long the Department of Agriculture has failed to maintain a coherent and consistent policy for weeding out those companies convicted of breaking laws or abusing or violating the regulations of the very USDA programs in which they participate.

Last year I worked to pass legislation to stop infant formula companies from price fixing. This year I am pushing to pass legislation to end price fixing in the School Lunch Program. I want to make sure that the same rules apply broadly to the Department. We must be sure that the integrity of the billions committed in the agricultural export programs, which were misused to provide nearly $2 billion in foreign aid to Iraq, is protected.

Seven years ago President Reagan issued an Executive order on debarment, intended to affect all executive agencies and departments. The Executive order established procedures for debarment, and established the principle that a company debarred at one agency should be debarred from other agencies' programs. According to the New York Times, USDA is the only executive department to not comply with this Executive order.

Secretary Espy has requested that USDA move to come into compliance with this order, but a meeting with OMB to work out the order's application to USDA has not yet taken place.

I am introducing this legislation to send a clear signal to the Department of Agriculture that it must develop and implement debarment policy consistent with the OMB rule. My legislation will require the Department of Agriculture to establish a uniform procedure for debarring companies which have broken laws, violated regulations in connection with the programs in which they participate, or have violated Federal or State laws which seriously compromise the regulation of the affected program. My bill also requires the Secretary to implement those portions of President Reagan's Executive order which do not conflict with this act.

This is not only the right thing to do, it is the only sensible thing to do. Let's get it done.

In Vermont there is an old saying, "First time shame on you, second time shame on me."

I insist that USDA apply this simple truth to protect the taxpayers and the integrity of its programs.•

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 1624. A bill to standardize withdrawal options for Thrift Savings Plan participants, and for other purposes; to the Committee on Governmental Affairs.

THRIFT SAVINGS PLAN LEGISLATION

Mr. STEVENS. Mr. President, today I am introducing legislation to standardize the withdrawal options available to Federal employees departing Federal service who participate in the Thrift Savings Plan. This proposal would result in administrative savings to the plan and additional benefits for some employees. I am particularly pleased that my colleague on the Subcommittee on Federal Services, Post Office, and Civil Service—Chairman DAVID PRYOR—has agreed to cosponsor this bill.

When the Thrift Savings Plan was created as part of the Federal Employees' Retirement System Act of 1986, a provision required that employees who leave Federal service before they reach retirement age must transfer the funds in their Thrift Savings Plan accounts to an independent retirement arrangement [IRA] or an eligible retirement plan. Last year, Congress allowed Federal employees separated in a reduction-in-force who are not eligible for an immediate annuity to leave their contributions in the plan until retirement.

This bill will give all participants the same choices when they leave Federal service: First, leave their funds in the plan where they continue to earn but cannot continue to contribute; second, have their account balances transferred to an IRA or other eligible retirement plan; third, have the Thrift Savings Plan purchase annuities for them; or fourth, withdraw the funds in their account subject to the automatic 20-percent tax withholding.

Mr. President, I was the principal author of the legislation which resulted in the creation of the Thrift Savings Plan. I am very proud of the success and wide acceptance of that retirement benefit—over 72 percent of all employees covered by the Federal Employees' Retirement System [FERS] contribute to their Thrift Savings Plan accounts. I believe that the time has come to allow all participants the full range of options when they leave Federal service, whether that is the result of their retirement or they simply decide to accept challenges outside of the Federal Government.

During a recent hearing before the Governmental Affairs Committee, I

took the opportunity to ask the representatives of the Federal Retirement Thrift Investment Board to comment on the feasibility and desirability of this change. The Executive Director of that independent agency, Francis X. Cavanaugh, recently responded that they support the extension of all options to all participants. I ask unanimous consent that the text of Mr. Cavanaugh's letter be inserted in the RECORD immediately following my remarks.

Mr. President, this is a win-win proposal. It provides additional benefits to some Federal employees—at no cost to the Federal Government—while at the same time streamlining the withdrawal process and reducing the cost of administering the Thrift Savings Plan. I urge my colleagues to favorably consider this legislation.

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

FEDERAL RETIREMENT
THRIFT INVESTMENT BOARD,
Washington, DC, October 20, 1993.

Hon. TED STEVENS,
Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: I am pleased to express our support for the extension of Thrift Savings Plan (TSP) benefits authorized under P.L. 102-484 to all TSP participants. Such a change would provide all TSP participants with the withdrawal options that are now available only to those who are eligible for immediate retirement benefits or, under P.L. 102-484, separated due to a reduction in force.

Under this approach all separating employees would be granted the same full range of withdrawal options: (1) to have the TSP transfer their account balances to an Individual Retirement Arrangement (IRA) or other eligible retirement plan, (2) to have the TSP purchase annuities for them, (3) to receive their account balances in a single payment or a series of equal payments, or (4) to retain their accounts with the TSP.

Standardizing withdrawal options would greatly simplify the TSP withdrawal program and reduce administrative costs. It would permit less complicated forms and other communications materials as well as more timely processing of withdrawal requests.

I look forward to assisting the Committee in furthering this proposal.

Sincerely,

FRANCIS X. CAVANAUGH,
Executive Director.

By Mr. BROWN (for himself and Mr. MOYNIHAN):

S. 1625. A bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel; to the Committee on Foreign Relations.

ANTI-ECONOMIC DISCRIMINATION ACT OF 1993

• Mr. BROWN. Mr. President, I rise today to introduce the Anti-Economic Discrimination Act of 1993. I am pleased to be joined in this effort by my good friend, the chairman of the Near East and South Asia Subcommittee of the Foreign Relations Committee, Senator MOYNIHAN.

On September 27, shortly after the signing of the Israeli-PLO accord, the Washington Times reported that Syria was urging Arab nations to tighten their 40-year boycott of Israel. The boycott bars all direct dealings with Israeli companies, and also blacklists non-Israeli companies who do business with Israel. These blacklists directly effect American companies hoping to do business with Israel and with Arab States.

On October 1, the Washington Post picked up the refrain when it reported that moderate Arab States had not responded to Secretary Christopher's call for confidence-building measures including lifting the economic boycott against Israel. I ask that these two articles be reprinted at the conclusion of my remarks.

The economic boycott presents not only a significant impediment to the development of economies in the Middle East, in the end, it will slow the growing momentum toward peace. Even worse, with a secondary and tertiary boycott in effect, American companies with direct interests in the region are prevented from acting as a bridge between the two antagonists.

During hearings in our subcommittee 2 weeks ago, we were told by Assistant Secretary Djerejian that substantial progress had been made toward ending the secondary and tertiary boycotts of United States companies by countries attempting to enforce a boycott against Israel.

However, the Office of Antiboycott Compliance at the Department of Commerce tracks the number of Arab letters sent to United States companies every quarter. Between July 1 and September 30, 1993, Saudi companies sent 314 letters to American companies. That is the highest number of boycott letters to United States companies in 6 years. Kuwaiti companies sent United States companies 31 letters in the last quarter—only 6 less than the previous quarter. Despite State Department optimism, progress appears nonexistent.

The bill that Senator MOYNIHAN and I are introducing today attempts to bring an end to this egregious practice by preventing the sale of defense articles or services to countries who engage in boycott practices. The bill permits the President to invoke a 1-year waiver for national interest or national security reasons, and also permits 12-month extensions of the waiver if so determined by the President.

It is my hope that many colleagues will join us in this effort, and that by so doing, the United States will send a clear signal that peace and prosperity cannot come through discriminatory actions such as the boycott.

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

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

S. 1625

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 "Anti-Economic Discrimination Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) certain countries maintain an economic boycott of Israel, including a secondary boycott of companies that have investments in or trade with Israel;

(2) the secondary boycott has caused economic damage to the countries that maintain the boycott as well as to Israel;

(3) the secondary boycott causes great difficulties for United States firms that trade with Israel, depriving them of trade opportunities and violating internationally accepted principles of free trade;

(4) the United States has a longstanding policy opposing the Arab League boycott and United States law prohibits American firms from providing information to Arab countries to demonstrate compliance with the boycott;

(5) many American companies may be denied contracts in the West Bank and Gaza for infrastructure development because they conduct business with Israel; and

(6) many American companies may be denied contracts by the Kuwaiti Government for the reconstruction of Kuwait because they conduct business with Israel.

SEC. 3. PROHIBITION OF CERTAIN SALES AND LEASES.

(a) PROHIBITION.—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the secondary or tertiary Arab boycott, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) WAIVER.—

(1) 1-YEAR WAIVER.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

(c) DEFINITIONS.—As used in this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the terms "defense article" and "defense service" have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

[From the Washington Times, Sept. 27, 1993]

SYRIA URGES ARABS TO TIGHTEN THEIR BOYCOTT OF ISRAEL

(From Combined Dispatches)

DAMASCUS, SYRIA.—Syria called on other Arab states yesterday to tighten their 400-year-old, economic boycott of Israel, accusing it of asking for everything in the Middle East peace process in return for nothing.

The government newspaper Tishrin and state-run Damascus radio said the boycott could not be abolished before the restoration of Arab rights and the recovery of occupied Arab lands.

That view was echoed by a senior Persian Gulf official and newspapers in the Gulf and Jordan.

Israeli Foreign Minister Shimon Peres has called for an end to the state of war between the Arabs and Israel and the abolition of the boycott.

But Damascus radio responded in a commentary: "Peres' provocative statement proved Israel wants everything in return for nothing. That it will never have so long as a single Arab right remains unrestored and an inch of Arab land remains unliberated."

Tishrin, in an editorial, said: "Arabs are requested to tighten rather than abolish the boycott against Israel because two years of talks on the Middle East in Washington produced nothing due to Israeli rejection of the basis of just and comprehensive peace."

Syria has shown increasing signs of annoyance since the Sept 13 signing of the PLO–Israeli accord, which it sees weakening its negotiating stance.

The Syrian government was apparently worried that lifting the boycott would further strengthen Israel's attitude in the peace talks.

Its official newspapers have given prominence in the last few days to articles about the boycott, but yesterday's editorial and commentary were the first clear statements of official thinking.

The boycott has been enforced since 1953 by Arab League members. Egypt is the only nation in the league to have abolished it, as part of its 1979 peace treaty with Israel.

The direct boycott bars all dealings with all Israeli companies and products. In addition, under an indirect boycott, foreign companies and their subsidiaries that work on strategic projects in Israel are black-listed in Arab countries.

In other Mideast developments yesterday:

• Israel's right-wing Likud party, torn by dissent over the Israel-Palestine Liberation Organization peace accord, signalled a readiness to cooperate or even rule jointly with Prime Minister Yitzhak Rabin's coalition.

The suggestion from Likud lawmaker Michael Eitan came as the party grappled with growing opposition to party leader's Benjamin Netanyahu's strong rejection of the agreement.

Likud has set a list of conditions, including a guarantee that Palestinians wouldn't achieve statehood, for cooperating with Mr. Rabin.

• King Hussein of Jordan signaled that he would probably postpone elections due to be held in November to prevent them from becoming a referendum on the Palestine self-rule agreement between Israel and the PLO.

• A Palestinian blew himself up with a car bomb in the occupied Gaza Strip in an apparent suicide attack gone awry, the Israeli army said. No one else was hurt.

• In Rafah in the occupied Gaza Strip an armed faction of PLO chairman Yasser Arafat's Fatah organization said it would fight on if Israeli troops continued to pursue its activists.

[From the Washington Post, Oct. 1, 1993]

ARAB NATIONS DECLINE TO LIFT ISRAELI EMBARGO—REFUSAL COMES ON EVE OF TALKS SEEKING FUNDS FOR PALESTINIANS

(By Daniel Williams)

UNITED NATIONS, Sept. 30.—Representatives of moderate Arab states deflected pleas from Secretary of State Warren Christopher today to end their economic boycott of Israel, saying their citizens were not ready for such a move.

They also deferred action to reverse anti-Israel resolutions passed by the U.N. General Assembly over the years. In a meeting among Arab diplomats late Wednesday, Syria strongly opposed such a step, saying they should wait until Israel has agreed to withdraw from the Golan Heights, Arab diplomats said. Syria lost the strategic territory at Israel's northeast corner during the 1967 war.

The resistance to conciliatory gestures creates an awkward situation for Friday's 38-nation conference in Washington, during which the United States hopes to obtain pledges of money for Palestinian development in the West Bank and Gaza Strip.

Under the accord signed by Israel and the Palestine Liberation Organization in Washington on Sept. 13, Israel initially will withdraw from part of the occupied territories—the Gaza Strip and the West Bank town of Jericho—and allow Palestinian self-rule.

In Washington, senior U.S. officials declined to speculate how much they expect in pledges from the individual countries attending the donors' conference, staff writer John M. Goshko reported. But the officials, who requested anonymity, said they were confident that the pledges would meet the initial target of $400 million a year for each of the first two years of Palestinian autonomy. Washington has pledged $250 million over two years.

Two Arab countries—Jordan and Lebanon—sought to take advantage of the donors' conference to call attention to their financial plight.

Crown Prince Hassan of Jordan told editors and staff members of The Washington Post that he hopes some of the money for the Palestinians will go into multilateral projects that would benefit Jordan, which has more than 1 million Palestinian refugees. Lebanese Finance Minister Faud Siniora said his country needs $10 billion to help rebuild its war-torn economy.

Christopher, in New York, met with the Gulf Cooperation Council representing Kuwait, Saudi Arabia and other Persian Gulf states. He also met with officials from Egypt, Tunisia, Morocco, Oman and Saudi Arabia.

He called for "confidence-building measures" from the Arab governments, including an end to the economic boycott of Israel, a senior administration official said. "The time to do this is now," he said, according to the senior official's account.

The Arab officials responded that they would need to see an Israeli withdrawal from the West Bank and Gaza. But, they added, the Arab League will consider the issue.

The Arabs gave "a clear impression of movement," the senior official said.•

• Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor the legislation introduced by the senior Senator from Colorado. It has been my pleasure as chairman of the Near East Subcommittee of Foreign Relations to work with Senator BROWN, who is the ranking Republican member of the committee.

This legislation addresses a painful fact about the Arab League Boycott of Israel. Whereas the armies fielded against Israel have most often been supplied by the former Soviet Union, the States which have taken the lead in the economic boycott of Israel have been by and large the erstwhile friends of the United States. In the aftermath of Operation Desert Storm it seems particularly obscene that the Emir of Kuwait and the Saudi royal family should continue to enforce the boycott.

I am pleased to support this legislation, and I do hope that the strong message contained in it is heard. And acted upon in the Gulf State capitals.•

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1626. A bill to amend title 38, United States Code, to revise the Veterans' Home Loan Program; to the Committee on Veterans' Affairs.

THE VETERANS HOME LOAN IMPROVEMENT ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, I am very proud to introduce legislation that will improve VA's Home Loan Program in two ways—first, by extending veterans' entitlement to VA home loans; and second, by allowing veterans' to improve the energy efficiency of their homes while receiving interest rate reduction loans guaranteed by VA.

Mr. President, the Department of Veterans Affairs has been the guarantor of loans used to purchase more than 13 million single-family residences since the Home Loan Program was created as a readjustment benefit provided to the millions of veterans returning after World War II. The VA's Home Loan Program has been a very popular program with America's veterans and has helped millions of veterans enjoy the benefits of home ownership while creating employment for millions of Americans in housing-related industries.

RESTORATION OF HOME LOAN ENTITLEMENT

Mr. President, over the years, the Committee on Veterans' Affairs has heard a number of complaints from veterans that the rules on eligibility to entitlement to home loan benefits should be amended. One of the specific concerns relates to the requirement that, in order to be eligible for a loan, a veteran who had a prior loan must have disposed of the property purchased with the prior loan.

Mr. President, under current law, there are many veterans who have paid

off their VA-guaranteed loan who are ineligible to secure VA guaranteed financing—either while attempting to refinance the loan on that residence or to purchase a new residence—because they have not disposed of their original residence. One example of such a veteran would be one who has paid off his or her VA-guaranteed residential loan and who has divorced and has minor children living in that residence. Another, which is a disturbing scenario occurring more and more often, would involve a veteran who has paid off his VA-guaranteed home loan and has his or her adult children and grandchildren move in. If the veteran now wants to buy a new principal residence using his or her VA loan guaranty, the veteran is unable to do so because the original home has not been sold.

Mr. President, in these and similar cases, although the veteran has paid off the VA-guaranteed loan, the veteran is not able to use his or her VA loan guaranty entitlement. This is bad policy and it is not equitable for our veterans. My proposal, under section 2 of this bill, would allow veterans who have paid off all obligations in connection with the VA Loan Guaranty Program to have their entitlement restored, allowing them to once again secure a principal residence.

ENERGY EFFICIENT MORTGAGES

Mr. President, section 9 of the Veterans Home Loan Program Act of 1992, Public Law 102-547, allows VA to participate in a number of energy efficient mortgage programs. I am pleased to report that the changes authorized under the law last year have been well received throughout the country and thousands of veteran homeowners have used the opportunity to make their homes more energy efficient. This is a very important program and I hope greater attention will be paid to it in the future, since it improves the housing stock and helps support our national policy of reducing the need to create additional expensive sources of energy.

VA's interest-rate-reduction program is designed to allow a veteran to refinance his or her home in order to enjoy lower monthly payments. The interest-rate-reduction loan does not allow the veteran to cash out, that is, to receive funds beyond the amount owed as principal on the loan. My proposal will keep this concept intact and will not allow the veteran borrower to receive cash from the outstanding balance of the loan.

I am proposing in section 3 of the bill to amend section 3710(a) of title 38 to allow veterans who apply for interest-rate-reduction loans to be eligible to secure energy efficient improvements at the same time.

Mr. President, under this proposal not only would veterans lower their mortgage payments, they would at the same time reduce their out-of-pocket expenses for energy. This change will allow the veteran to improve the veteran's home, reduce monthly mortgage payments, and have more money in the family budget at the end of each month by reducing his or her out-of-pocket energy expenses.

Mr. President, I hope to receive Senate action on this legislation as soon as possible.

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. 1626

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 "Veterans' Home Loan Improvement Act of 1993".

SEC. 2. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) of title 38, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) the loan has been repaid in full, or the Secretary has been released from liability as to the loan, or if the Secretary has suffered a loss on the loan, the loss has been paid in full; or";

(2) in paragraph (2), by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3) and all that follows through the end of the subsection.

SEC. 3. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—(1) Section 3710(a) of title 38, United States Code, is amended by adding after paragraph (10) the following:

"(11) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d) of this section.".

(2) Section 3710(e)(1) of such title is amended by inserting "or subsection (a)(11)" after "subsection (a)(8)".

(b) FEE.—Section 3729(a)(2)(E) of such title is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".●

By Mr. MITCHELL (for himself and Mr. DOLE) (by request):

S. 1627. A bill to implement the North American Free-Trade Agreement; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations and the Committee on Governmental Affairs, jointly, pursuant to 19 U.S.C. 2191(c).

NAFTA LEGISLATION

Mr. MITCHELL. Mr. President, I am pleased to introduce with Senator DOLE the implementing legislation for the North American Free-Trade Agreement. This trade agreement provides the United States with historic opportunities for the future: expanding markets in this hemisphere, increasing U.S. exports to emerging markets, and promoting social and economic stability throughout the Americas. We must take advantage of these opportunities.

Our economic security depends on opening closed foreign markets and providing U.S. companies and workers with access to emerging markets. In 1992, this Nation exported goods valued at over $420 billion, a 36-percent increase over 1988 exports, and more than 7 percent of U.S. gross domestic product. The future of the U.S. economy is closely linked to its ability to respond to the demands of the global marketplace.

Over the past 30 years, the productivity of U.S. workers has increased sharply. And U.S. workers continue to be the most productive workers in the world. But while each U.S. worker is producing more goods, the U.S. economy now comprises a smaller share of the global economy. U.S. gross domestic product as a percentage of the global economy has declined from approximately 37 percent in 1950 to approximately 22 percent in 1992. The United States cannot be satisfied with simply selling to our domestic market. We must take advantage of global markets so that U.S. companies and workers will benefit from their increased productivity and efficiency.

The United States cannot ignore the realities of an international economy. Capital, technology, and information are highly mobile. They can be rapidly, redistributed around the world. The world's companies seek well-educated, highly skilled workers, efficient transportation, cheap and reliable power sources, access to high technology, advanced communications networks, and adequate business services. Companies are not restricted by geographical boundaries. We cannot ignore these facts. Rejecting this trade agreement will not change these facts.

U.S. and foreign companies are now making substantial investments in U.S. manufacturing plants. Companies such as Mercedes-Benz and BMW are building automobile plants in the United States—not Mexico—for good reasons. The Office of Technology Assessment has reported that it costs $8,777 to build a car in the United States compared to $9,180 to build a car in Mexico. At the same time, other U.S. businesses are investing in foreign manufacturing plants to produce goods for both foreign markets and the U.S. market. However, these investment decisions have been made in the past—and will be made in the future regardless of whether Congress passes the North American Free-Trade Agreement.

Our trading competitors recognize the importance of seizing new opportunities in the international marketplace. Japan is developing new markets

in the Far East. The European Community is searching out new opportunities in Eastern Europe and the nations of the former Soviet Union. The United States must compete with our trading partners in these and other emerging markets.

The North American Free-Trade Agreement presents the United States with an opportunity to create the biggest market in the world—an economy of $6.5 trillion and 370 million people. United States companies and workers already have benefited from expanded trade with Mexico. In the past 7 years, United States exports to Mexico have grown dramatically, from approximately $12 billion in 1986 to over $40 billion in 1992. The United States trade balance with Mexico has improved from a $5.7 billion deficit in 1987 to a $5.4 billion surplus in 1992. Mexico is now our third largest trading partner.

The principal purpose of the North American Free-Trade Agreement is the removal of trade barriers between the three nations. The trade agreement eliminates many Mexican tariff and non-tariff barriers which are much higher than any United States trade barrier. Over time, the NAFTA will eliminate Mexican tariffs, which average roughly 10 percent—more than two and half times the average United States tariff of 4 percent. NAFTA also eliminates numerous non-tariff barriers that require United States companies to invest or manufacture in Mexico in order to supply the Mexican market. This trade agreement replaces the present United States-Mexico trading rules—which have unfairly restrained United States exports to Mexico—with fair trading rules.

Since the United States has a trade surplus with Mexico, I believe that the fear of free trade with Mexico is misplaced. In 1992, the United States had bilateral trade deficits of $49 billion with Japan, $18.3 billion with China, $9 billion with Taiwan, $3.8 billion with Malaysia, $3.5 billion with Thailand, $2.3 billion with South Korea, $1.7 billion with Singapore and $1.5 billion with Indonesia. In many of the developing economies, the gross domestic product per capita is less than that of Mexico. Their exports to the United States have exploded over the last 10 years, and there is little to prevent U.S. companies from moving their manufacturing facilities to these countries.

When U.S. companies move their plants to the Far East, the United States does not often supply the capital equipment, the component parts, the materials or the services required to manufacture those consumer products. In Mexico, however, the United States remains an important partner in the production process. On an annual per capita basis, the average Mexican buys $450 worth of United States goods. That exceeds the per capita purchases of the more affluent Japanese or Europeans. We should not fear expanded trade with Mexico, since approximately 70 percent of its imports are from the United States.

If the United States does not capitalize on this opportunity, our competitors surely will. Our trading partners in Asia and Europe will sell their consumer products, commodities, capital goods and services in the Mexican market. And the United States, its companies and its workers will lose exports and jobs that come from those exports.

Maine companies and workers have already benefited from expanded trade with Mexico. Maine exports to Mexico have increased 774 percent from 1987 to 1992. Maine companies now are selling to Mexico a wide range of products, from leather to metal products to electronics to apparel.

The North American Free-Trade Agreement will help these and other Maine industries sell more of their goods and services in Mexico. The Mexican tariff on Maine sardines will be eliminated over a 10-year period. The Mexican tariffs on solid wood products, which range from 10 to 20 percent, will be eliminated over a 10-year period, and tariffs on lumber for wood frame construction will be eliminated immediately. The Mexican tariffs for pulp and paper, which are about 10 percent, will be eliminated within 10 years.

An expanded Mexican market will help other Maine companies, including the leather, scientific and medical equipment, and electronic equipment manufacturers, and insurance companies. One Maine company, Hussey Seating Co., has written, "Our sales would increase dramatically over 5 years. Presently, sales are about $150,000 annually. In 5 years we would expect this to increase to at least $1 million annually. This would mean an employment increase of 10 full-time people." That is one small example. There are many others. Opening the Mexican market to Maine products will have a positive side effect in our State: more Maine jobs.

The global economy is continually changing, and the United States must adapt to these changes. Our Nation cannot attempt to recreate or relive the past. We must seek new opportunities for the future. We must confront and turn to our advantage the inevitable challenge of change. The North American Free-Trade Agreement will provide historic opportunities for the United States economy in the 21st century. I look forward to its enactment in the near future.

Mr. DOLE. Mr. President, I am pleased to join with the majority leader in formally introducing the implementing legislation for the North American Free-Trade Agreement.

We have reached the final stage in the debate over NAFTA. The House is expected to vote in 13 days. I believe President Clinton is determined in this remaining time to undertake a full-scale, no-holds-barred national campaign to show how important this agreement is to our future as a leader in world trade and economic prosperity.

NAFTA is a model for future trade relations among nations. No trade agreement in history has ever held greater promise for unlocking the productive and competitive capacity of an entire hemisphere.

Mexico, and other Latin American nations such as Chile and Argentina are now on track for sustained economic growth. They are throwing off the shackles of statism, of over-regulation, and policies of nationalization. They see free enterprise and open trade as the only way to ensure a rising standard of living. The United States has been their model in this transformation to openness and free markets.

It would be a cruel irony to spurn these countries at the moment of their emergence.

In addition, Mr. President, NAFTA is simply the right thing to do. It is right for America. It means jobs, growth prosperity, and opportunity for Americans.

So I am very pleased to be introducing this bill today, and I look forward to its passage within the next 2 weeks, heralding the bright dawn of the 21st century global economy.

Mr. PACKWOOD. Mr. President, with today's introduction of the bill to implement the North American Free-Trade Agreement, or NAFTA as it is commonly referred to, the Congress formally begins deliberation on what is perhaps one of the most important trade issues that the United States has ever considered.

In my view, underlying the NAFTA debate are a couple of fundamental questions: How should the United States respond to the new global competition we face from our trading partners and what should be our future role in the world? NAFTA opponents think the best way to respond is to retreat and close ourselves off from rest of the world. This does little to improve our competitiveness and only denies us new economic opportunities and growth. I think the United States, which has one of the most productive economies in the world, should be eager to compete and win in the global marketplace. The NAFTA is the next logical step in preparing ourselves for this new competition.

Over the past 2 months, dozens of congressional committees of jurisdiction have worked closely with the administration in crafting the implementing bill and the statement of administrative action, or SAA, which accompanies the bill and describes how the administration intends to implement the NAFTA.

The NAFTA calls for an implementation date of January 1, 1994. Under the fast-track rules, now that the President has submitted the implementing bill and SAA to the Congress, Congress has a maximum of 90 working days to consider and vote on the NAFTA. Needless to say, in order to get a vote on the agreement this year, we will need to move it through the Congress under a faster timetable. This is what the President has asked for, and I think we should comply with his request.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 426

At the request of Mr. SHELBY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 426, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 482

At the request of Mr. BOREN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 482, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 540

At the request of Mr. HEFLIN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the names of the Senator from California [Mrs. FEINSTEIN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 830

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 830, a bill for the relief of Richard W. Schaffert.

S. 1188

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mrs. HUTCHISON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1188, a bill to provide that Federal regulatory mandates shall not be enforced unless the cost to the States of implementing them are funded by the Federal Government.

S. 1203

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1203, a bill to establish a Center for Rare Disease Research in the National Institutes of Health, and for other purposes.

S. 1437

At the request of Mr. DOLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

S. 1443

At the request of Mr. KEMPTHORNE, his name was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1522

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1522, a bill to direct the U.S. Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes.

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1522, supra.

S. 1533

At the request of Mr. LOTT, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1533, a bill to improve access to health insurance and contain health care costs, and for other purposes.

S. 1576

At the request of Mr. COATS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month".

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

AMENDMENT NO. 1097

At the request of Mrs. FEINSTEIN, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Georgia [Mr. COVERDELL], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of amendment No. 1097 proposed to S. 1607, a bill to control and prevent crime.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. WOFFORD, his name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 1097 proposed to S. 1607, supra.

At the request of Mr. HARKIN, his name, and the name of the Senator from Kansas [Mr. DOLE] were added as cosponsors of amendment No. 1097 proposed to S. 1607, supra.

SENATE RESOLUTION 161—ORIGINAL RESOLUTION REPORTED TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 161

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate document 102-15, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

OMNIBUS CRIME LEGISLATION

ROTH (AND OTHERS) AMENDMENT NO. 1098

Mr. GRASSLEY (for Mr. ROTH for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. COATS, Mr. HATCH, Mr. NICKLES, Mr. HEFLIN, Mr. MURKOWSKI, Mr. SASSER, Mrs. KASSEBAUM, Mrs. FEINSTEIN, Mr. GRAMM, Mr. CONRAD, and Mrs. HUTCHISON) proposed an amendment to amendment No. 1097 proposed by Mrs. FEINSTEIN to the bill (S. 1607) to control and prevent crime; as follows:

At the end of the pending amendment insert the following:

SEC. . CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involving the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92-1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

HATCH (AND OTHERS) AMENDMENT NO. 1099

Mr. HATCH (for himself, Mr. MACK, Mr. DOLE, and Mr. GRAMM) proposed an amendment to the bill S. 1607, supra; as follows:

On page 294, strike line 1 and all that follows through page 303, line 21 and insert the following:

Subtitle B—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any crime of violence that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

SEC. 1322. FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION.

(a) DEFINITION.—In this section, "new prison" means—

(1) a prison or bootcamp or city or county detention facility, including an addition to an existing prison or city or county detention facility, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available or had already planned to construct; and

(2) a prison that is principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

(b) GRANTS.—The Attorney General may enter into agreements with any qualifying State to provide construction grants or operating grants for new prisons.

(c) CONSTRUCTION GRANTS.—The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(d) OPERATING GRANTS.—The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

(e) CANCELING GRANTS.—The Attorney General may, in the Attorney General sole discretion, cancel any construction grant or operating grant if the Attorney General finds that a State is using those funds to substitute for existing funds or to provide prison space that substitutes for existing prison space.

(f) DISTRIBUTION OF GRANTS.—The Attorney General shall ensure that each State receives no less than 50 percent of the funds made available under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $600,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, of which 50 percent shall be used for construction grants and 50 percent shall be used for operating grants, except that the Attorney General may alter those allocations if the Attorney General certifies that there are compelling law enforcement reasons for doing so.

SEC. 1324. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(a) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 1325. OVERHEAD EXPENSE REDUCTION FUNDING.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

(c) ALLOCATION.—The amount of available budget authority resulting from enactment of this section shall be reallocated for programs authorized pursuant to this subtitle.

BIDEN AMENDMENT NO. 1100

Mr. BIDEN proposed an amendment to the bill S. 1607, supra; as follows:

On page 276 line 6 insert "non-" before "violent".

Strike all after the first word in the amendment and insert the following:

BYRD (AND OTHERS) AMENDMENT NO. 1101

Mr. BYRD (for himself, Mr. SASSER, Mr. MITCHELL, Mr. BIDEN, and Mr. DODD) proposed an amendment to amendment No. 1099 proposed by Mr. HATCH to the bill S. 1607, supra; as follows:

B—State Prisons

SEC. 1321. BOOT CAMPS AND REGIONAL PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, and improving boot camp prison programs;

(B) developing, constructing, and operating regional prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years;

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President;

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund," into which shall be deposited deficit reduction achieved by section 13218 of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994). the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,379,000,000;

"(3) for fiscal year 1996, $3,168,000,000;

"(4) for fiscal year 1997, $3,517,000,000; and

"(5) for fiscal year 1998, $2,492,000,000;

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.".

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $161,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,379,000,000 in new budget authority and $884,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $3,168,000,000 in new budget authority and $2,191,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $3,517,000,000 in new budget authority and $3,342,000,000 in outlays; and

(5) for fiscal year 1998, for the discretionary category: $2,492,000,000 in new budget authority and $3,470,000,000 in outlays.

DOLE (AND OTHERS) AMENDMENT NO. 1102

Mr. DOLE (for himself, Mrs. FEINSTEIN, and Mrs. BOXER) proposed an amendment to the bill S. 1607, supra; as follows:

On page 426, after line 25 add the following:

SEC. 2907. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "ten years, or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years, or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "10 years"; and

(B) in the second sentence by striking "ten years" and inserting "20 years"; and

(3) in subsection (i)—

(A) by striking "ten years or fined not more than $10,000" and inserting "20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(B) by striking "twenty years or fined not more than $20,000" and inserting "40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed".

BYRD (AND OTHERS) AMENDMENT NO. 1103

Mr. BYRD (for himself, Mr. MITCHELL, Mr. DOLE, Mr. BIDEN, Mr. HATCH,

Mr. SASSER, Mr. GRAMM, Mr. KERRY, Mr. DODD, Mr. MACK, Mr. THURMOND, Mr. DORGAN, Mr. DOMENICI, Mr. CONRAD, Mr. COHEN, Mr. D'AMATO, Mr. BRYAN, Mr. LIEBERMAN, Mr. WOFFORD, Mr. ROBB, and Mr. HOLLINGS) proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, insert the following:

Subtitle A—Regional Prisons and State Prisons

SEC. 1331. REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS.

(a) DEFINITIONS.—In this section—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearms offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

(b) CONSTRUCTION OF PRISONS.—The Attorney General shall, after consultation with state correctional administrators, construct, and operate a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 75 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

(c) ACCEPTANCE OF PRISONERS.—Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

(d) QUALIFYING STATE.—

(1) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this section unless the State is providing—

(A) truth in sentencing with respect to any felony crime of violence involving the use or attempted use of force against a person, or use of a firearm against a person, for which a maximum sentence of 5 years or more is authorized that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(B) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(C) sentence for firearm offenders, where death or serious bodily injury results, murderers, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(D) suitable recognition for the rights of victims, including consideration of their victim's perspective at all appropriate stages of criminal proceedings.

(2) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in paragraph (1) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this section, except to the extent the Attorney General otherwise directs.

(3) WAIVER.—The Attorney General may waive, for no more than one year, any of the requirements of this subsection with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this subtitle, unless the Attorney General otherwise directs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $600,000,000 for fiscal year 1994;
(2) $600,000,000 for fiscal year 1995;
(3) $600,000,000 for fiscal year 1996;
(4) $600,000,000 for fiscal year 1997; and
(5) $600,000,000 for fiscal year 1998.

Page 303, line 21;

Subtitle B—State Prisons

SEC. 1321. BOOT CAMPS AND PRISONS FOR VIOLENT DRUG OFFENDERS.

(a) DEFINITION.—In this section, "boot camp prison program" means a correctional program of not more than 6 months' duration involving—

(1) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) aftercare services for inmates following release that are coordinated with the program carried out during the period of imprisonment.

(b) ESTABLISHMENT OF GRANT AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Attorney General may make grants to States and to multi-State compact associations for the purposes of—

(A) developing, constructing, expanding, operating, and improving boot camp prison programs to medium security prisons;

(B) developing, constructing, and operating prisons that house and provide treatment for violent offenders with serious substance abuse problems; and

(C) assisting in activating existing boot camp or prison facilities that are unutilized or underutilized because of lack of funding.

(2) TECHNICAL ASSISTANCE.—The Attorney General may provide technical assistance to grantees under this section.

(3) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this section.

(c) STATE AND MULTI-STATE COMPACT APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State or the coordinator of a multi-State compact association shall submit an application to the Attorney General in such form and containing such information as the Attorney General may prescribe by regulation or guidelines.

(2) CONTENT OF APPLICATION.—In accordance with the regulations or guidelines established by the Attorney General, an application for a grant under this section shall—

(A) include a long-term strategy and detailed implementation plan;

(B) include evidence of the existence of, and describe the terms of, a multi-State compact for any multiple-State plan;

(C) provide a description of any construction activities, including cost estimates, that will be a part of any plan;

(D) provide a description of the criteria for selection of prisoners for participating in a boot camp prison program or assignment to a regional prison or activated prison or boot camp facility that is to be funded;

(E) provide assurances that the boot camp prison program, regional prison, or activated prison or boot camp facility that receives funding will provide work programs, education, job training, and appropriate drug treatment for inmates;

(F) provide assurances that—

(i) prisoners who participate in a boot camp prison program or are assigned to a regional prison or activated prison or boot camp facility that receives funding will be provided with aftercare services; and

(ii) a substantial proportion of the population of any regional prison that receives funds under this section will be violent offenders with serious substance abuse problems, and provision of treatment for such offenders will be a priority element of the prison's mission;

(G) provide assurances that aftercare services will involve the coordination of the boot camp prison program, regional prison, or activated prison or boot camp facility, with other human service and rehabilitation programs (such as educational and job training programs, drug counseling or treatment, parole or other post-release supervision programs, halfway house programs, job placement programs, and participation in self-help and peer group programs) that reduce

the likelihood of further criminality by prisoners who participate in a boot camp program or are assigned to a regional prison or activated prison or boot camp facility following release;

(H) explain the applicant's inability to fund the program adequately without Federal assistance;

(I) identify related governmental and community initiatives that complement or will be coordinated with the proposal;

(J) certify that there has been appropriate coordination with all affected agencies; and

(K) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support.

(d) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 75 percent of the total cost of the program as described in the application.

(4) DURATION OF GRANTS.—

(A) IN GENERAL.—A grant under this section may be renewed for up to 3 years beyond the initial year of funding if the applicant demonstrates satisfactory progress toward achievement of the objectives set out in an approved application.

(B) MULTIYEAR GRANTS.—A multiyear grant may be made under this section so long as the total duration of the grant, including any renewals, does not exceed 4 years.

(e) CONVERSION OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS INTO BOOT CAMP PRISONS AND REGIONAL PRISONS.—

(1) DEFINITION.—In this subsection, "base closure law" means—

(A) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note);

(B) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(C) section 2687 of title 10, United States Code; and

(D) any other similar law.

(2) DETERMINATION OF SUITABILITY FOR CONVERSION.—Notwithstanding any base closure law, the Secretary of Defense may not take any action to dispose of or transfer any real property or facility located at a military installation to be closed or realigned under a base closure law until the Secretary notifies the Attorney General of any property or facility at that installation that is suitable for use as a boot camp prison or regional prison.

(3) TRANSFER.—The Secretary shall, upon the request of the Attorney General, transfer to the Attorney General, without reimbursement, the property or facilities covered by the notification referred to in paragraph (2) in order to permit the Attorney General to utilize the property or facilities as a boot camp prison or regional prison.

(4) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall prepare and disseminate to State and local officials a report listing any real property or facility located at a military installation to be closed or realigned under a base closure law that is suitable for use as a boot camp prison or regional prison. The Attorney General shall periodically update this report for dissemination to State and local officials.

(5) APPLICABILITY.—This subsection shall apply with respect to property or facilities located at military installations the closure or realignment of which commences after the date of enactment of this Act.

(f) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each boot camp prison, regional prison, and activated prison or boot camp facility program funded under this section shall contain an evaluation component developed pursuant to guidelines established by the Attorney General.

(B) OUTCOME MEASURES.—The evaluations required by this paragraph shall include outcome measures that can be used to determine the effectiveness of the funded programs, including the effectiveness of such programs in comparison with other correctional programs or dispositions in reducing the incidence of recidivism.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Attorney General shall review the performance of each grant recipient under this section.

(B) REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under paragraph (1) and such other data and information as the Attorney General deems reasonably necessary to carry out the Attorney General's responsibilities under this section.

(3) REPORT TO CONGRESS.—The Attorney General shall submit an annual report to Congress describing the grants awarded under this section and providing an assessment of the operations of the programs receiving grants.

(g) REVOCATION OR SUSPENSION OF FUNDING.—If the Attorney General determines, as a result of the reviews required by subsection (f), or otherwise, that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application, the Attorney General may revoke or suspend funding of the grant in whole or in part.

(h) ACCESS TO DOCUMENTS.—The Attorney General and the Comptroller General shall have access for the purpose of audit and examination to—

(1) the pertinent books, documents, papers, or records of a grant recipient under this section; and

(2) the pertinent books, documents, papers, or records of other persons and entities that are involved in programs for which assistance is provided under this section.

(i) GENERAL REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000,000, to remain available until expended.

(2) USE OF APPROPRIATED FUNDS.—No more than one-third of the amounts appropriated under paragraph (1) may be used to make grants for the construction, development, and operation of regional prisons under subsection (b)(1)(B).

Subtitle C—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

"GRANTS FOR COMMUNITY-BASED VIOLENT-JUVENILE FACILITIES

"SEC. 238. (a) IN GENERAL.—The Attorney General, through the Bureau of Prisons, may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, and operating secure facilities for violent and chronic juvenile offenders. The mandates required by the Juvenile Justice and Delinquency Prevention Act shall not apply to grants under this subtitle authorization. There are authorized to be appropriated $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

SEC. 2. TABLE OF CONTENTS.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the defendant is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory

damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided,* That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided,* That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 4 of Public Law 102-521 (106 Stat. 3404), is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—Grants To Combat Violent Crimes Against Women

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) include proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for

under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1722 of subpart 2.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"Part Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.

"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.

"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make

capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91–383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—Justice Department Task Force on Violence Against Women

SEC. 141. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 142. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 143. MEMBERSHIP.

(a) IN GENERAL.—The Task Force shall consist of up to 15 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act.

(b) REPRESENTATION.—The Attorney General shall choose members of the Task Force

based on their education, training, or experience. The Attorney General shall ensure that the Task Force includes representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments to the Task Force, the Attorney General shall consider the recommendations of the chairman and ranking minority members of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(d) VACANCIES.—A vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

SEC. 144. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General, which date shall not be later than 60 days after the date of enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General, or its chairman-designate, but shall meet at least 6 times.

(b) CHAIRMAN.—Not later than 15 days after the members of the Task Force are appointed, the Attorney General shall designate a chairman from among the members of the Task Force.

(c) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(d) PER DIEM.—Except as provided in subsection (c), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 145. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 143, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 146. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Task Force, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 147. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Chairman of the Task Force.

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 149. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 144.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) RULE.—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

"412A. Evidence of victim's past behavior in other criminal cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissibility.
"(c) Procedures.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either

that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 151, is amended by inserting after the item relating to rule 412A the following new item:

"412B. Evidence of past sexual behavior in civil cases:
"(a) Reputation and opinion evidence excluded.
"(b) Admissible evidence.
"(c) Procedures.
"(d) Definitions.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

"(e) Interlocutory appeal.
"(f) Rule of relevance and privilege.".

SEC. 154. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 152, is amended by inserting after the item relating to rule 412B the following new item:

"413. Evidence of victim's clothing as inciting violence.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1994, 1995, and 1996.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1), by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before "or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) the term 'victim' means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

"(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1994, 1995, and 1996.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be

given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lumpsum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across a State line' includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser;

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; and

"(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—Domestic Violence, Family Support, and Shelter Grants

SEC. 241. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) REPORT.—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $125,000,000 for fiscal year 1996.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the 'Secretary'). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year *1994*.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

SEC. 282. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(b) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

(2) by adding at the end the following new paragraph:

"(7) Providing technical assistance and training to State domestic violence coalitions.".

SEC. 283. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or *language-minority populations*" before the semicolon.

Subtitle I—Data and Research

SEC. 291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 292. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1994.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim's gender;

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) PENDENT JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.".

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92–318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(1) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(1)) is amended to read as follows:

"(1) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year *1995*;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 603. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the

human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

SEC. 604. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 606. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 154, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.".

SEC. 607. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SEC. 608. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 609. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 610. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal

Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 611. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 612. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) SPECIFIC ISSUES.—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 613. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) IN GENERAL.—The Attorney General may, in each fiscal year, award an aggregate amount of up to $1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) ELIGIBILITY.—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

On page 292, lines 6 and 7, strike "the prisoner" and insert "a prisoner convicted of a nonviolent offense".

On page 26, line 16, strike "$620,000,000" and insert "$1,035,000,000", and on line 17, strike "$1,040,000,000" and insert "$1,720,000,000"

On page 27, line 1, strike "$1,160,000,000" and insert "$2,070,000,000" and on line 2, strike "$1,225,000,000" and insert "$2,270,000,000" and on line 3, strike "$1,200,000,000" and insert "$1,900,000,000".

At the appropriate place in the bill, insert the following:

VIOLENT CRIME REDUCTION TRUST FUND

SEC. 1321A. PURPOSES.

The Congress declares it essential—

(1) to fully fund the control and prevention of violent crime authorized in this Act over the next 5 years.

(2) to ensure orderly limitation and reduction of Federal Government employment, as recommended by the Report of the National Performance Review, conducted by the Vice President; and

(3) to apply sufficient amounts of the savings achieved by limiting Government employment to the purpose of ensuring full funding of this Act over the next 5 years.

SEC. 1321B. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997; and

(5) 1,923,339 during fiscal year 1998.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

SEC. 1321C. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) ESTABLISHMENT OF THE ACCOUNT.—Chapter 11 of title 31, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1115. Violent crime reduction trust fund.

"(a) There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund", into which shall be deposited deficit reduction achieved by section 1321B of the Violent Crime Control and Law Enforcement Act of 1993 sufficient to fund that Act (as defined in subsection (b) of this section).

"(b) On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1994), the following amounts shall be transferred from the general fund to the Violent Crime Reduction Trust Fund—

"(1) for fiscal year 1994, $720,000,000;

"(2) for fiscal year 1995, $2,423,000,000;

"(3) for fiscal year 1996, $4,267,000,000;

"(4) for fiscal year 1997, $6,313,000,000; and

"(5) for fiscal year 1998, $8,545,000,000.

"(c) Notwithstanding any other provision of law—

"(1) the amounts in the Violent Crime Reduction Trust Fund may be appropriated exclusively for the purposes authorized in the Violent Crime Control and Law Enforcement Act of 1993;

"(2) the amounts in the Violent Crime Reduction Trust Fund and appropriations under paragraph (1) of this section shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; and

"(3) for purposes of this subsection, "appropriations under paragraph (1)" mean amounts of budget authority not to exceed the balances of the Violent Crime Reduction Trust Fund and amounts of outlays that flow from budget authority actually appropriated.".

(b) LISTING OF THE VIOLENT CRIME REDUCTION TRUST FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(c) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof:

"(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund."

"(30) An analysis displaying by agency proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 1321B of the Violent Crime Control and Law Enforcement Act of 1993.

SEC. 1321D. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

The Director of the Office of Management and Budget shall, upon enactment of this Act, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) for fiscal year 1994, for the discretionary category: $720,000,000 in new budget authority and $314,000,000 in outlays;

(2) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $2,330,000,000 in outlays;

(3) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $4,184,000,000 in outlays;

(4) for fiscal year 1997, for the discretionary category: $6,313,000,000 in new budget authority and $6,221,000,000 in outlays;

(5) for fiscal year 1998, for the discretionary category: $8,545,000,000 in new budget authority and $8,443,000,000 in outlays.

BOXER AMENDMENT NO. 1104

Mrs. BOXER proposed an amendment to the bill S. 1607, supra; as follows:

On page 368, between lines 2 and 3, insert the following:

Subtitle D—Presidential Submit on Violence

SEC. 1731. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) violence in America has reached epidemic proportions;

(2) this epidemic reaches into communities large and small, affects the richest and the poorest among us, touches people of every ethnic and economic background, and affects all institutions, both public and private;

(3) actual violence and depictions of violence are so pervasive that they have an enormous impact on the lives and character of our children.

(4) every person, group, and institution in America has a role to play in ending the epidemic of violence; and

(5) we need a national conference in order to develop a shared understanding of the causes of violence in America and to build a national consensus on the solutions to this epidemic.

SEC. 1732. PRESIDENTIAL SUMMIT ON VIOLENCE.

Congress calls on the President to convene as soon as possible a national summit on violence in America. The President is urged to include participants from all regions of the country and all walks of life, both public and private.

DOLE AMENDMENT NO. 1105

Mr. DOLE proposed an amendment to the bill S. 1607, supra; as follows:

At the appropriate place, add the following:

SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in a paragraphs (1)–(5).

"Rule 415. Evidence of Similar Act in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trail or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

COMPREHENSIVE CHILD IMMUNIZATION ACT OF 1993

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 1106

Mr. BIDEN (for Mr. KENNEDY for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 732) to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes; as follows:

On page 31, line 4, strike "and".

On page 31, line 8, strike the period and insert "; and".

On page 31, between lines 8 and 9, insert the following:

"(C) has in effect such laws and regulations as may be necessary to ensure the following safeguards for the rights of parents:

"(i) An exemption for the parent, upon the request of the parent, from the requirements established by the State, pursuant to this part, for the collection of data described in subsections (b) and (c) of section 2147, or the collection of any other data regarding any child of the parent that the State may require for incorporation in the State immunization registry.

"(ii) Restrictions ensuring that no information relating to a child or to the parent or guardian of a child that is collected or maintained by the State immunization registry pursuant to this part, or the national immunization surveillance program established under section 2153, will be used as a basis for the criminal prosecution or the commencement of a criminal investigation of a parent or guardian.".

On page 50, line 3, add after the period the following new sentence: "The Secretary shall give special consideration to those States that have low childhood immunization rates and that submit plans that demonstrate the State's substantial effort and commitment to improving such rates.".

On page 50, line 8, strike "If the Director" and all that follows through line 15.

On page 50, between lines 19 and 20, insert the following:

"SEC. 2157. PERFORMANCE BASED GRANT PROGRAM.

"(a) ANNUAL REPORT.—Not later than July 1 of each year, a State shall prepare and submit to the Director of the Centers for Disease Control and Prevention a report that contains an estimate (based on a base population sample) of the percentage of 2-year-old residents of the State who have been fully immunized as described in subsection (c).

"(b) PAYMENTS TO STATES.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall provide to a State that has submitted an annual report under subsection (a) that demonstrates that the State has fully immunized at least 50 percent of the 2-year-old residents of that State, with respect to the year for which the report was prepared, a payment in an amount equal to—

"(A) with respect to a State that has demonstrated the full immunization of at least 50 and less than 64 percent of all 2-year-old residents of the State, $50 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 50 percent amount;

"(B) with respect to a State that has demonstrated the full immunization of at least 65 and less than 70 percent of all 2-year-old residents of the State, $75 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 65 percent amount; and

"(C) with respect to a State that has demonstrated the full immunization of at least 70 and less than 91 percent of all 2-year-old residents of the State, $100 multiplied by the number of fully immunized 2-year-old resident children in excess of the number of children equaling such 70 percent amount.

"(2) USE OF FUNDS.—

"(A) CONDITION.—As a condition of receiving amounts under this section a State that uses a combination of Federal and State funds in achieving the immunization goals described in paragraph (1) shall agree to reinvest, in activities related to improving immunization services, that percentage of the payments to the State under paragraph (1) that is equal to the amount of Federal contributions to immunization services in the State as compared to the amount of the State contributions to such services.

"(B) DISCRETIONARY USE.—A State that has demonstrated that the use of State-only funds was responsible for the increase in the immunization rate which qualified such State for payments under paragraph (1), may use amounts awarded under this section for other purposes, at the discretion of the State.

"(3) VERIFICATION.—Prior to making a payment to a State under this subsection, the Secretary shall, in collaboration with the Centers for Disease Control and Prevention, verify the accuracy of the State report involved.

"(c) DEFINITION.—For purposes of this section, the term 'fully immunized' means a 2 year old child that has received four doses of DTP vaccine (diphtheria, tetanus, pertussis), three doses of polio vaccine, and one dose of MMR (measles, mumps, rubella) vaccine.

On page 61, strike out line 3 and insert the following:

SEC. 5. AMENDMENTS TO THE FEDERALLY SUPPORTED HEALTH CENTERS ASSISTANCE ACT OF 1992.".

On page 63, between lines 6 and 7, insert the following:

(d) PAYMENT OF JUDGMENTS.—Section 224(k)(2) of such Act (42 U.S.C. 233(k)(2)), as added by section 4 of the Federally Supported Health Centers Assistance Act of 1992, is amended by adding at the end thereof the following new sentence: "Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 329, 330, 340 and 340A.".

On page 63, line 7, strike "(d)" and insert "(e)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, November 4, 1993, at 10 a.m. to hold a hearing on the administration's fair lending enforcement efforts and the release of the 1992 Home Mortgage Disclosure Act data.

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

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony from Office of Management and Budget Director Leon Panetta regarding the administration's health care reform proposal.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 10 a.m. to hear Secretary of State Christopher on a foreign policy update.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 5 p.m. to receive a closed briefing from CIA Director Woolsey on the situation in Haiti.

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

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, November 4, 1993.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 9:30 a.m., to hold a markup. The committee will consider the following executive and legislative business: the nomination of Michael F. DiMario, of Maryland, to be Public Printer; H.R. 877, authorization for establishment of National African-American Museum within the Smithsonian Institution; H.R. 2677, authorization for Smithsonian Institution to plan, design, and construct the West Court of the Natural History Museum; Senate Joint Resolution 143, appointment of Frank Anderson Shrontz as a Smithsonian citizen regent; Senate Joint Resolution 144, appointment of Manuel Luis Ibáñez as a Smithsonian citizen regent; S. 716, Vegetable Ink Printing Act of 1993; and an original resolution to authorize printing of Senate Election Law Guidebook.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 4, 1993, at 2:30 p.m. to hold an open hearing on NAFTA.

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

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., November 4, 1993, to receive testimony on ocean mining technology.

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

SUBCOMMITTEE ON SUPERFUND, RECYCLING, AND SOLID WASTE MANAGEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling, and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, November 4, beginning at 9:30 a.m., to conduct a hearing on the Superfund liability scheme.

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

ADDITIONAL STATEMENTS

NAFTA

• Mr. WELLSTONE. Mr. President, I have been gratified by the healthy democratization of the trade-policy debate prompted by the proposed North American Free-Trade Agreement [NAFTA]. The broad involvement of citizens in debate over a policy area previously reserved mainly for small circles of experts, bureaucrats and trade lawyers has led to a public focus on the right kind of questions: Would NAFTA help the United States, Canada, and Mexico pursue a high-wage/high-skill strategy of growth and global competition? Would it promote environmental and consumer protection? Would it contribute to development and democracy?

In my opinion, Mr. President, NAFTA fails this new democratic test. It is a backward-looking document. It seeks to revive 1980's-style, trickle-down economics at the continental level. It would place downward pressure on hard-won environmental and consumer standards. And it relaxes our principled linkage of trade privileges to human rights performance.

A letter I would like to include in the RECORD today is not only an example of the kind of expression that has so enriched our trade policy debate, it also is a perfect illustration of why NAFTA is in such trouble now. Americans voted for change in the 1992 Presidential election. NAFTA is more of the failed old economic policy of disinvestment and deregulation. This letter explains why informed, concerned Americans are rejecting NAFTA.

Mr. President, I ask that this letter to the editor from Alec Porte of Minneapolis, published in the New York Times on October 27 of this year, be included in the RECORD following my remarks.

The letter follows:

RETHINK THE AGREEMENT

To the Editor:

Giving in to the pie-in-sky hopes expressed by supporters of the North American Free-Trade Agreement is not what I would expect of William Safire. "Laughter After Nafta" (column, Oct. 21) is no joking matter for tens of thousand of American workers on unemployment lines today or heading toward them in the future.

Mr. Safire's willingness to throw some people out of work now to help our kids get better jobs tomorrow is disingenuous. The trade agreement will not lose any jobs for economists or political columnists, but it will accelerate the outflow of factory and craft-worker jobs that have been sliding south to the sweatshops along our border with Mexico and eastward to Taiwan and other offshore factories.

What are the jobs that will benefit tomorrow's workers to which Mr. Safire alludes? Does he expect our unemployed and underemployed workers to wait two or three generations or forever, for Mexican and other Southern Hemisphere laborers to turn into big ticket consumers?

As our economy is significantly driven by middle-class consumer purchases, the outflight of jobs to Mexico can only serve to shrink our pool of workers with discretionary income to spend. It's already happening. What economic quid pro quo will Mexico supply, and how long will it take to generate?

With unemployment at record highs, particularly for minority youngsters, the United States neither today nor tomorrow can afford the price of providing improved income to Mexican workers and also to the run-away United States industries enjoying low-cost labor rates. We cannot reasonably expect all the next generation of Americans to be highly skilled technical-professional class employees. We can't expect all future workers to be college educated.

The United States will always need assembly, semiskilled and unskilled workers. How can we keep these jobs within our borders with the trade agreement sending them south?

The trade agreement does not answer America's need for work opportunities today or tomorrow, and realistically, it certainly does not guarantee an evolving middle class south of the border. Mexico's population is one of the fastest growing in the world. And the free trade treaty will not provide jobs equal to this exponentially exploding birth-rate.

Mr. Safire also envisions a North American marketplace 370 million strong to keep Europe and Asia from "ganging up." Predictions for a Europe as an implacable economic entity have been set on their ear lately by the unwillingness of members of the European Community to give up enough monetary sovereignty, cultural independence or border control to make such a competitive monolith an impending threat to our economy.

We have yet to see Asia evolve as a solidified economic force aimed at North America. The Asian countries are tough enough competitors separately. But the competition among China, Japan, Korea and a half-dozen smaller Pacific countries is too dynamic to foresee a unified economic community rising out of the East.

We will have to rethink the North American Free Trade Agreement and possibly redraft it to conform to the realities of a United States in need of more work. We certainly cannot think of our country as an island economy unto itself. But it is also adjusting to a hemorrhage of industrial jobs and is still without a program for keeping its workers employed. The trade agreement will not help solve these needs.

Things to do within our borders include tax credits to businesses, small and large, that invest in job-producing research and development, and create training programs, along with increased Federal aid for cities and states filtered through the private sector to help rebuild our crumbling infrastructure or prepare displaced workers for new opportunities. These and not a stronger Mexican economy are more likely solutions to cure the defects of our displaced manufacturing economy. Otherwise the last laugh heard will be Mexico's.

ALEC ANDREW PORTE.

MINNEAPOLIS, *October 22, 1993.*•

ORDERS FOR TOMORROW

Mr. BIDEN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:50 a.m., Friday, November 5, that following the prayer, the Journal of Proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day, that immediately following the Chair's announcement, the Senate resume consideration of S. 1607, with the time until 9 a.m., for debate on the Dole amendment, No. 1105, with the time equally divided and controlled between Senators BIDEN and DOLE; that at 9 a.m., without intervening action or debate, the Senate vote on or in relation to the Dole amendment.

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

RECESS UNTIL 8:50 A.M. TOMORROW

Mr. BIDEN. Mr. President, other than noting that it is 3 minutes after 12, and my sister's birthday, if there is no further business to come before the Senate today, I ask unanimous consent the Senate now stand in recess as previously ordered.

There being no objection, the Senate, at 12:04 a.m., recessed until Friday, November 5, 1993, at 8:50 a.m.

NOMINATIONS

Executive nominations received by the Senate November 4, 1993:

DEPARTMENT OF COMMERCE

RAYMOND E. VICKERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE JAMES D. JAMESON, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LARRY E. BYRNE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE SCOTT M. SPANGLER, RESIGNED.

ASSASSINATION RECORDS REVIEW BOARD

HENRY F. GRAFF, OF NEW YORK, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD. (NEW POSITION)

NATIONAL COUNCIL ON DISABILITY

LARRY BROWN, JR., OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995. (REAPPOINTMENT)

DEPARTMENT OF AGRICULTURE

GRANT B. BUNTROCK, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE KEITH D. BJERKE, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD M. SCOFIELD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

ROBERT D. BLEVINS, [redacted]
RAYMOND G. DONLEY, III
JUAN C. FERNANDEZ
JOHN M. GOLDEN
DAVID J. HANKO
MICHAEL L. MORGAN, [redacted]

JONATHAN B. MORROW
DOUGLAS B. SALMON
BILLY M. STEPHENSON
FRANCIS SZALEJKI

To be major

ROBERT P. BAINE, III
SAMUEL D. BATTEN
RICHARD S. KEATING
ALAN P. KNOPF
KARL J. KUWIK
LAWRENCE E. MANNING
JERRY C. MCDANIEL
CARL B. MCDONALD
ROBERT M. MORRISON
GEORGE S. RATHJEN
JOHN P. RENKAS
CALVIN J. ROMRELL

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

MEDICAL CORPS

To be colonel

CHARLES G. KIRBY

To be lieutenant colonel

JEFFREY D. BODIN
VINCENT F. CARR
JAMES B. NORWOOD
KEVIN B. WEST

To be major

DANIEL K. BERRY
BRIAN K. BRZOWSKI
ROBERT M. KRUGER
JOSEPH R. RITCHIE

DENTAL CORPS

To be lieutenant colonel

ANDREW H. LOEB

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BESTEDER

To be major

*JOHN R. BOOTH
*WILFRED R. BRISTOL
REX E. CARPENTER
*LESLIE G. NORTH
*JOEL G. RAYFIELD
*DANNY C. RIGGS
*MARINUS G. VANDESTEEG

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, *PROVIDED THAT IN NO CASE SHALL* THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN

To be captain

BRETT C. OXMAN

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADES AND DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be captain

GARY C. GROOMS
DEBORAH A. SEAMAN
MICHAEL J. YAGUCHI

IN THE NAVY

THE FOLLOWING NAMED REGULAR OFFICER TO BE REAPPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

To be ensign, Medical Service Corps, USN, permanent

ROBERT K. TAKESUYE

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE SUPPLY CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

To be lieutenant (junior grade), Supply Corps, USN, permanent

THOMAS E. GRAEBNER	JEFFERY J. MASON
RONALD E. HOFFMANN	RICHARD M. NALWASKY
STEPHEN L. JENDRYSIK	FIDENCIO S. PAMPO
STEPHEN M. JENNINGS	*DENNIS D. YLAGAN*
THOMAS E. JOHNSON	

THE FOLLOWING NAMED LINE OFFICERS TO BE REAPPOINTED *PERMANENT ENSIGN IN THE SUPPLY CORPS* OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5582(B):

To be ensign, Supply Corps, USN, permanent

GEOFFREY C. GRAHAM	KEVIN E. PARKER
HANS HARTWIG	GERALD P. RAIA
MICHAEL E. MCNULTY	JASON SCARLETT

THE FOLLOWING NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

JOHN D. SOWERS

THE FOLLOWING ARMY CADET TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531 AND 541:

ROBERT R. WINTERS

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

PETER P. BENTON	KEVIN L. QUARDERER
MATTHEW L. CLARK	CHARLES A. STERNBERG
THOMAS E. EWING	PHILIP W. WALKER
JASON P. GREENE	JASON L. WEBB
KELLEY S. HURST	

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

HEIDI COURTNEY	GRANT C. WALLACE

THE FOLLOWING LIEUTENANT, U.S. NAVY, RETIRED, TO BE REAPPOINTED PERMANENT LIEUTENANT FROM THE TEMPORARY DISABILITY RETIRED LIST, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 1211:

GEORGE P. FIORE

THE FOLLOWING FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

WARREN P. KLAM

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

DREW K. SIEGEL

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

SCOTT W. IMRAY	LOREN J. STEENSON

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED *STATES CODE. SECTION* 593:

GARY W. CAILLE

THE FOLLOWING NAMED ENLISTED MEMBERS TO BE *APPOINTED PERMANENT ENSIGN IN* THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RICKY D. ALLEN	DANIEL L. LOCKWOOD
BARBARA K. BELLMONT	LYNN C. MARTIN
DENNIS J. BIANCO	JOSE A. MARTINEZ
KRISTINA M. BINGHAM	RICHARD MCCROW
KIM B. BROWN	THOMAS OLSON
TIMMY F. BROWN	MORRIS C. PETITT
BRIAN D. CLARK	WILLIAM E. SCHALCK
KIM M. COWAN	ROBERT J. SPEARS
STEVEN T. DOVER	DONALD R. SWAIN
JESSIE E. GROSS	GEORGE E. TAYLOR
THOMAS C. HUGHES	LEEANN G. VARGAS
RICKY L. KIDMAN	RICKY D. WHITE
MARC C. LEWIS	PETER G. WISH

THE FOLLOWING NAMED ENLISTED MEMBERS TO BE APPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

TIMOTHY F. DOLAN	SUSAN B. SHAW
LUIS FELICIANO	ERIC C. STOUT
ALEJANDRO MONTELONGO	CHRISTOPHER A. URSINO
JOHN M. SERRANO	

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS TRAINING CORPS, USN

To be ensign; permanent

CHRISTOPHER J. ADAMS	ERIK R. MARSHBURN
MICHAEL J. ASSANTE	EDWARD MARTINEZ
CHRISTOPHER J. ATKINSON	JEFFERSON E. MCCOLLUM
TIMOTHY A. BARNEY	MADELENE E. MEANS
JULLIAN C. BISHOP	EMMA J. MOORE
DALE W. BOGARDUS	*DANIEL E. NANCE*
GREGORY M. BRADLEY	STEPHEN C. PETTY
TAWANNA M. BRAGG	CHRISTOPHER G. PORTER
ALBERT BURGOS	LORN D. REYNOLDS
ERIC M. BYMAN	JASON L. RIDER
MARK E. CAMPOS	MICHAEL RILEY
LLOYD A. CHEE	PAUL J. RONAN
JOHN S. CHRISTENSEN	MARK J. RUNSTROM
PATRICK J. CUMMINGS	ROBERT C. SHASSBERGER
NICOLE L. DERAMUS	JON D. SOLOMON
TIM J. DEWITT,	SCOTT S. SPRINGER
MARK A. EVERSON	GREGORY T. STEHMAN
DON G. FAYAS	JEFFREY C. STEVENS
TINA R. GONZALEZ	GREGORY J. TACZAK
ERIC G. HALL	BRETT A. WAGNER
MARK J. HANSEN	MICHAEL R. WEST
CRAIG A HILL	MICHAEL J. WHIDDEN
MICHAEL G. KEENUM	BENJAMIN R. WOODS
NORMAN W. LEE	THOMAS M. YANNONE, JR.
MAURICE E. MACKEY	EDMUND L. ZUKOWSKI
JUAN C. MALDONADO	

THE FOLLOWING NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVY ENLISTED COMMISSIONING PROGRAM, USN

To be ensign; permanent

JAMES L. BASFORD	ROBERT J. LINEBARGER
PAUL J. BERNARD	PATRICK M. MCDERMOTT
JOHNNY E. BOWEN	ROBERT P. MILES
COREY L. BROWN	HARRY X. NICHOLSON
GERALD F. BURCH	ERIC C. NICKERSON
MICHAEL D. DEWULF	PAUL A. PIATT
LISA A. FLORKOWSKI	WILLIAM J. PIERCE
JOY A. GOE,	WILLIAM H. PRIESTER
JOAQUIN GUERRERO	JEFFREY W. RAGGHIANTI
GREGORY C. HAIRSTON	PAUL M. REIS
DOUGLAS A. HARBOLD	JULIE R. SCHUCHMANN
DANA B. KEPNER	GREGORY O. STRATTON
KIRK A. KNOX	CLIFTON J. WILLIAMS
STEVEN C. LEWIS	DONALD E. WYATT
DAMON P. LILLY	

IN THE MARINE CORPS

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. *CODE, SECTIONS 531 AND 2107:*

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

AAGAARD, HARALD
ALUOTTO, PATRICK S.
ANDERSON, GARRETT
BACHE, MATTHEW W.
BAILEY, TIMOTHY W.
BAIN, ROBERY
BERTAMINI, MARCOS E.
BLAKE, BRIAN D.
BODINE, WAYNE A.
BOORSTEIN, MICHAEL A.
BRATCHER, RICHARD C., JR.
BRAUN, PETER D., JR.
BRESNAHAN, JOHN J.
BRET, OLIN H.
BRIDE, JEFFREY A.
BRIGGS, KENNETH L.
BROKOS, MICHAEL J.
BROOKS, JOHN M.
BROSTEK, DEREK J.
BRYSON, GREGORY L.
BUCHAN, TOBY P.
BUDIHAS, CHRISTOPHER L.
BURKS, MICHAEL S.
BUSACCA, ALEXANDRIA
CAIMI, JEFFREY S.
CAMERON, COLIN E.
CAMERON, KIRK W.
CAMPBELL, JAMES D.
CAMPBELL, THOMAS H.
CARLISLE, KEVIN T.
CARR, SHANE P.
CARTER, CHRISTOPHER L.
CASHIN, MATTHEW T.
CATHCART, BRIAN C.
CAUNEDO, MICHAEL
CHANDLER, JEROME J.
CHAO, ANDREW L.
CHARNEY, SEAN S.
CHARPENTER, TIMOTHY J.
CHIVERS, MATTHEW
CHRISTOPHER, JAPHET T.
CHRISTOPHER, SIMPSON C.
CLARK, RONALD J.
CLEVENGER, ANDREW H.
CLINGAN, MARK H.

CLOUTIER, ERIC D.
COLLINS, SEAN C.
CONRAD, BRAIN H.
CONSTANTIN, PHILLIP E., JR.
COOK, MATTHEW P.
COOK, RIAN E.
CORTNEY, THOMAS
CORY, MARK D.
COTTELL, MATTHEW C.
COYLE, DONNA E.
CRACKNELL, LEE A.
CREED, CHAD R.
CRENSHAW, QUINTON J.
CROSS, JOSEPH E.
CROW, JASON G.
CRUZ, BRIAN P.
CURTIS, HEATHER L.
DAHL, TINA M.
DECKER, MARK R.
DEGABRIELE, ROBERT T.
DEGUIA, FENANDO G.
DEIS, JOHN J.
DELEONARDIS, JOHN P.
DELKA, JON
DERRICK, AMY E.
DEVORE, DUSTIN H.
DEWITT, DOUGLAS L.
DIBIANCA, SAMUEL
DIMARTINI, JASON D.
DINKLEMAN, GREG T.
DOHR, JAMES N.
DONALDSON, MATT A.
DONALDSON, WILLIAM H.
DOTSON, SEAN M.
DOUCET, NORMAN P.
DREMANN, TIMOTHY R., JR.
DUGAN, BRIAN C.
DUNN, SEAN R.
DUNNE, JONATHAN
DUPESSIS, BRIAN P.
DURHAM, OSCAR W.
DYER, TOBY G.
ENG, SAM
ERCOLANO, MICHAEL
ERICKSON, CHRISTOPHER J.
ESPOSITO, THOMAS
EWING, ANNE-MARIE C.
FANNING, ROBERT B.
FAUBER, CHAD M.
FISHER, CASEY J.
FLORES, ERIC A.
FORTUNATO, JEFFERY J.
FULLER, KAREN E.
GABBARD, DANIEL
GARCIA, ADOLFO JR.
GELERTER, JOSHUA K.
GIESE, JOHN T.
GIOIA, MATTHEW M.
GOODWIN, MATTHEW D.
GORDON, BRUCE D.
GOULD, JASON H.
GRABARCZYK, LAWRENCE J.
GRANEY, KEVIN F.
GRAY, DUANE A.
GRAY, WILLIAM C.
GREENWOOD, JACQUELINE D.
GREGOR, JOSEPH F.
GRIES, KAREN E.
GRIFFIN, STANLEY P.
GROS, CHRISTOPHER N.
HALSTEAD, WOODROW J.
HALVAKSZ, SETH A.
HAMLING, RAYMOND G.
HANSEN, CHAD
HAWKINS, BRIAN C.
HECK, TIMOTHY I.
HELD, DANIEL J.
HENDERSON, DAVID E.
HENEGAR, WALTER H.
HENRY, SHAWN P.
HERNANDEZ, DULCIE R.
HEYERLY, THOMAS
HILL, DOMETRIUS D.
HILL, JOHN F.
HILL, NESTOR L.
HILL, SCOTT P.
HILLS, JEFFREY T.
HINES, BRET O.
HOLZMAN, JAMES C.
HOOPER, ANDREW S.
HUDSPETH, DAVID W.
JIN, SUK J.
JOFFRION, MICHAEL D.
JOHNSON, DANNY L.
JOHNSON, ERIC S.
JOHNSON, RODNEY W.
JOHNSTON, GREGG M.
JOINER, MICHAEL W.
JURS, CHRISTIAN T.
JUSTIN, DIAL W.
KAMEI, ROBERT C.
KELLER, JOHN E.
KERRICK, LINDA G.
KIRBY, CHRISTOPHER H.
KIRCHER, ELI D.
KNUTSON, JOHN
KOCH, TIMOTHY A.
KOPETS, KEITH F.
KOPP, BRIAN J.
KRIENERT, ERIC V.
LAGLENN, JOHN C.
LAMIRAND, JOHN C.
LANE, SCOTT M.
LARSEN, DAVID B.
LAUDER, JOHN M.
LAUFER, ERIK E.
LAWAWAY, RUSSELL A.
LAWS, KENNETH O.
LAWSON, DAVID P.
LIGHTFOOT, STEPHEN J.
LIN, TONY H.
LOUKS, CHRISTOPHER
LOVEWELL, WILLIAM A.
LUCAS, JAMES W., IV
LUCIANO, BENJAMIN J.
MACCARI, PETER J.
MAGRISI, WAYNE K.
MALMQUIST, CHRISTOPHER J.
MARKO, MARK R.
MARKO, MICHAEL R.
MARKS, AARON S.
MARLETTE, ROBERT T.
MARTIN, ANDREW C.
MARTIN, DAVID C.
MARTIN, MICHAEL R.
MARTIN, THOMAS M.
MARTIN, WILLIAM
MARZOLF, THOMAS S.
MATA, PHILLIP M.
MCALEER, PETER
MCARTHUR, DAVID C.
MCAVOY, BRIAN G.
MCCOMB, COLIN P.
MCCUMBER, PATRICK A.
MCGRATH, STEVEN F.
MCKANE, JAMES P., IV
MCLEAN, DOUGLAS E.
MCMILLAN, KENNETH S.
MCNEICE, JEFFREY A.
MCNULTY, SEAN P.
MCSHEFFREY, KATIE L.
MCWHORTER, KEITH W.
MILES, JOHN J.
MILLER, ALLAN B.
MILLER, CARL W.
MILLER, CHRISTOPHER A.
MILLER, JOHN J.
MISHOE, KEITH B.
MIZELL, DARON M.
MOKARRY, TIMOTHY P.
MONKMAN, JOHN T.
MONTH, ROSS A.
MOON, GARY G.
MOORE, ANTHONY D.
MORAN, MICHAEL F.
MORHENN, ERIC T.
MULLINS, MICHAEL B.
MURCHISON, MICHAEL J.
MURPHY, NEIL F., JR.
NELSON, BRIAN C.
NEWELL, JONATHAN R.
NEWELL, ROBERT
NEWLAND, TIMOTHY A.
NEWSOME, STEPHEN L.
NGUYEN, MINH C.
OGLETREE, STEPHEN L.
OLSON, JEREMY R.
ONEILL, JEFFREY M.
OROURKE, BENJAMIN P.
OUTMAN, SCOTT D.
PARASCANDOLA, CIRO A., JR.
PARKER, RUSSELL W.
PARKS, GARRY L.
PATTERSON, ANDREW L.
PERRY, TODD R.
PEREZ, JOE E.
PERRIN, PAUL M.
PETERSON, DAVID H.
PETERSON, MATTHEW A.
PFEUFFER, ADIN M.
PIERCE, KEITH P.
POUNDRIER, JOEL P.
PRATT, JASON M.
PUFFER, SARAH T.
PUNTNEY, GREGORY T.
RACINEZ, RONALDO G.
RADER, MICHAEL J.
RAMIREZ, OSCAR A.
RAMSEY, ROBERT P., JR.
RANDALL, TERESA L.
RANKIN, CHRISTIAN M.
RAY, VALERIE S.
REMILY, ALEXANDER T.
REVIER, EUGENE D.
RICKETSON, MARY C.
RISHEL, JEREMY D.
RITTERBY, BERT H.
ROBINSON, JAMES T.
RODRIGUEZ, CESAR
ROST, FRANCIS J.
ROWE, CARLOS O.
RUSH, NATHAN M.
SALLEE, NATHAN E.
SALVAGE, DEBORAH L.
SCHLATHER, BYRON L.
SCHREFFLER, GEORGE C., III
SCHUPPNER, BRIAN N.
SELLERS, KEITH D.
SEVERSON, CHRIS T.
SHERWOOD, JILL M.
SHORTAL, MATTHEW C.
SIEBERT, TODD M.
SIENKIEWICZ, DONALD H.
SINDLE, JAMES M.
SKURDALSVOLD, SCOTT A.
SMITH, CHARLES L.
SNIFFEN, JAMES P.
SNOW, CASEY R.
SOUNDRS, CHRISTOPHER J.
SPACKMAN, KURT J.
SPRENKLE, DANIEL N., JR.
STACK, ROBERT O.
STANSELL, WILLIE M., III
STAUFFACHER, PHILIP K.
STENNER, BRADLEY J.
STEPHENSON, DANIEL A.
STERNBERG, JEFFREY A.
STERZING, PETER A.
STEWART, CHAD
STOWER, JEFFREY J.
STYSKAL, MICHAEL S.
SUELTENFUSS, TIMOTHY C.
SUESS, DAVID L.
SULLENBERGER, ERIK B.
SULLIVAN, EDWARD R.
SZILAGVI, ROBERT J.
TAUBENHEIM, BRIAN R.
TAYLOR, CHARLENE A.
TAYLOR, JASON C.
TAYLOR, MARCUS
THERIOT, TYRONE P.
THIELEMANN, CHRISTOPHER J.
THOMAS, MATTHEW L.
THOMAS, SCOTT K.
THOMPSON, JEREMY M.
TODD, ANDREW W.
TRAIL, SCOTT B.
TREPKA, JOHN C.
TRIBBETT, CHRISTOPHER J.
TUCKER, PATRICK M.
VANDERSLICE, CHAD R.
VICTORY, ERIC R.
VILACOBA, RICHARD J.
VILLHARD, DOUGLAS P.
WAHL, EVAN W.
WALSH, DAVID S.
WARD, ROBERT D.
WARE, KEVIN
WEER, CHADD B.
WELCH, JOHN M.
WHITE, JOSEPH F.
WHITTINGTON, ERIC S.
WILLIAMS, CYNTHIA M.
WILLIAMS, GEORGE A.
WILLIAMS, KEVIN A.
WOFFORD, BILLY J.
WOOD, MICHELLE L.
WRAY, MICHAEL J.
YEAGER, JAMES M.
YOUNG, ADAM C.
ZYLA, ROBERT C.

IN THE MARINE CORPS

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

To be second lieutenant

BONAFE, AUDREY R.
BOSTROM, MICHAEL L.
BRADFORD, MARY J.
BRADLEY, DANIEL J.
CAMERANO, JUDITH M.
CRUM, ROBERT C.
DAVIS, MADELEINE
DICKEY, GEORGE W., JR.
DYGOWSKI, LAUREN L.
ENGBERG, RANDAL S.
ENHOLM, JACOB C.
ESTRADA, AMADOR R.
GARD, BRIAN E.
GOMEZ, DAVID JR.
HESS, JOHN R.
HIPPLER, MARK A.
HUGHES, SHAWN J.
JENKINS, DONALD J.
JOHNSON, CHAD W.
KELLY, HOLLIE D.
KENYON, GORDON L.
KING, GARY A.
LOREN, SHEILA A.
MARCHLINSKI, GREGORY
MARTIN, CHARLES E.
MCGRADY, JOHANNA F.
MOORE, DAVID A.
OCONNOR, DANIEL W.
ODELL, JEFFREY D.
OSTERHOUDT, THOMAS F.
PERRETTA, ANTHONY R.
PERRY, CHRISTOPHER J.
PISCIOTTA, LEONARD P.
REDENIUS, WILLIAM J.
REDMOND, ROBERT D., II.
RODRIGUEZ, LANDON R.
SELIK, LAWRENCE D.
SIPE, PATRICK S.
STEAD, JOHN D.
STORM, BRYAN D.
SWICEGOOD, DAVID J.
TODL, ALAN F.
TOOTLE, RONALD
VIGNEAU, LISA L.
WILSON, RONALD S.

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE SECTION 541:

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

GALFANO, CHRISTOPHER J.
LEICH, BRIAN H.
ROSA, THOMAS C.
SCHULTE, MICHAEL J.
WATTS, TIMOTHY C.

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. MILITARY ACADEMY GRADUATE FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541 AND 5585:

U.S. MARINE CORPS CONFIRMATION LIST

To be second lieutenant

TLAPA, JEFFERY J.

IN THE NAVY

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS, WHO ARE IN THE NAVY COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS, USN

To be ensign; permanent

ALLEN, SCOTT M.
ANDERSON, HEINRICH A.
ATHANS, TINA M.
BANDY, WAY
BANGERT, LAWRENCE L.
BARE, CHARLES E., II
BARNES, DALE E.
BAUER, DONALD E.
BAXTER, JOSEPH M.
BEALE, WILLIE H.
BENSON, JEFFREY A.
BERG, FREDERICK W.
BIONDI, JOSEPH J.
BLAND, KEVIN C.
BOAMAN, SCOTT M.
BONNER, DELONG
BOYACI, DIMITRI C.
BRITTAIN, JESSE L.
CALER, CRISTAL B.
CERILLI, ANTHONY P.
CIARAVINO, BRIAN D.
CLARK, JOHN H.
COBURN, CHRISTOPHER J.
CONSTANTIAN, RICHARD K.
CORRIGAN, CHRISTOPHER J.
COSTNER, RICKY R.
COUGHLIN, ROBERT
COX, WILLIAM T.
COZINE, RAYMOND T.
CRISP, VITTERIO J.
CUNNINGHAM, REBECCA L.
DAVIS, GEORGE A.
DICKISON, RUSSELL J.
DOSSEY, RANDY A.
DRAKE, ROY A.
DUDLEY, TIMOTHY P.
DUGGAN, TIMOTHY J.
DUNHAM, ZACHARY K.
ELLIOTT, MICHAEL
FULLER, FRANK R.
GANT, ERIC L.
GEHL, DAVID L.
GIBBONS, JEFFREY T.
GONZALEZ, JUAN R.
GORDON, KIRK R.
GRADY, EARL S.
GUMKE, RANDALL A.
HAMILTON, WILLIAM E.
HAMLIN, SCOTT A.
HARRINGTON, MOLLEY A.
HEINSINGER, STEPHEN M.
HELMBRECHT, STEVEN B.
HENKLE, TERANCE J.
HILAIRE, PIERRE
HIME, RUSSELL V.
HIPSLEY, EVAN A., JR.
HUDAK, GREGG A.
HUDSON, MARC A.
HUNTER, ANTHONY R.
HUNTER, CHONG
ISBELL, TAREY D.
JACKQUES, GERALD D.
JOHNSON, RICHARD M.
JOHNSTON, WILLIAM D.
JONES, CARLTON L.
KELLY, BRIAN L.
KERCHER, GREGORY R.
KUNZMAN, DOUGLAS W.
L. ESPERANCE, JAMES O.
LEDOUX, STEVEN M.
LIBBY, DAVID W.
LOWER, RODGER D.
LUCE, JEFFREY R.
MAGHUYOP, CHRISTOPHER M.
MALDONADO, ALEXANDRA I.
MALLORY, PATRICK L.
MALLOY, BRIAN J.
MARRINAN, MICHAEL H.
MARTIN, STEPHEN L.
MASON, RONALD A.
MATTHEWS, CALVIN
MCCONNELL, RICHARD J.
MCGOVERN, SUSAN C.
MCVAY, MICHAEL T.
MONTGOMERY, JOHN F.
MUELLER, PAUL E.
NASH, WYATT J.
NOLTE, CARL P.
NORTON, SCOTT Q.
NYGARD, GREG L.
OLLER, ERIK D.
PELTON, JIMMY W.
PHARES, STEVEN L.
PLOWMAN, MICHAEL J.
PYLE, RAYMOND A.
RIKER, RICHARD R.
RIVERA, REINALDO J.
ROBERTSON, DALE
ROLLINS, MARK D.
ROMERO, JESUS D.
ROYS, MARK A.
SCHNEIDER, NATHAN D.
SCHOEFFLING, ROBERT D.
SHOENBERGER, JAMES A.
SMITH, CHRISTOPHER P.
SMITH, DEBORAH M.
SMITH, TIMOTHY B.
STARKEY, BENJAMIN J.
STJOHN, MIA K.
STRAHM, ROBERT P.
SWEET, DARREN L.
THOMAS, HAYDN A.
THOMPSON, WILLARD L.
TODD, DAVID B.
TROYANEK, JEFFREY D.
TURNER, CLIFTON C.
TURNER, KENNETH B.
URBAN, JOHNNY D.
WALKER, KEITH B.
WALTERS, KEITH
WHITTLE, LYNDA M.
WICK, BRIAN W.
WILKINSON, STEVEN R.
WILLIAMS, KIM C.
WILSON, KEVIN R.
WITHEE, JON E.
ZACHARY, URIAH E.

IN THE NAVY

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS, USN

To be ensign; permanent

ABARBANELL, AARON M.
ABAYA, AMADO F.
ABBAMONDI, JOHN G.
ABOBO, JOEY B.
ACCOLA, RUCHIRA S.
ADAIR, ROBERT L.
AGUAYO, MARIA L.
AGUILAR, FELIX F.
ALBRECHT, GLENN G.
ALLERITTON, BENJAMIN J.
ALLEN, GERALD A.
ALONZO, QUINO P., JR.
ALONZO, SESARIO P.
ALVAREZ, ERNESTO
ALVAREZ, ROGELIO E.
ANDERSON, GREGORY J.
ANDERSON, MARK E.
ANDERSON, SCOTT A.
ANDERSON, SEAN R.
ANSTEAD, THOMAS E.
ANTHONY, RYAN M.
ARCHER, CHRISTOPHER E.
ARNOLD, SCOTT W.
AUGELLI, VINCENT A.
AUSTIN, RICHARD J.
AYALA, ROBERT R.
BAHR, ROBERT L.
BAKER, CHAD E.
BAKER, DANIEL J.
BAKER, JEFFREY W.
BALCH, THOMAS A.
BALDUS BRIAN R.
BALDWIN, WILLIAM R.
BANASIEWICZ, ROBERT J.
BARBER, CHARLES W.
BARNES, JEFFERY D.
BARTON, JAMES E., II
BASS, ERIC B.
BATES, KENNETH R.
BAYLISS, RODERICK S.
BEAMER, WILLIAM G.
BEANE, JOHANNA L.
BEASLEY, JAMES R.
BEATTY, THEODORE J.
BEAUDRY, DANIEL P.
BECK, EDWARD G., II
BECK, JAMES A.
BECKER, ANDREW E.
BECKNER, TRINA M.
BEGLEY, JULIA K.
BEHRENS, BRIAN E.
BEICKE, DANIEL C.
BEIER, JAMES J.
BELCHER, JASON A.
BELL, JAMES W.
BELL, RANDALL A.
BELLIS, ROBERT H.
BELVIN, DOUGLAS S.
BENESH, TIMOTHY L.
BENNETT, KRISTEN T.
BENSON, CRAIG B.
BERG, PETER C.
BERNENS, WILLIAM C.
BERNIE, JOHN R.
BERRY, LAURI D.
BERZINS, PETER A.
BIALEK, ERIC J.
BILLY, RANDALL E.
BIRCH, DAVID M.
BIRKHOLZ, BRET C.
BISHOP, ANDREW T.
BITNER, STEPHEN J.
BJORK, KARL E.
BLACHOWICZ, KEITH R.
BLACK, MICHAEL F.
BLACKWELL, TOBIAS R.
BLACK, MATTHEW J.
BLAKELY, ASHLEY B.
BLASKOWSKI, PAUL L.
BOBO, FRANK, R.
BOCHENEK, JOSEPH W.
BOESE, SARAH A.
BOGIE, CHRISTOPHER D.
BOHLIN, MATTHEW D.
BONNER, MATTHEW J.
BOONE, TODD R.
BORCHERS, NATHAN P.
BORJA, JEFFREY P.
BOSQUE, EDWARD F.
BOSWELL, WILLIAM L.
BOUDREAUX, JEAN C.
BOUTOT, BRIAN J.
BOWSER, STEVEN J.
BOYCE, KATHERINE E.
BOYER, LESLIE W., III
BRACKENBURY, LISA L.
BRADSHAW, MICHAEL R.
BRASWELL, BRYAN E.
BRAUN, MICHAEL S.
BREIDENBACH, MICHAEL N.
BRENNAN, JOSEPH E.
BRENNAN, MICHAEL P.
BRENNAN, SHAUN P.
BRICKHOUSE, GEORGE D., III
BRIDGES, JASON A.
BROADNAX, LARON B.
BROMBERG, MATTHEW F.
BRONK, BRIAN B.
BROOKS, BRIAN G.
BROOKS, DAVID L.
BROOKSHIER, MARK A.
BROSKI, TODD M.
BROWN, CHARLES W., IV
BROWN, DANIEL D.
BROWN, MICHAEL S.
BROWN, PATRICK S.
BROWN, RAYMOND N.
BRUNHART, ANDREA E.
BRYANT, CHADWICK B.
BUCKLEY, DOROTHY L.
BUKOLT, KATHERINE M.
BURBRIDGE, DWAYNE E.
BURDEAUX, ROBERT C.
BURGESS, JASON A.
BURGETT, DANIEL V.
BURIANEK, MICHAEL J.
BURKE, MICHAEL J.
BURKE, RACHEL A.
BURNS, ROBERT T.
BURT, ROBERT L.
BUSS, JEFFREY D.
BUSSARD, DAVID M.
BYRD, JOSEPH M.
CAHILL, JOSEPH F., III
CALLAGHAN, PATRICK M., JR.
CALVIN, CHARLES L.
CAMERON, HEATHER L.
CANALES, RAUL I.
CAPIZZI, JOHN E.
CARL, LOUIS O.
CARMICHAEL, TRENT L.
CARNELL, JOSEPH A.
CARO, GREGORY P.
CARRIGAN, JOSEPH
CARROLL, STEPHEN G.
CARTER, JAMES W.
CARTER, PHILLIP G.
CARTER, TIMOTHY M.
CARTER, WILLIAM H.
CASAMASSA, MICHAEL
CASSIDY, REGINA M.
CATES, CLINTON J.
CAYLOR, KRIS A.
CECIL, THOMAS C.
CHAIKA, DAVID A.
CHAKOFF, JUDAH B.
CHANDLER, MICHAEL C.
CHANDO, SCOTT E.
CHAPMAN, REGINA R.
CHASTAIN, STEVEN D.
CHEELEY, STEPHEN P.

CHELMAN, DONALD S.
CHEN, VICTOR S.
CHESHIRE, CARY M.
CHEUNG, CHI K
CHOI, JOHN T.
CHOPEK, ANDREA E.
CHURCH, BRYANT T.
CINTRON, CARLOS J.
CLARK, MARC R.
CLARK, MARK E.
CLARK, MATTHEW D.
CLARKSON, ROBERT J.
CLEMENTZ, MATTHEW D.
CLENDENIN, DUNCAN M.
CLOUSER, DANIEL K.
COFFEY, TIMOTHY E.
COLBERT, CHARLES W.
COLEMAN, ARTHUR G.
COLEMAN, PAUL C.
COLEMAN, ROMEO L.
COLLING, CHRISTOPHER I.
COLLINS, GREGORY
COLLINS, ROBERT D.
COMMERFORD, MATTHEW B.
CONDIT, MARIO G.
CONZELMAN, JAMES G.
COOK, LAUREL A.
COOKE, JAMES D., III
COOPER, ABABETH M.
COOPER, CRAIG J.
CORBETT, STEVEN P.
CORCORAN, LAWRENCE
CORNECK, GRAHAM R.
CORRADO, LUANN
COSGRAVE, MICHAEL C.
COULLAHAN, MICHAEL J.
COWAN, SHAWN R.
COWDREY, JOEL H.
COWEN, JAMES A.
COX, BRIAN E.
COZART, WILLIAM H.
CREEL, MARLO L.
CREEL, RONALD L.
CRISP, MICHAEL C.
CROW, DANIEL J.
CRUM, CARTER D.
CRUMP, PAUL A.
CUMMINGS, JOSEPH E.
CUOZZO, DANIEL J.
CURRY, TIMOTHY S.
CURTIS, KIRSTEN L.
DAHM, JOHN M.
DAMANI, MINAL B.
DANGREMOND, MITCHELL W.
DANIELS, JOHN K.
DART, DAVID M.
DASENBROCK, JACE F.
DATTA, VIKRAM K.
DAVIS, JEFFERY P.
DAVIS, KEVIN W.
DE FRANK, E SIM
DEADWYLER, GABRIEL R.
DEAL, DAVID A., JR.
DECKMAN, STEPHEN M.
DEFRIAS, ANTONIO JR.
DEGRANGE, WALTER C.
DELARIVAHERRERA, BORJA
DELUCA, DAVID C.
DENEZZA, MATTHEW R.
DESAI, NIRAV G.
DESLICH, STANLEY J.
DEUTSCHER, BRETT J.
DEVORE, GREGORY S.
DIAZ, JOSE M.
DIETRICK, GLENN T.
DIETZE, BRYAN C.
DINEEN, BRIAN R.
DIXON, CORY A.
DOBESH, MARK D.
DOHERTY, RACHAEL T.
DOMICO, CHRISTOPHER C.
DOMINGUEZ, SHAWN C.
DONAHUE, DARREN P.
DONAHUE, MARK M.
DONALD, ELLIOTT J.
DONALDSON, LEE A.
DONLY, CHARLES E.
DONNELL, DENISE M.
DORAN, THOMAS C.
DOREY, HARLAN F.
DORN, LAWRENCE T.
DOUGLAS, MICHAEL L.
DOUGLASS, BRIAN P.
DOWDY, CARTER C.
DOWLER, DAVID M.
DUARTE, SCOTT D.
DUERDEN, JOHN D.
DUMMER, JOSEPH W.
DUNBAR, CHRISTIAN A.
DUNCAN, JAMES E.
DUNCAN, ROBERT B.
DUNSMOOR, BARRY L.
DURKEE, BRYAN W.
DUZAN, KEVIN L.
DWYER, BRIAN S.
EASTERLING, VALERIE M.
EBEL, JONATHAN H.
EDGE, DOUGLAS E.
EDWARDS, BLAKE A.
EDWARDS, DEREK W.
EHLERS, ANDREW C.
EITNER, KEITH D.
ELLIS, DAVID A.
EMORY, BRIAN L.
ENGLEN, DARIUS T.
ENGLISH, DION D.
ENGMAN, LARS E.
ERICKSON, DAVID G.
ERICKSON, GREGORY J.
ERWIN, JAMES O., IV
EUBANK, CRAIG A.
EVANS, KEVIN W.
EVANS, TIMOTHY J.
FABIAN, RICHARD A.
FAHS, THEODORE R.
FARRENS, JAMES E.
FARRIOR, WILLIAM R.
FARTHING, JOHN M.
FAVATA, MICHAEL A.
FEHSKENS, SUZANNE M.
FELICIANO, JOAQUIN B.
FENDER, LONNIE M.
FERENCSIK, MICHAEL R.
FIELDS, APRIL L.
FINKBEINER, JOHN A.
FIRESTONE, STEPHEN B.
FISHER, JEFFREY M.
FISHER, MARK M.
FLANIGAN, DAVID A.
FLANNERY, KEVIN A., JR.
FLANNERY, THOMAS J.
FLEISCHMAN, JEFFREY W.
FLEMING, MICHAEL F.
FLEMING, THOMAS A., JR.
FLENKER, TERRA L.
FLETCHER, CHRISTIAN A.
FLOTTEN, ANDREWS S.
FORD, JAMES P.
FORESTER, SCOTT A.
FORTIN, CHRISTOPHER F.
FOSTER, DARYL D.
FOWLER, ERIK J.
FOWLER, JOHN R.
FOX, BRIAN R.
FOY, RONALD A.
FRANCHUK, CHRISTOPHER L.
FRANCISCO, GREGORY M.
FRANKLIN, ANTHONY A.
FREDERICK, PAUL A.
FUDAL, SCOTT M.
FULLER, ROBERT L.
GADDIS, DAVID O.
GAGNON, DEREK A.
GAINER, ANDREW D.
GALLIMORE, DANIEL A.
GALVIN, JOHN C.
GANNON, COREY J.
GARCIA, JUAN C.
GARCIA, RONNIE A.
GARMENDEZ, RUDDY E.
GARRETT, ANDREW W.
GARRETT, TODD L.
GARRISON, BARTON J.
GARVEY, SCOTT A.
GASS, SEAN D.
GATES, JOSHUA H.
GEPHART, ROBERT T.
GERKEN, JOHN D.
GERSTEMEIER, ROBERT C.
GIBBONS, LAWRENCE M.
GIBBONS, TODD J.
GICK, JOSEPH R., JR.
GIDDEN, CHRISTOPHER W.
GILARDI, BINGHAM R.
GILBREATH, BRIAN L.
GILLETT, JOHN B., III
GILLI, LEANA R.
GIOIA, CARA M.
GLAZE, GEORGE F., III
GLIDDEN, ERIC S., II
GLOVER, LARRY J.
GOEPFERD, IAN A.
GONZALES, HENRY
GONZALEZ, FRANCISCO A.
GOODRICH, TONY R.
GORDON, CHRISTOPHER S.
GORDON, ROBERT C.
GORKOWSKI, JOHN
GORMAN, GREGORY H.
GORMICAN, TUAN A.
GRABOWSKI, MICHAEL J.
GRADY, JENNIFER E.
GRAHAM, MATTHEW M.
GRAHAM, SHARON L.
GRAMBLEY, WILLIAM F.
GRANNAN, WILLIAM J., JR.
GRANT, ANDREW G.
GRASSI, CHARLES R.
GRASSI, FRANK T., JR.
GRAY, GWEN D.
GRAY, HOWARD C.
GREEN, JOSEPH B.
GREEN, KELVIN W.
GREEN, LEE A.
GREENSTEIN, EGAN H.
GRIMSRUD, KENT A.
GROGAN, DAVID E.
GROW, ANTHONY C.
GUINTO, ALBERT T.
HAEFLINGER, MARCIA L.
HALIN, AMY L.
HAM, WILLIAM K.
HAMILTON, MATTHEW L.
HAMILTON, OVELL
HANCOCK, JEFFREY A.
HANRAHAN, PATRICK D.
HANSEN, GERALD J., JR.
HANTHO, KARL A.
HARBACH, DAVID V. II.
HARDING, JENNIFER L.
HARMAN, GREGORY J.
HARRINGTON, TIMOTHY L.
HARRIS, BRANDAN D.
HARRIS, CHRISTINA M.
HARRIS, DOUGLAS A.
HARRISON, MARK L.
HARRISON, THOMAS C.
HART, DEBORAH A.
HASCALL, ANDREW M.
HASH, THOMAS W.
HASSELBERG, CHRISTIAN M.
HATFIELD, BRITT H.
HATHAWAY, HEATHER N.
HAUSE, RANDALL K.
HAYES, JENNIFER C.
HAYES, MICHAEL E.
HAYES, RICHARD D., III.
HAYES, SEAN P.
HAYS, JAMES A.
HEALY, KEVIN P.
HEIDEN, JOHN D., JR.
HELD, JONATHAN S.
HENDERSON, RHONDA M.
HENDRIX, SCOTT A.
HENNING, SHAWN T.
HENNINGS, BRIAN D.
HENRI, PHILIP P.
HERAVI, ARMIN D.
HERNANDEZ, MARIA EDEN, S.
HERVEY, OUDREY
HESS, MICHAEL D.
HESTER, JAMES B.
HIGGS, ROBIN L.
HILGEFORT, KURT A.
HILL, BRUCE A.
HILL, DARNELL L.
HIMES, JOSHUA C.
HINTZ, REWA C.
HODGDON, DON M.
HODGES, CODY L.
HOFFMANN, JOSEPH M.
HOJNACKI, LORI J.
HOLCOMBE, ANGELA M.
HOLLAND, MICHAEL L.
HOLLETT, GRANT T., IV.
HOLT, DOUGLAS E.
HOLT, JOEL D.
HONECK, PATRICK C.
HOPPER, DAVID
HRONCICH, JOHN M.
HUBER, DAVID L.
HUGGINS, CHARLES T., III.
HULL, ANTONIO D.
HUMPHREY, JAMES H.
HUNERMUND, CARL R.
HUNT, ROBERT L., JR.
HUNTER, JOHN B.
HURT, SHAWN J.
HUTCHINSON, CRAIG D.
HUVANE, PATRICK J.
HYDE, ROBERT H.
ILSTRUP, BLAKE A.
INFANTE, PATRICK S.
INGRAM, JAMES P.
ISBELL, CHRISTOPHER C.
ITO, THEODORE M.
IVERSEN, MARK R.
JACKSON, DONALD A.
JACKSON, JAMES B.
JACOBS, BRADLEY D.
JACOBSEN, ERIC A.
JAEGER, HARRY A.
JAMES, JASON C.
JANKOWSKI, TIMOTHY S.
JENKINS, THOMAS M.
JEPPESEN, JENNIFER A.
JERINSKY, SERENA M.
JOHNSON, AARON D.
JOHNSON, ALEX C.
JOHNSON, BRENT D.
JOHNSON, DAVID W.
JOHNSON, ERIC R.
JOHNSON, HIRAM S.
JOHNSON, JEFFREY C.
JOHNSON, MICHAEL B.
JOHNSON, MICHAEL D.
JOHNSON, SCOTT G.
JOHNSON, SUZANNA K.
JOHNSON, WILLIAM E.
JOHNSON, CASTON CHRISTINE
JONES, KIMBERLY L.
JONES, MATTHEW R.
JORDAN, MICHAEL B.
JUNG, HYUN J.
KAHL, CHARLES G.
KALLEBERG, WALTER L.
KAMAGE, GEORGE M., III
KAMAN, JEFFREY S.
KANAS, JEFFREY T.
KARVER, ROBERT W.
KARWOSKI, TAMARA L.
KASCHAK, KRISTOPHER M.
KAZMIER, MICHELE M.
KAZMIERSKI, JOHEPH R.
KEANE, EDWARD L.
KEARNEY, THOMAS J.

KEE, ROGER A.
KEITH, STEPHEN T., JR.
KELLER, KATIE L.
KELLEY, STEPHEN A.
KELSO, GLENN D.
KELSO, MARK T.
KENNEDY, MATTHEW R.
KENNEY, MICHAEL D., JR.
KENT, ABSOLON S.
KENT, PHILLIP A.
KENTCH, SEAN R.
KEOUGH, TIMOTHY E.
KETTER, TIMOTHY N.
KETTERMAN, LISA L.
KEY, SCOTT A.
KEYSER, DAVID M.
KIBLER, MICHAEL M.
KIESEL, MARTIN P.
KIGGANS, STEVEN W.
KILL, JOHN M.
KINCAID, DOUGLAS W., III
KING, MICHAEL J., II
KIRK, BRIAN D.
KISSINGER, SHERWOOD S.
KLINE, JOSEPH C.
KLOEWER, MITCHEL J.
KNEPPER, GREGORY D.
KOELSCH, ANDREW P.
KOHLER, PETER M.
KOPACH, CHRISTOPHER R.
KOTTKE, KARL W.
KOTWICK, PHILIP J.
KROGH, KEVIN M.
KRUEGER, THOMAS A.
KRUS, CHRISTOPHER J.
KUBAS, BRIAN C.
KUEHL, JAMES W.
KULAKOWSKI, PATRICK E.
KURDIAN, ARMEN H.
LABOR, THOMAS P.
LABRUZZO, JON PAUL R.
LACY, ROBERT T.
LANDEFELD, HANS P.
LANEY, PATRICK S.
LANGE, TREVER L.
LANGLEY, JAMES E.
LAPP, MARLON J.
LARSON, ADAM P.
LAUPER, WILLIAM M.
LAWLER, KATHLEEN M.
LAWSON, EDWARD D.
LE, CHRISTOPHER L., GRA
LEACH, EFREM R.
LEAVITT, MARK S.
LEE, FITZHUGH S.
LEFEBVRE, GARY S.
LEFRAK, DOUGLAS W.
LENTO, ROBERT J.
LEON, EMILY
LEWIS, JAMES G.
LEWIS, MICHAEL
LEWIS, MICHAEL T.
LEYDEN, SEAN M.
LEYSER, MATTHEW R.
LIEBESKIND, KAREN M.
LIERMAN, DARYL W.
LIM, R. AUGUSTUS Z.
LIMA, DEBRA C.
LINDER, ROBERT W.
LINDSTROM, DAVID C.
LINN, KENNETH D.
LIPPINCOTT, STEVEN C.
LISSY, GREGORY P.
LITO, DOUGLAS W.
LITTLE, EDWARD G.
LIZALDE, JESSE
LO, MICHAEL C. RUS
LOGAN, CPATRICK
LONG, KEVIN D.
LOPEZ, MICHAEL A.
LOUGHNANE, BRIAN J.
LOUNSBURY, DAN T.
LOUWERS, THOMAS D.
LOVLIE, RODNEY D.
LUCAS, SARAH E.
LUND, STEVEN J.
LUONGO, KELLY A.
LYCZAK, NATHAN R.
LYONS, THOMAS H.
MACDONALD, WILLIAM A.
MACK, LLOYD B.
MAGI, PETER D.
MAHELONA, SHANE K.
MAHOOD, REECE F.
MAITRE, ALEXANDER S.
MAJORS, CHRISTOPHER D.
MALONEY, PAUL T.
MANALO, GILBERT B.I.
MANFREDI, DOUGLAS K.
MANN, MONTE W.
MANSISIDOR, MICHAEL R.
MAPLE, NORMAN E.
MARKIEWICZ, JAY T.
MARKLE, HOWARD B.
MARKLE, STACY L.
MARLAR, JON C.
MARSH, STEPHEN A.
MARSHALL, LEONARD E.
MARTIN, CHRISTOPHER T.
MARTIN, RODNEY A.
MARTIN, VINCENT S.
MARTINEZ, EDUARDO Z.
MARTINEZ, JOHNNY R.
MATHENA, TRACY L.
MATTFIELD,STUART M.
MAU, ROBERT S.
MAURAO, MICHAEL P.
MAY, ANTHONY D.
MCANALLY, CHRISTOPHER J.
MCBRIDE, ROBERT T.
MCCARTHY, WILLIAM D.
MCCARTY, ERIC D.
MCCURDY, ALLISON L.
MCDERMOTT, MOLLY A.
MCDONALD KEDRON A.
MCFARLAND, ANDREW J.
MCGEE, SHEILA M.
MCGINNIS, SHAWN W.
MCIVER, EVANDER R.
MCKELLAR, ALAN N.
MCLEAN, COLIN M.
MCMAHON, GREGORY S.
MCPHERSON, BOBBY D., II
MCROBERTS, BRYAN S.
MCVEIGH, PATRICK J.
MEDRANO, ANTHONY P.
MELLEN, WILLIAM R.
MESTERHAZY, PAUL M.
MEYER, BRENT T.
MICHALKA, PAUL M.
MICKEY, SHANNON A.
MIERKE, PETER F.
MIKULICH, MICHELLE J.
MILLER, AARON D.
MILLER, GEOFFREY B.
MILLER, HELEN L.
MILLER, JAMES E.
MILLER, KIMBERLY I.
MILLS, MICHAEL F.
MILTON, REBECCA M.
MINTER, CHARLES A.
MITCHELL, ERIC S.
MITCHELL, ROBERT S.
MOE, SCOTT T.
MOELLERING, RICHARD W.
MOLINARI, JOHN J.
MONACO, SANDRA L.
MONEYMAKER, MATHEW T.
MONROE, CHRISTOPHER T.
MONTEHERMOSO, RONALD C.
MONTERO, BENNETT N.
MOON, DEAN T.
MOORE, JEFFREY A.
MOORE, JENNIFER A.
MOOREHEAD, CHRISTOPHER L.
MORAN, PATRICK J.
MORENO, EDGARDO A.
MORGAN, ERIC A.
MORGAN, WALTER S.
MORLATT, WAYNE R.
MORRIS, MATTHEW G.
MORROW, DONALD E.
MORSE, MICHELLE D.
MOSLENDER, BRANDT A.
MOSLEY, SCOTT F.
MOYER, NATHAN J.
MULL, BENJAMIN C.
MULLIGAN, CHRISTOPHER T.
MUNNINGHOFF, AMY L.
MURREE, DAVID F.
MYRTER, BERNARD J.
NADEAU, MICHAEL J.
NARVAEZ, EMMANUEL J.
NASAL, KEVIN J.
NASAU, STEVEN T.
NELSON, ANDREW C.
NELSON, JOSEPH W.
NESBIT, ERIC C.
NESS, CHRISTOPHER A.
NEVAREZ, FRANK E.
NEVILLE, DAVID M.
NEWCOMER, BRADLEY P.
NOBLE, NICHOLIE T.
NOLES, SHEILA A.
NOONAN, GEOFFREY P.
NOTTER, DAVID E.
NOVOTNY, SCOTT J.
OBRIEN, PHILIP
ODEN, DONALD C.
OESTERLE, ROBERT W.
OETINGER, WAYNE D.
OLEARY, THOMAS R.
OLSON, GEORGE P.
OLSWOLD, BRIAN J.
ONEAL, DANIEL P.
ONEAL, JOHN C.
OREILLY, CHRISTOPHER J.
ORVIK, ROSS B.
OSBORN, ROBERT L.
OTTO, JOHN N.
OUELLETTEE, GREGORY A.
OXENDINE, ELIAS, IV
PALAZZI, ROBERT A., JR.
PALMER, ADAM D.
PALUMBO, KASSIA A.
PANTLING, CAREY M.
PARADELA, STEVEN R.
PARKER, GREGORY L.
PARRINO, MICHAEL C.
PARRISH, WILLIAM J.
PATTERSON, CHAD S.
PATY, ROBERT M.
PAYNE, TODD A.
PEABODY, ALEXANDER L.
PEAK, ANTHONY
PEAK, PATRICK M.
PEARSON, KATHERINE F.
PENDERGRAST, JOSEPH E.
PENTECOST, RICHARD P.
PERREAULT, MARK C.
PERRY, VINCENT J.
PETERLIN, MARGARET J.
PETERSON, FRANK R.
PETERSON, KENT E.
PETRINA, MARKIAN G.
PFAEFFLE, HERMAN O.
PICCO, JOHN B.
PIERCE, ANDREW J.
PINKSTON, DANA L.
PITTS, JOHN G.I.
PLAGGE, RICHARD M.
POPE, JOHN R.
POTHIER, MATTHEW R.
POTTER, AARON D.
PRESZ, CHRISTOPHER A.
PRICHARD, BRIAN R.
PRINCE, THEODORE A.
PROVENZANO, GARY P.
PUCKETT, CHRISTOPHER B.
PUGH, WILLIAM C.
QUIJANO, CARMELO M.
QUIST, KARL G.
RADZIK, CHRISTOPHER R.
RAGIN, ANDRE L.
RAMIREZ, ROLANDO
RAMIREZ, TONY J.
RAMSLAND, THOR A.
RASMUSSEN, PAUL E.
RAYLE, ANDREW L.
RAZZANO, JOSEPH J.
REA, JAMES G.
READY, STEPHEN E.
REDDEN, CHARLES W.
REESE, JERRETT R.
REGARD, ANDRE F.
REHKOP, CHRISTOPHER H.
REHOR, CHRISTOPHER J.
REILLY, VINCENT J.
REMOLL, ADAM J.
REPPAS, GREGORY T.
RESTIFO, CHRISTIAN M.
REYNOLDS, JAMES J.
REYNOLDS, PATRICK L.
RICE, LEE K.
RICH, THOMAS D.
RICHARD, ANGELA S.
RICHARDSON, DAVID B.
RIDGWAY, CHARLES P., JR.
RIGNEY, KEVIN M.
RINER, JOHN W.
RIOS, MARTIN
RISCHMILLER, JONATHAN D.
RITUMALTA, LYNNE G.
RIVERA, JOSEPH K.
RIVERS, BRUCE A.
ROBERTS, BUCKY J.
ROBERTS, FURMAN L.
ROBERTS, JEREMY M.
ROBERTS, MATTHEW C.
ROBERTS, MATTHEW P.
ROBERTS, PAUL J.
ROBERTSON, DANIEL S., JR.
ROBERTSON, WILLIAM C.
ROBINSON, GEROD F.
ROBINSON, SEAN W.
ROBISON, MICHAEL J.
ROCKWELL, DAVID G.
RODRIGUEZ, ANDRES G.
RODRIGUEZ, RICARDO I.
ROMAN, VICTOR M., JR.
ROSENBERG, HOLLY A.
ROSSETTI, RICHARD K.
ROTHAERMEL, KENNETH S.
ROWLAND, DAVID M.
ROYLE, MICHAEL R.
RUDBART, LOUIS E.
RUIZ, ROME
RUSSELL, TIMOTHY D.
RUZEK, BRYAN C.
RYAN, SEAN P.
SAARELA, DOUGLAS A.
SALVAGE, DAVID R.
SAN REUBEN, C. JUA
SANDERS, WESLEY S.
SANTOMAURO, THOMAS M.
SASS, STEPHEN V.
SCALCUCCI, SHANNON A.
SCARCELLI, JAMES F.
SCHAFER, KARI D.
SCHEERER, JOHN A.
SCHMIDT, CLIFFORD B., JR.
SCHNEE, GERARD J., JR.
SCHORN, BRIAN G.
SCHUL, CHRISTOPHER M.
SCHULZ, DARIN R.
SCHUMACKER, DAVID M.
SCHWARTZ, BRETT M.
SCIARA, SEAN A.
SCOTT, RANDLOPH H.
SCRUGHAM, RICHARD T.
SCUDDER, JEFFREY L.
SEAGER, RONALD L.
SEARS, DAVID C.
SEIB, ERIC O.
SEIGH, MARK R.
SELANDER, DAVID G.

SERGELIN, ANTONIN Z.
SETSER, KENNETH F.
SEVERSON, MERYL A., III
SHAFFER, BRANDON C.
SHARMAN, CHRISTOPHER H.
SHAY, MICHAEL P.
SHAY, TRACY J.
SHEAFF, CHRISTINA E.
SHERIDAN, CHAD F.
SHERIDAN, KELLY M.
SHIPLEY, BILLY G.
SHONTZ, DAVID R.
SHOQUIST, DEVIN M.
SHULMAN, JAIMIE N.
SIMERI, JAMES J.
SIMMONS, MARK A.
SIMON, JONATHAN
SIMONSON, TIMOTHY L.
SIMPSON, TELETHIA L.
SINNIGER, JOSEPH D.
SION, JOHN J.
SISCO, LEE P.
SISSON, WARREN E.
SKONE, MATTHEW R.
SKROCH, ERIC M.
SLATER, STEVEN J.
SLENTZ, TIMOTHY J.
SLOVER, JAMES D.
SMITH, BENJAMIN P.
SMITH, BRIAN E.
SMITH, CHRISTOPHER L.
SMITH, JOEL T.
SMITH, KATHERINE C.
SMITH, KENNETH D.
SMITH, ROBERT M.
SMOLEY, BRIAN A.
SNYDER, ROBERT E.
SNYDER, WILLIAM H., III
SONON, MARCIA S.
SORICH, DAVID W.
SORCE, STEVEN R.
SPAULDING, SCOTT K.
SPEED, JASON L.
SPEICHER, DAVID C.
STAFFORD, WILLIAM B.
STAMPFEL, ANDREW J.
STEELMAN, SHANE E.
STEIN, PAUL D.
STEVENSON, SHANE P.
STIBOLT, AMOS
STICE, CODY W.
STINNETT, BRIAN G.
STOKES, JASON K.
STONE, BRIAN J.
STORY, BRADLEY W.
STROBL, CARLA D.
STROUD, LAWRENCE V.
STRUCK, JASON J.
STUMM, ALBERT F., III
STURA, KURT A.
SULLA, JEFFREY P.
SULLIVAN, COLIN J.
SULLIVAN, JEFFREY M.
SWANDER, BRADLEY C.
SWENOR, HENRY T.
SWIANTEK, KIRK M.
SYLVESTER, NATHANIEL C.
SYMONS, TIMOTHY E.
SZPINDOR, MATTHEW J.
SZURKUS, DENNIS, JR.
TABAKA, PAUL J.
TANGEN, RANDAL J.
TAYLOR, JOSEPH J.
TAYLOR, KENT L.
TAYLOR, MARCUS A.
TAYLOR, MICHAEL E.
TEICH, BENJAMIN J.
TEMPLE, JASON A.
THOMAS, RICHARD B.
THOMAS, STEVEN B.
THOMPSON, LISA M.
THOMPSON, PATRICK W.
THRUSH, LEE T.
TIERNEY, MARK R.
TILLMAN, DARRIS L.
TIMMERMEYER, JAMES P.
TIN, KELLY M.
TINKLE, EDWIN C.
TOMASI, ANGELA M.
TOMEK, DANIEL E.
TOMPKINS, STEVEN B.
TOOKER, SHAWN T.
TORREY, SCOTT M.
TOUSSAINT, CANE A.
TOUSSAINT, ELIZABETH K.
TOWINS, CHARLES M.
TOWNLEY, EDWARD J.
TRAUTH, KATHERINE A.
TREVISAN, RICHARD A.
TSCHOCHE, CHRISTOPHER R.
TUCKER, TYLER M.
TURBAK, RODNEY L.
TURCOTTE, EDWARD D.
TURNER, DANIEL P.
TYREE, CHRISTOPHER L.
UHAS, CHRISTOPHER J.
UHLIG, RONALD W.
ULATE, STEPHEN O.
UPDIKE, AMY L.
URBINE, DANIEL R.
UTHE, SCOTT C.
VACA, GABRIEL E.
VACCARO, RICHARD A.
VALENCIA, SAM J.
VAN BRIAN, D. OSS
VAN BRYAN, P. ITA
VANDENBERG, JOHN C.
VANSLYKE, JONATHON J.
VARNO, FRANK J.
VECCIA, TIMOTHY T.
VEGARA, BILLY J.
VELOTTA, JOHN A.
VERGARA, GUSTAVO J.
VERHAR, MICHAEL J.
VIDOSIC, DEBORAH A.
VILLA, JIANCARLO
VILLADSEN, OLE R.
VILLANO, PETER
VINCELETTE, CHAD P.
VINCI, GREGORY G., JR.
VIPPERMAN, STEPHEN M.
VIVAR, JONATHAN H.,
VOAS, KEVIN S.
VOGEL, KRISTINA M.
VOLPE, FRANK P., JR.
VOLZ, KIMBERLY A.
VOVES, JOHN E.
VOZZOLA, STEVEN A.
WAGNER, CRAIG S.
WALCZAK, PETER J.
WALKER, RICHARD G.
WALL, SCOTT P.
WALLER, ELLIS P.
WALSH, JON B.
WALTON, ANDREW R.
WAMBERG, DODD D.
WATSON, DEREK L.
WEIDNER, MICHAEL A.
WEINA, JOEL B.
WEINSTOCK, HERSCHEL W.
WEIS, THOMAS P.
WELDON, MICHAEL C.
WELDON, ROGER A.
WELLS, ALLISON S.
WENKE, JOHN M., JR.
WENNERSTEN, STEWART M.
WENTZ, MARC A.
WESOLOWSKI, KENNETH T.
WESOVICK, ROBERT L.
WHALEN, JOSEPH P.
WHEARTY, STEPHEN M.
WHIPPLE, CORY J.
WHITE, JEROME R.
WHITE, KENNETH C.
WHITEHURST, MATTHEW S.
WHITMIRE, WILLIAM L.
WHYTLAW, THOMAS D.
WIEBER, KENNETH M.
WIELAND, GREG A.
WIEST, MICHAEL T.
WIGNES, ERIK J.
WILKERSON, CARR L., JR.
WILLIAMS, DARREN S.
WILLIAMS, JOSEPH A.
WILLIAMS, TIMOTHY G.
WILLIAMS, TROY S.
WILLIAMSON, IAN O.
WILLIS, DAVID R.
WILMES, JEANNINE M.
WINSTON, THELVIE R.
WINTER, THOMAS A.
WONG, ALAN C.
WORRELL, STEWART S.
WORTHY, ALAN M.
WOSJE, MICHAEL S.
WYSS, STEVEN A.
YAGER, MICHAEL J.
YECK, GLENN R.
YEEND, STEPHEN N.
YOKOYAMA, MELVIN K.
YOUNG, PAUL D.
YOUNGBLOOD, SCOT A.
YOWELL, LEONARD L., JR.
YU, PHILIP W.
ZANGER, MICHAEL S.
ZARATE, CATHY J.
ZEIGLER, KARL A.
ZIEGENBALG, BRETT D.
ZILLMER, JEFFREY B.
ZIMMERMANN, ELIZABETH A.
ZINK, JAMES H.
ZIRBEL, MATTHEW W.
ZIRKLE, DARYK E.

WITHDRAWAL

Executive message transmitted by the President to the Senate on November 4, 1993, withdrawing from further Senate consideration the following nomination:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LARRY E. BYRNE, OF VIRGINIA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE SCOTT M. SPANGLER, RESIGNED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 30, 1993.

EXTENSIONS OF REMARKS

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. TRAFICANT. Mr. Speaker, for the last several months, I have been investigating the case of former Immigration and Naturalization Service Agent Joseph Occhipinti. Since his unjust conviction in 1991, Joe Occhipinti has been fighting to vindicate himself and his good name. Mr. Occhipinti has compiled statements and other evidence that is crucial to his case. In order to ensure the integrity of this evidence, I will—beginning today—submit copies of this key evidence into the CONGRESSIONAL RECORD.

Mr. Occhipinti is fighting for a new trial and has been ordered by a Federal judge to turn over all the evidence he has compiled to the U.S. attorney's office. Joe Occhipinti was a dedicated and honest law enforcement officer who tried his best to win the war on drugs. Any objective review of the facts surrounding his case raises serious questions. I believe that Joe Occhipinti was wrongly convicted and may have been the victim of a conspiracy by the Dominican drug cartel in New York City. I have filed freedom of information requests with the Federal Bureau of Investigation, the INS, and the New York City Police Department—demanding copies of all files related to the Occhipinti case. I have also asked the House Judiciary Committee to investigate the case.

Mr. Occhipinti's problems stemmed from Operation Bodega, an aggressive INS/NYPD operation he headed from 1988 to 1990 to suppress a wide variety of organized crime activity in the Washington Heights section of New York City. The operation was conducted in response to the drug-related murder of NYPD Officer Michael Buczek in October 1988. A total of 55 business establishments were investigated in Washington Heights during the operation either by court-obtained search warrant or consensual search. Illegal activity was uncovered at each and every location. The operation resulted in more than 25 convictions, and put extreme pressure on the Dominican drug lords. Political pressure was brought to bear on local officials by a group called the Federation of Dominican Merchants and Industrialists of New York—a group many local law enforcement agents defined as a front for Dominican organized crime.

In March 1991, Occhipinti was indicted for alleged civil rights violations in connection with Operation Bodega. All of the key witnesses against Occhipinti had criminal records. This information was not allowed by the judge to be presented to the jury. The prosecution contended that Mr. Occhipinti's searches violated the civil rights of the businesspeople searched—even though illegal activity was uncovered at every location. Later that year, Mr. Occhipinti was found guilty and sentenced to 37 months in Federal prison. After losing his appeal 11 months later, Occhipinti went to prison in June 1992. Although President Bush commuted his sentence on January 15, 1993, Mr. Occhipinti's conviction still stands.

During his 22 years as an INS agent, Occhipinti compiled an impressive record, earning more than 78 commendations and 3 Attorney General awards for valor and meritorious service. He is the most decorated Federal agent in U.S. history.

Below is the first in a series of submissions of key evidence that I plan to make in the coming days:

JOE OCCHIPINTI
LEGAL DEFENSE FUND, INC.,
Manalapan, NJ, November 1, 1993.

U.S. Representative JAMES A. TRAFICANT,
17th District, OH, Rayburn Office Bldg., Washington, DC.

DEAR CONGRESSMAN TRAFICANT, thank you for offering to place in the Congressional Record Joe-Occhipinti's brief in support of a motion for a new trial, and an overview of the evidence of his innocence.

Joe Occhipinti is an American hero. He was a front-line soldier in America's war on drugs. In his 22 years of service as a federal agent, he became one of the most highly decorated federal agents in U.S. history, with 78 commendations and awards. His reward for this service was being set up by Dominican drug lords on specious civil rights violations; being made to stand unfair trial before Judge Constance Baker Motley, who denied him a replacement defense attorney when his own had a nervous breakdown and became suicidal; having a one-hour appeals hearing wherein the judges did not review the briefs and were intimidated by hundreds of Dominican protestors chanting "No Justice, No Peace," and threatening to riot if the conviction was overturned; being sentenced to 37 months in a maximum security federal prison; and contrary to a court agreement, being sent to an Oklahoma prison and placed in "general population" with convicted alien drug dealers (a de facto death sentence). His life, and his family's has been ruined, and today they live knowing their safety is in jeopardy. For political expediency and Peace—in Joe's case, there was—No Justice!

For the last eleven months, I've been privy to all the intimate aspects of the Occhipinti case, and my relationship with Joe has afforded me access to in-depth evidence of his innocence, and personal interviews with key witnesses. Any objective review of the evidence will dictate the conclusion that Occhipinti was the target of a well-orchestrated conspiracy by a Dominican drug cartel, with the naive complicity of the Dinkins administration. Their motive was to neutralize Joe and his task force (Project Bodega), because its aggressive anti-organized crime operation was devastating the profits of their drug trade and related activity, was exposing the tentacles of their network and corruption in official governmental agencies, uncovered their role in voter fraud in the '89 election, and was about to reveal their "official" link to some members of the Dinkins administration. The above facts were clearly encapsulated in Mike McAlary's N.Y. Post series "The Framing of a Cop" (p. 262 enclosed).

Although President Bush granted "executive clemency" and commuted Joe's sentence on 1/15/93, a full pardon was denied for political reasons. Hence, Occhipinti remains a known felon, devoid of civil rights—in effect, a political prisoner. Since 1/16/93, he has labored unceasingly to clear his name, prove his innocence and expose the cartel. On 6/17/93 in a N.Y. Daily News article, an N.Y.P.D. spokesman confirmed that the "Federation" is simply a front for the drug cartel (p. 260 enclosed). In addition, the same article reveals that when the Checo brothers, who had testified against Occhipinti, were arrested on 6/16/93 on charges of illegal gambling and attempted bribery of police officers, an irate female employee screamed at the officers, "We're going to do you like we did Occhipinti."

N.J. Assembly Resolution 107 (p.250), and N.J. Senate Resolution 86 (p.252) memorializes President Clinton to appoint a special prosecutor to investigate all aspects of the case—and if the evidence warrants, grant a full presidential pardon. Of, if the evidence is inconclusive, grant a new trial. Joe is willing to risk a possible return to prison to vindicate himself at a new trial.

On 7/15/93, Anthony Pope, Joe's attorney, filed motions with the original judge, Constance Baker Motley, for: (1) a new trial; (2) the Judge to recuse herself for conflict of interest; and (3) a change of venue out of Southern District, where Joe's Project Esquire had uncovered corruption in the U.S. Attorney's office. To date, in her arrogance, she's refused to answer the motions.

Instead, she issued an order to Occhipinti that he must turn over all evidence accumulated to the U.S. Attorney's Office, on or before 10/18/93; in spite of the fact there's no pending trial. In response, Anthony Pope demanded an evidentiary hearing to create a record (letters enclosed). His motion was denied by Motley. In response, she issued another order that Occhipinti obtain a court-approved interpreter to officially translate those affidavits and tapes in Spanish to English (estimated cost: $25,000). Pope immediately filed a motion for C.J.A. aid because Occhipinti is indigent. She denied the motion.

We address these issues to you and ask your aid for the following reasons:

(1) We suspect Judge Motley will use Occhipinti's financial inability to meet the translation order as an excuse to dismiss the new trial, recusal, and change of venture motions.

(2) In Joe's first trial, the Judge ordered original primary defense evidence turned over to federal marshals and the U.S. Attorney. Evidence was denied him at trial and defense witnesses were harassed and pressured. We fear a replay. Hence, we present you our evidence and witness list (enclosed), to put the information in the public domain, via the Congressional Record, in the hope of

preempting the intimidation tactics of the U.S. Attorney. Also, some witnesses' lives will be in danger if their names are arbitrarily released by the U.S. Attorney. Please recall journalist Manuel De Dios was executed by the drug cartel, after coming forward with evidence of Occhipinti's innocence!

(3) Occhipinti's first trial was a sham and we hope that exposure in the Congressional Record of that fact will avoid another travesty.

Please recall that Joe was only given two months to prepare for trial after indictment—unheard of in a criminal trial in Southern District. The Judge was pre-selected, rather than chosen by lot (the wheel). The Judge is a political ally of David Dinkins. The Judge is a self-proclaimed "civil rights activist" but the "real" record (CONGRESSIONAL RECORD, 8/30/66, p. 239 enclosed) reveals she's a lifelong radical, had been, and may still possibly be, a Communist Party activist, and because of her personal philosophy and agenda, should have recused herself in this case. A review of the five-week trial and 4,000 page transcript will convince even the most skeptical that civil rights activist Judge Constance Baker Motley routinely violated the civil rights of Joe Occhipinti and denied him a fair trial. It's interesting to note that either because of ineptitude or personal prejudice, with 33 years experience on the Federal bench, Judge Motley has the distinction of being the most "overturned" judge in the Southern District.

Of further import is the fact that the prosecutor, Jeh Johnson, should have recused himself for conflict of interest. Besides being the former law clerk and family friend of Judge Motley, he's also alleged to be her "godson." Furthermore, it was Jeh Johnson who was given the evidence and closed down Occhipinti's Project Esquire—which uncovered corruption and official misconduct in Johnson's office. In addition, prosecutorial misconduct has been alleged in the fact that Johnson was given the information documenting the drug cartel conspiracy, a year prior to Occhipinti's indictment, by police informant Alma Camarena (affidavit on p. 54). Johnson bragged that he'd use the Occhipinti conviction as a stepping stone to a high-paying private sector job. He's achieved that goal through his present position with Paul, Weiss, Rifkind, Wharton, et al. While some of us decorate our office walls with golf trophies, family photos or other mementos, Johnson adorns his with photos of the Occhipinti trial.

IN CONCLUSION

The Occhipinti case far supercedes Joe. Every law enforcement officer has been adversely affected. For example, the metropolitan area Port Authority police, in gross nonfeasance, have "stood down" since Joe's conviction, and are no longer conducting consentual searches, or interdicting "illegals" or narcotics—out of fear of civil rights charges.

Dick Callaghan, President of Federal Agents P.B.A., informed me that in the year prior to Occhipinti's conviction, the local office of the D.E.A. conducted 2,700 investigations. That number shrank to 500 in the year after the conviction because of the fear the agents had that the tactic used to send Occhipinti to prison would be used on them. And now, all over the country, we see the "civil rights" ploy being used to prosecute innocent lawman, such as Officer Della-Pizzi in New York City, or Sgt. Paul Mangelsen in Utah.

All Joe wants is a new trial and a fair trial. Since his conviction, voluminous evidence of his innocence has been accumulated. Yet, Judge Motley is stonewalling the motions. What is her fear? She won't even grant an evidentiary hearing. Why not? If there's not enough evidence submitted, the Occhipinti issue will simply die there.

Allow me to quote from just one of the enclosed affidavits—that of Ramon Antonio Grullon, 8/19/93 (p. 201):

(1) "I am the former Consul of the Dominican Republic to Philadelphia, the former Consul General and Ambassador to Kingston, Jamaica, as well as other diplomatic positions I held for the Government of the Dominican Republic.

(2) On or about the end of 1989, I was personally told by Dominican businessmen Jose Delio Marte, Silvio Sanchez, Pedro Allegria and Ernesto Farbege that they needed my political assistance in "eliminating" former Immigration Officer Joseph Occhipinti. They explained to me that Occhipinti was a threat to their illegal businesses, which included loan sharking, gambling, drug distribution and the employment of illegal aliens. Pedro Allegria, Richard Knipping, Jose Delio Marte and a man called "Pepe," the brother-in-law to Delio Marte, operate a major loan sharking operation out of Sea Crest Trading Company where they set up Bodegas to conduct their illegal businesses. They also use Joel associates, Hamilton Drug Stores, and Hamilton Hardware located at West 136th and Hamilton Place from which illegal wire transfers from drug proceeds are made to the Dominican Republic.

I was told that Occhipinti would be eliminated on false allegations that he was shaking down the Bodega owners. They invited me to attend a press conference at the Club Deportivo (168th Street & Audubon Avenue) where they wanted to solicit the help of the Spanish media to publicize the false allegations. They told me I was needed because of my political position which give credibility to their allegations. I refused because I didn't want any trouble.

(3) On or about April, 1990, Jose Delio Marte and Silvio Sanchez again approached me to accompany them as a protestor at City Hall against Occhipinti to make the same false allegations. I again refused . . ." (only a portion of the two affidavits.)

Congressman, I'm not an attorney; nor am I a Swiss watchmaker, but I do know how to tell time. As a layman—putting aside hundreds of pages of documents, affidavits, 100 witnesses and countless undercover tape recordings—the above three paragraphs are enough for me to demand that justice be done in this case! If Occhipinti is willing to risk a return to jail if a new trial goes against him, the bureaucrats should be willing to risk a few taxpayers' shekels to grant a new trial, or at the very least, an evidentiary hearing, in order to resolve this case once and for all.

Again, Congressman, I sincerely thank you for all your help. I believe your action, placing the following pages in the CONGRESSIONAL RECORD, will afford us a national public forum to plead our case, and if some of your colleagues join your cause, I'm convinced we'll win our day in court—or a full presidential pardon.

Sincerely,

GREG KAYE,
Director.

JOE OCCHIPINTI
LEGAL DEFENSE FUND, INC.,
Manalapan, NJ.

INDEX OF BACKGROUND INFORMATION—THE JOE OCCHIPINITI CASE FOR THE CONGRESSIONAL RECORD

Subject and page numbers

(34) Congressional Record, U.S. Senate, 8/30/66, detailing the radical background and Communist Party membership and activity of Constance Baker Motley, during her confirmation hearings. Pp. 239–241.

(35) Press releases—9/10/93, 9/15/93, 9/24/93, 10/8/93 from U.S. Rep. James Traficant; Re: Occhipinti case. Pp. 242–249.

(36) N.J. Assembly Resolution 107, on behalf of Occhipinti; and sponsor Dick Kamin's remarks. Passed unanimously on 2/18/93. Pp. 250–251.

(37) N.J. Senate Resolution 86, on behalf of Occhipinti. Passed Senate Committee on Law and Public Safety unanimously on 7/13/93. Due to pass full Senate, Nov. 1993. Pp. 252–253.

(38) Congressional Record on Occhipinti, 4/28/93, Rep. Dick Zimmer, N.J. 12th District. P. 254.

(39) Sample of petition to President Clinton, national petition drive on behalf of Occhipinti. P. 255.

(40) Letter to President Clinton on behalf of Occhipinti; drafted by Rep. Susan Molinari, and co-signed by ten other Congressmen. P. 256

(41) Recent news articles on Occhipinti. Pp. 257–269.

(42)* N.Y. Daily News, 6/17/93, N.Y.P.D. Spokesman Lt. Raymond O'Donnell confirms Occhipinti's contention that the "Federation of Dominican Merchants and Industrialllists" is a front for the Dominican drug cartel. P. 260.

(43) N.Y. Post 10/9/91, Mike McAlary, "The Framing of A Cop". Pp. 262–263.

(44) "Strange Justice—Updated," article written by Greg Kaye for Chronicles Magazine, an overview of the Occhipinti story. Pp. 270–279.

[In the U.S. District Court, Southern District of New York, Criminal No. 91CR168 (CBM)]

UNITED STATES OF AMERICA, PLAINTIFF, VERSUS JOSEPH OCCHIPINTI, DEFENDANT

STATEMENT OF FACTS

On November 26, 1991, following a trial by jury before the Honorable Constance Baker Motley, in the United States District Court for the Southern District of New York, a judgment of conviction was entered against former Immigration and naturalization Services (INS) Special Agent, Joseph Occhipinti.

The Indictment upon which Mr. Occhipinti was convicted, initially charged him with twenty five counts in which the jury returned guilty verdicts on seventeenth counts of same. Specifically the charges of the Indictment alleged various Civil Rights violations against Dominican natives, false statements on INS Reports and Embezzlement.

The charges resulting in a conviction, which related to Civil Rights Violations and False Statements, allegedly arose during the period of 1989 or 1990, during Occhipinti's "Project Bodega" investigation, conducted by himself and other Special Agents on behalf of the INS. This investigation was initiated as a result of the murder of New York Police Officer, Michael Buczek, who was believed to have been killed by Dominican drug dealer, Daniel Mirambeaux. During the curse of the investigation, information was discovered relating to convicted drug dealer, Freddie Antonio Then (hereinafter referred to as Then). This information indicated that Then was involved in money laundering, drug trafficking and other criminal conduct, in which he used storefronts (bodegas) as a go between for same, which resulted in the initiation of "Project Bodega."

At trial of the Government's thirty-five witnesses, a majority of same were several Dominican natives who were employed, owned and/or managed various grocery stores (bodegas) on the upper west side of Manhattan. Specifically, these witnesses testified that in 1989 or 1990, Occhipinti with other INS agents, conducted searches of their bodegas, and sometimes individuals, without obtaining consent of the person(s) during the subject search. Moreover, it was further elicited by the Government that some of the witnesses, at Occhipinti's request, executed blank consent to search forms.

In addition to the foregoing allegations, the bodega witnesses also testified that during the subject searches, monies were confiscated and never returned to them. However, it should be noted that the jury did not return a conviction on any of the counts charging Occhipinti with embezzlement.

The evidence that was established during the trial, established that at almost every bodega, illegal lottery numbers were sold, as well as engagement in other illegal conduct. In addition to same, with regard to the defense's case, Occhipinti testified on his own behalf. He denied searching any of the premises he entered during Project Bodega, unless he obtained consent to execute the search. Furthermore, Occhipinti reinstated his firm belief that a Dominican Criminal Enterprise, namely The Federation of Dominican Businessmen, (hereinafter referred to as the "Federation") was the underlying entity responsible for the bodega witnesses to falsely testify that the consent to search forms were signed after the subject searches.

On October 18, 1991, Occhipinti was sentenced by Judge Motley to a 37 month term of imprisonment, followed by a five year period of probation. Moreover, a special assessment of $600.00 was also imposed by the Court. On January 15, 1993, Occhipinti's sentence was commuted to probation by President George Bush.

During Occhipinti's confinement, Staten Island Borough President, Guy Molinari, along with his staff and several other concerned citizens and media personnel, launched an independent investigation to prove Occhipinti's innocence and substantiate his allegations of Dominican conspiracy to prosecute him due to his interference with the criminal activities of the Dominican underworld. In fact, Molinari's efforts produced newly discovered evidence, which was not ascertainable at trial, that substantiated Occhipinti's allegations that bodega witnesses perjured themselves at trial, by testifying falsely as it relates to searches of their businesses. Moreover, this evidence further revealed that a Dominican enterprise was the underlying force which conspired to frame Occhipinti for criminal prosecution and subsequent conviction.

It is on the basis of this newly discovered evidence, which Occhipinti premises his motion for a new trial.

LEGAL ARGUMENT—NEWLY DISCOVERED EVIDENCE MANDATES THAT OCCHIPINTI BE GRANTED A NEW TRIAL

Federal case law and Rules of Procedure have acknowledged and upheld a defendant's right to a new trial. Specifically, Rule 33 of our Federal Rules of Procedure and Practice, prescribe a general standard governing same:

"The Court on motion of a defendant, may grant a new trial to that defendant, if required in *the interest of justice.* If trial was by the Court without a jury, the Court on motion of a defendant for a new trial, may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment. *A motion for a new trial based on the grounds of newly discovered evidence, may be made* only before or within two years after final judgment, but if an appeal is pending, the Court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds, shall be made within 7 days after verdict or finding of guilty or within such further time as the Court may fix during the 7 day period." (Emphasis added).

Accordingly in short, Rule 33 provides that a Court may order a new trial for a defendant on the basis of newly discovered evidence if the interests of justice require it. Nevertheless, a motion for a new trial is addressed to the sound discretion of the trial court, and a decision to deny a new trial motion will not be reversed absent an abuse of discretion. *United States v. Champion,* 813 F.2d 1154 (11th Cir. 1987).

Federal case law, in interpreting the foregoing rule, has established a four prong test for a District Court to invoke whenconfronted with a motion for a new trial. For instance, to obtain a new trial based on newly discovered evidence, the defendant must show (1) that the evidence is truly newly discovered, i.e., discovered after trial; (2) that it could not, with due diligence, have been discovered prior to or during trial; (3) that the evidence is material and not cumulative or impeaching; and (4) that the evidence would probably lead to acquittal. *United States v. Underwood,* 932 F.2d 1049, 1052 (2d. Cir.), cert denied, ——U.S. ——, 112 S.Ct. 382, 116 L.Ed.2d 333 (1991); *United States v. Diaz,* 922 F.2d 998, 1006–07 (2d. Cir. 1990). ("New" evidence must create "a reasonable doubt that did not otherwise exist"), cert. denied, —— U.S. ——, 111 S.Ct. 2035, 114 L.Ed. 2d 119 (1991); *United States v. Tutino,* 883 F.2d 1125, 1140 (2d. Cir. 1989), cert. denied, 493 U.S. 1081, 1082, 110 S.Ct. 1139, 107 L.Ed. 2d 1044 (1990); *United States v. DiPaolo,* 835 F.2d 46, 49 (2d. Cir. 1987); *United States v. Gilbert,* 668 F.2d 94, 96 (2d. Cir. 1981), cert. denied, 456 U.S. 946, 102 S.Ct. 2014, 72 L.Ed. 2d 469 (1982); *United States v. Alessi,* 638 F.2d 466, 479 (2d. Cir. 1980); *United States v. Castano,* 756 F. Supp. 820, 823 (S.D.N.Y. 1991). However, as a matter of law, the trial court cannot grant a motion for a new trial based on newly discovered evidence once it has determined that the movant has failed to satisfy any part of the test, See *United States v. Hall,* 854 F.2d 1269 (11th Cir. 1988).

In *United States v. Matos,* 781 F. Supp. 273 (S.D.N.Y. 1991), the United States District Court for the Southern District of New York, was confronted with a motion for a new trial premised upon newly discovered evidence. The Court, in applying the facts to each prong of the test, held that even though the newly discovered evidence was material and not cumulative or impeaching, the evidence failed to satisfy the remaining criteria of the test. For instance, the defendant's newly discovered evidence consisted of two purportedly exculpating affidavits of co-defendants. The Court ruled that said evidence was not newly discovered, due to the fact that the defendant chose not to call said "witnesses" at trial, because their post arrest statements led defendant to believe that these witnesses would "inculpate, albeit falsely, rather than exculpate Matos." *Id.* p. 280. Second, the Court ruled that the defendant failed to establish that he could not with due diligence have discovered that evidence prior to trial, since there was no attempt to subpoena either of the co-defendants prior to trial. Third, the Court further set forth that the

defendant failed to establish that the purportedly newly discovered evidence would probably lead to an acquittal, due to the suspect credibility of the co-defendants, both of whom were convicted and serving sentences arising from the same incident as defendant. Accordingly, in light of the foregoing, the Court held that it would not be in the interests of justice to grant the defendant a new trial.

In the matter at hand, Occhipinti respectfully submits newly discovered evidence to this Court, in support of his motion for a new trial. This evidence consists of numerous exculpating affidavits of individuals, working with Staten Island Borough President, Guy Molinari, and their consensually monitored conversations with individuals with personal knowledge and "bodega" witnesses whom testified at trial on behalf of the Government. As previously set forth, most of the Government's case-in-chief consisted of bodega witnesses, who testified that Occhipinti conducted searches at the subject bodegas without obtaining consent to search. However, the annexed affidavits contain various categories of newly discovered evidence, which detail improprieties, fraud, and perjury of these same Government bodega witnesses. Moreover, these affidavits further substantiate concerted efforts by a number of individuals, some of whom were Government witnesses, to frame Occhipinti for prosecution and conviction. The underlying reason for the conspiracy, as stipulated in the affidavits, was to terminate Occhipinti's investigation of the criminal conduct of the Federation, in which members of same, owned or operated bodegas.

Particularly, the affidavits describe, *inter alia*:

1. newly discovered evidence which confirms that certain members and associates of the Federation conspired and arranged to have Occhipinti framed and prosecuted by soliciting witnesses to assert false allegations to the authorities and then to testify falsely in the grand jury and trial;

2. newly discovered evidence which establishes that various substantive Government witnesses, whom testified against Occhipinti, lied under oath at the grand jury proceedings and at trial, consistent with the overall plan to frame Occhipinti; and

3. newly discovered evidence which supports Occhipinti's allegations at trial that a majority of the Government's bodega witnesses, used their "legitimate" businesses to commit and harbor illegal conduct and have continued to do same with the knowledge and tacit approval of the Government.

Before addressing the specifics of some of the affidavits, it should be noted that a number of the affiants have expressed fear for their safety and family members. Accordingly, most of the affiants will be identified herein as CI(1), CI(2), et seq. and generically as "he" to avoid identifying the sex of the affiant. Subject to this Court's approval and discretion, the original affidavits will be submitted, including the names and signatures of the affiants *under seal*. It should be noted that the identities of these confidential informants are within the possession of the Government. In fact, many of these informants were interviewed by FBI, Special Agent, Lionel Baron.

In addressing the newly discovered evidence, which is submitted by way of affidavits, specifically the affidavit of CI(1), which is annexed hereto as Exhibit A, it should be evident to this Court that Occhipinti should be granted a new trial. For instance, Exhibit A itemizes conversations of CI(1) with numerous individuals who testified on behalf of the Government, and/or were approached by the Federation to falsify allegations against Occhipinti, and/or have first hand knowledge of the framing of Occhipinti. Specifically, Martha Lozano, the owner of Commercial Travel Agency in Manhattan, admitted to CI(1) that she wasapproached by Mr. Simon Diaz of the Federation and asked to falsely testify that Occhipinti unlawfully searched her agency. Ms. Lozano refused to do same, even though she was previously Arrested by Occhipinti and convicted in Federal Court, because she set forth Occhipinti "performed his duties lawfully." Second, CI(1) met with Mr. Pedro Castillo-Reyes, the owner of Universal Travel Agency in Queens. Mr. Reyes admitted to CI(1) that Occhipinti was framed, but he refused to identify the conspirators. It should also be noted that Mr. Reyes was previously convicted in Federal Court for offering a bribe to Occhipinti. Third, Mr. Reymundo Tejeda also voluntarily conversed with CI(1). Mr. Tejeda testified at trial on behalf of the Government, that Occhipinti conducted an illegal search of his travel agency (Uptown Travel Agency). It should be noted, Mr. Tejeda admitted at trial to perjuring himself before the Grand Jury with relation to his criminal activities. However, in his conversations with CI(1), Mr. Tejeda admitted Occhipinti did not conduct an unlawful search, but he felt pressured to testify in the manner he did, by the United States Attorney's Office. Fourth, Thomas Galan, a college professor, who was present during the Tejeda search, stated to CI(1), in a consensually monitored taped conversation, that Occhipinti did not conduct an unlawful search. In fact, Mr. Galan asserted that he gave a statement to the U.S. Attorney's Office prior to trial stating same, but was not called as a Government witness. However, irrespective of same, the defense was not provided with Galan's name or statement. Accordingly, this newly discovered evidence not only reveals improprieties conducted by outside forces to frame Occhipinti, but also prosecutorial misconduct for failing to furnish exculpatory information to the defense. Fifth, Nurys Brito, the owner of Nurys' Travel Agency, was also a Government witness, who admitted to perjuring himself at trial to CI(1). At trial, Ms. Brito testified that Occhipinti conducted an unlawful search of her premises, but later admitted to CI(1) that Occhipinti conducted himself lawfully, but she felt pressured to testify in the manner she did.

Exhibit A, standing alone, raises serious concerns of prosecutorial misconduct, perjury and other improprieties, which were the catalyst to the framing, prosecution and conviction of Occhipinti. In support of same, the common thread that hauntingly appears in Exhibit A, is perjury committed by Government witnesses becasue they felt "pressured" to testify by the U.S. Attorney's Office and the Federation. Moreover, these Government bodega witnesses have no motive to presently change their testimony, especially since they are exposing themselves to perjury charges. Likewise, the bodega witnesses in the Affidavit, that did not testify at trial, also lack a motive to presently lie by setting forth that they were approached by the Federation to falsely testify, especially since they were previously arrested and convicted by Occhipinti's law enforcement efforts. However, the newly discovered evidence illustrated in Exhibit A, is only "the tip of the iceberg" of the "toto" of the newly discovered evidence submitted to this Court.

For example, in referring to the affidavit of CI(2), which is annexed hereto as Exhibit B, once again, two of the same Government bodega witnesses, namely Nurys Brito, and Reymundo Tejeda, reiterated their admission of perjury that was set forth to CI(1). For instance, Nurys Brito admitted to CI(2) in Exhibit B, that she gave Occhipinti permission to search her premises and she personally laid out files to facilitate the subject search. Moreover, Reymundo Tejeda admits to CI(2) that he lied to the Grand Jury because he consented to the search of his premises, prior to the execution of said search. Moreover, CI(2) elicits from Martha Lozano, the same individual who rendered statements to CI(1), a reiteration of the same statement. For instance, Ms. Lozano sets forth, once again, that she received a request to falsely testify against Occhipinti that he conducted an illegal search, but refused to do same. Thus Exhibit B is a crucial piece of newly discovered evidence, because it substantiates an indicia of credibility to itself and Exhibit A, that these individuals who rendered conversations to CI(1) and CI(2) are stating the truth, with no hidden motive.

Exhibit B is also very important to the pending Motion, due to the fact that it brings into the picture a new Government witness that admits to perjury. For instance, Mr. Jose Puello an executive board member in the Federation, reiterates, in a consensually monitored conversation to CI(2) that he had with a crucial Government witness, namely Jose Liberato who also is an executive board member in the Federation. The substance of this conversation was that Mr. Liberato informed Mr. Puello, that the allegations against Occhipinti were untrue and initiated by members of the Federation to prevent Occhipinti from interfering with the illegal activities of the Federation. In fact, Liberato admitted that he sought advice from his attorney who is named in Exhibit B, on how the Federation could stop Occhipinti's interference. Liberato was instructed by counsel various bodega merchants, that had a history with Occhipinti's law enforcement efforts, to falsely state that consent to search was never rendered and that monies were also stolen while the unlawful search was conducted. Accordingly, Exhibit B depicts to the Court a third Government witness, who also admits to perjury in addition to Ms. Brito and Mr. Tejeda, as well as admitting to initiating the conspiracy to frame Occhipinti as well as the underlying motive for same.

However, Jose Liberato's pride-filled bragging of his conspiring efforts did not stop with Jose Puello, and in turn CI(2). In fact, as evidenced by the affidavit of CI(3), which is annexed hereto as Exhibit C, Mr. Liberato bragged to CI(3) how he "F—— the Federales," by falsely testifying against Occhipinti for conducting unlawful searches and stealing monies. Furthermore, Liberato continued to brag of the Federation's efforts of organizing various bodega owners to falsely testify.

Moreover, the allegations encompassing the aforesaid conspiracy heighten with regard to the number of players involved. Specifically, referring to the affidavit of CI(4) annexed hereto as Exhibit D, it sets forth the conversation between said informant and the brother of Jose Elias Taveras, the latter who was also a Government witness at trial. This conversation details the admissions of Taveras' brother to the informant and others, which indicates that Jose Elias Taveras was instrumental in the framing and conviction of Occhipinti.

The contents of the affidavit of CI(4) is corroborated by the affidavit of CI(5), which is annexed hereto as Exhibit E. The affidavit of CI(5) details a conversation with the brother of Jose Elias Taveras, who refused to reveal his first name. Taveras' brother, once again, admits to a different informant that Jose Elias intentionally perjured himself against Occhipinti for the purposes of framing him.

In addition to the foregoing affidavits that have been submitted under seal, also attached are affidavits submitted by brave individuals, who have chosen to reveal their identities in the interest of justice. Exhibit F is the affidavit of Marino Reyes, the owner of Jose Grocery, New York, New York. Once again, this affidavit focuses upon the conversations of Jose Liberato in relation to the framing of Occhipinti. As illustrated by Exhibit F, in October of 1992, Mr. Reyes met with Liberato and was informed of the difficulty Liberato was confronted with in finding witnesses to falsely testify against Occhipinti. Moreover, Liberato reiterated to Reyes his motive for framing Occhipinti; his law enforcment efforts were interfering and damaging the Federation's illegal activities.

As depicted by Exhibit G. Victoria Lopez, a customer in Liberato's bodega in March of 1990, overheard his conversation with another individual, in which he set forth that he was attempting to locate individuals that would lie about their encounters with "the federal agent." In fact, as stated by Ms. Lopez, Liberato was emphatic that the "federal agent" would be placed in jail, for his interference, irrespective of the cost. In December of 1991, Ms. Lopez learned that Liberato asserted allegations against Occhipinti for Civil Rights violations, in which at that time she realized "the federal agent" referred to by Liberato in his previous statements, was in fact Occhipinti. Furthermore, referring to the Affidavit of William Franz, annexed hereto as Exhibit H, the contents of same sets forth portions of a audio taped conversation between a confidential informant and Raphame Liberato, who also was a Government witness, in which the latter bragged that himself and Jose Elias Taveras, had "taken care of" an agent. Thus, the foregoing affidavits that detail statements made by Jose Liberato and Jose Elias Taveras, evidences to this Court that they were key players in the framing of Occhipinti. For example, they not only admit their roles and the motives for same, but also the bragging to confidential informants and any individuals that were willing to listen to them, which clearly adds an indicia of credibility to their statements. After all, one must question their personal knowledge of the specifics of the aforesaid circumstances, if they were not being candid with their bragging.

Exhibit I is the affidavit of Manual DeDios the former editor of El Diario/La Riensa and Canbyo periodicals. During the courseof his investigatory work for his periodical, DeDios interviewed numerous individuals who were members of the Federation. Even though these individuals refused to permit DeDios to reveal their identities, due to concerns for their safety, they set forth that Occhipinti was framed by the Federation and the allegations against him were fabricated. Ironically, shortly after his willingness to submit his affidavit (Exhibit I), DeDios was tragically murdered in an execution-style shooting. Moreover, in a consensually-monitored conversation, DeDios confirmed Jose Liberato's involvement in the conspiracy to frame Occhipinti, as well as his involvement in ongoing alleged criminal activity.

Up to this point, the newly discovered evidence focused primarily upon the admission of perjury by key Government witnesses, at the hands of the Federation, in a conspiracy to frame Occhipinti, due to his interference with the drug cartel. However, the affidavit of Alma Camarena, the former legal assistant of a New York law firm and present informant, also presents new evidence regarding the outside players in this conspiracy. (See Exhibit J).

Ms. Camarena was employed by the same law firm from which Liberato sought legal advice for his problem named "Occhipinti" (See Exhibit B). In fact, this law firm was the target of Occhipinti's prior investigation, labeled "Project Esquire," that was assigned to Assistant U.S. Attorney Jeh Johnson, and subsequently failed to materialize. As evidenced by her affidavit, Ms. Camarena, in 1988, provided Occhipinti with information for his investigation into Officer Buczek's homicide, and the drug cartel, which was implicated in said homicide. Additionally, in 1989, she informed Occhipinti and others, that her employers were involved in "activities" other than legal assistance. Based upon same, Ms. Camarena had two meetings with Occhipinti, other law enforcement officers and Assistant U.S. Attorney Jeh Johnson, who "ironically" was the U.S. Attorney who prosecuted the case against Occhipinti. At those meetings, Ms. Camarena informed Mr. Johnson of the illegal activities of her employers and information of Freddie Then. However, no action was taken by the U.S. Attorney's office.

More importantly, in 1989, the affiant overheard a conversation at her employer's office, in which one partner complained to the other of the tremendous pressure Occhipinti was placing on the illegal activities of the firm's Dominican clients. The "elimination" of Occhipinti, was suggested. Instead, it was agreed that Occhipinti would be framed for prosecution for civil rights violations of Dominican bodega owners. In fact, the lawyer set forth that his "contacts" in the U.S. Attorney's office would aid him in the conspiracy. In August of 1989, Ms. Camarena reported this conversation to Assistant U.S. Attorney, Jeh Johnson. However, once again, no action was taken and this exculpatory information was not divulged to the defense. Unfortunately, shortly thereafter, the affiant was compelled to flee the state for her safety, once she learned that her employers were informed of her communication with the Government, by their contacts with the U.S. Attorney's Office.

The affidavit of Alma Camarena presents to this court serious questions of prosecutorial misconduct, improprieties in the U.S. Attorney's Office and illegal conduct of a New York law firm. Moreover, it also presents evidence which substantiates and correlates the contents of the other affidavits that Occhipinti was framed by the Federation, upon the advise of counsel, which nailed his prosecution and conviction based upon perjurious testimony. As previously stated, the common thread that flows from the contents of these affidavits is devastating due to the fact that they cannot be overlooked as mere coincidence. The fact of the matter remains, that a conspiracy was arranged by powerful Dominican drug lords, to frame an innocent man for his efforts in fulfilling his law enforcement duties to protect the public.

It should be noted that additional affiants and documents are annexed hereto in support of Occhipinti's motion for a new trial. Specifically, annexed hereto as Exhibit K is the affidavit of Raul Anglada, a New York City Detective, who accompanied Ms. Camarena to Jeh Johnson's office, when she reported the conspiracy to frame Occhipinti by her employers and their clients. Exhibit L is the affidavit of Tony Reyes, which details his personal knowledge of the conspiracy, as well as the law firm's involvement in same. Also, Exhibit M is the affidavit of Hilda Navarro, which introduces a new player in the conspiracy, namely Alfredo Placeras, an attorney with the Federation. This attorney admitted his involvement in the conspiracy and his efforts to "finish" Occhipinti.

Exhibit N is the affidavit of Angel Nunez, Esq., an attorney licensed to practice in the State of Pennsylvania. It should be noted that this affidavit contains information, a portion of which is not relevant to the present application. However, focusing on page eleven of said affidavit, Mr. Nunez refers to an individual identified as "Source A." "Source A," was a Dominican merchant, who defaulted on a loan to a Dominican loan shark. Source A's identity must remain confidential and his whereabouts not revealed, due to the fact that there exists a contract for assassination on his life. This source confirms that the conspiracy to frame Occhipinti was facilitated through fabricated civil rights violations and embezzlement allegations by Government witness, Jose Liberato. Mr. Nunez's affidavit also details the personal knowledge of other sources, which confirms the subject conspiracy and the players. This information was obtained from Source A post conviction.

Richard Callaghan, a retired Federal Agent and New York City Detective, affidavits are annexed hereto as Exhibit O. Mr. Callaghan executed two affidavits, memorializing the results of his investigation conducted on behalf of Staten Island Boro President, Guy Molinari. These affidavits detail newly discovered evidence, which could not have been ascertained prior to or during the trial, due to improprieties of the U.S. Attorney's Office. Specifically, the first affidavit details Occhipinti's search of Jaime Caba's bodega. Mr. Caba stated to Callaghan that he never made complaints against Occhipinti and that his civil rights were not violated, due to the fact that the agent was courteous and did not seize anymoney. Irrespective of same, Caba set forth that he was interviewed by investigators and a U.S. Attorney in which he told them that he refused to press charges or testify, due to Occhipinti's lawful conduct. This exculpatory witness was never revealed to the defense by the Government. In addressing Callaghan's second affidavit, Yehye Abuzaid, the owner of Uptown Deli and Grocery, this individual stated that he voluntarily signed the consent to search prior to Occhipinti conducting the search of his bodega. Abuzaid was contacted by the U.S. attorney's office with regard to same, but this information also was never disclosed to the defense. Thus, Occhipinti was confronted with two conspiracies, the conspiracy to frame him by the Federation and the conspiracy of convenient undisclosure of exculpatory evidence by the Government.

Exhibit P is the affidavit of Ray Hagemann, a Chief Investigator employed by Molinari. Hagemann's affidavit is critical to Occhipinti's pending application because it corroborates the contents of other affidavits detailed herein, specifically the affidavit of Alma Camerena. Moreover, Hagemann's affidavit details a taped conversation between a confidential informant and Jose Prado, a Government witness. During this taped conversation, Prado admitted that he received

from Jose Liberato the sum of $35,000.00 to falsely testify against Occhipinti. A transcript of this conversation is annexed to Hagemann's affidavit for this Court's review. Aside from taping a conversation with Prado, the same informant also taped a conversation he had with Jose Elias Taveras, which was proven to be authentic by an independent voice analysis expert. (See results annexed to Hagemann's affidavit.) This conversation specifies Taveras' admissions that he perjured himself in the Grand Jury and at the subject trial. Thus, Hagemann's affidavit brings to focus the underlying reason why numerous bodega owners were willing to commit perjury at the direction of Liberato and the Federation. The reason being is at least one witness, namely Jose Prado, was paid a substantial amount of money for a dastardly service. Accordingly, this newly discovered evidence presents a chilling question to this Court: the trier of fact, based upon perjured testimony, procured by bribes and other illicit means, taken together with the absence of exculpatory evidence due to prosecutorial misconduct, convicted an innocent man.

Moreover, Hagemann's affidavit also details his knowledge of a conversation with himself, Molinari and Lenny Lemer, a Detective Sergeant of the New York City Police Department, assigned to the DEA task force. Lemer voluntarily went to Molinari and Hagemann, with regard to the results of his investigation of Sea Crest Trading Co., which is associated with the Federation. Lemer set forth that during this investigation, he discovered evidence which would prove Occhipinti was framed. Thus, Lemer's statement is important due to the fact that it portrays the voluntariness of independent law enforcement personnel, approaching Molinari and Hagemann, with regard to evidence proving Occhipinti's innocence, which was derived from a separate investigation.

However, Lemer isn't the only independent law enforcement personality which has publicly stated Occhipinti is innocent. For instance, James Fox, the Assistant Director of the FBI, publicly proclaimed that an independent federal investigation uncovered newly discovered exculpatory evidence, that could prove Occhipinti's innocence. In fact, Mr. Fox also publicly proclaimed that in light of same, Occhipinti deserves a new trail. It should be noted that Occhipinti has previously requested the release of any and all reports generated by the FBI in this investigation, which to date, have not yet been released.

Moreover, the State of New Jersey, after examining various pieces of evidence relating to the framing of Occhipinti, unanimously approved assembly resolution 107. This resolution called for a special prosecutor and a Congressional investigation into the alleged drug cartel conspiracy and the Justice Department's cover up of Dominican organized crime and its handling of the Occhipinti prosecution. In fact, Occhipinti was previously debriefed by the New Jersey Senate and will be testifying before them.

In addition to the foregoing, the aforesaid New Jersey resolution, was introduced into the U.S. Congressional record on April 28, 1993, by U.S. Congressman Dick Zimmer, and placed under Order 93.

The White House has also responded to this resolution, and has referred this matter to the U.S. Office of Special Counsel under file number: MA-93-1357.

Accordingly, premised upon this newly discovered evidence, it is obvious that the credibility emanating from same, has warranted the public and legal support of many influential government agencies and individuals. Thus, the only issue that remains, is whether this evidence meets the legal plateau for an award of a new trail.

Application of the facts in the case at bar to the foregoing legal principles governing the award for a new trail, clearly evidence to this Court that Occhipinti should be awarded a new trail for the following reasons. First, there can be no dispute that the contents of the affidavits, and documentation submitted is material to the issues presented and for cumulative or impeaching. For instance, the "newly discovered evidence" brings to light, for the first time, the existence of a conspiracy to frame Occhipinti, the underlying motive for same, admissions of perjury by key Government witnesses, prosecutorial misconduct as well as improprieties committed by Government agencies and certain members of the legal profession. Thus, this evidence is material due to the fact that it is submitted and offered for reasons other than to impeach the credibility of Government witnesses who testified at trail. In fact, it emanates beyond the realm of being material due to its content and relevance to the issues presented to this Court.

Second, the evidence submitted is truly newly discovered and, in fact, could not have with due diligence, been discovered prior to or during the trail. After all, it is reasonable to conclude that the Government witnesses, who presently admitted to committing perjury, the motive for same or the underlying conspiracy, would not have revealed this information prior to or during the trial. After all, if this evidence could have been discovered prior to or during the course of the trial, there would not have been a trial in the first place, or the matter may have been dismissed. Moreover, referring to the affidavit of Victoria Lopez, annexed hereto as Exhibit G, her knowledge was impossible to discover prior to or during the trial, since she did not realize the identity of the "federal agent" Liberato was referring to until December of 1991, which was well after the trial and conviction of Occhipinti. Additionally, the affidavit of Alma Camarena, annexed hereto as Exhibit I, discloses that even though she had knowledge of the conspiracy and some of the players, this information was never disclosed to the Court or the defense by the U.S. Attorney's Office. To complicate matters further, Ms. Camerena was compelled to flee the state shortly after her meeting with the U.S. Attorney Jeh Johnson, due to threats and concern for her safety. Thus, Ms. Camarena was unavailable as a defense witness, even if her knowledge was presented to the defense, in accordance with legal procedure. The factors at play, specifically the efforts to frame Occhipinti by powerful conspirators, taken together with prosecutorial misconduct and other improprieties, clearly prevented Occhipinti from ascertaining this evidence prior to or during the trial.

Fourth, based upon the contents of the "newly discovered evidence," it is obvious that this evidence would probably lead to an acquittal of Occhipinti, if he was awarded a new trial. For instance, for the first time, the trier of fact would have access to the contents of the evidence relating to a conspiracy to frame Occhipinti for his interference with the illegal activities of the Federation. This, of course, can be substantiated by Ms. Camerena and Raul Anglada, who was present with her, when she met with U.S. Attorney Jeh Johnson. (See affidavit annexed hereto as Exhibit J). Moreover, the conspiracy can also be established by Martha Lozano, (referred to in Exhibit A and B), Pedro Castillo-Reyes (Exhibit A), Thomas Galan (Exhibit A), Jose Puello (Exhibit B), Marino Reyes (Exhibit F), Victoria Lopez (Exhibit G), Hilda Navarro (Exhibit M), Tony Reyes (Exhibit L), as well as the confidential informants and the host of other persons named and/or disclosed in the "newly discovered evidence." Moreover, the Government would not have the availability of their key witnesses, namely Jose Liberato, Jose Elias Taveras, Reymundo Tejeda, Nurys Brito and others, unless these individuals were willing to openly admit to perjury in Court. Thus, the causal effect this bears on the Government's case-in-chief at a new trial, would be devastating for the following reasons. On the firsthand, the Government's witness list would be severely hampered, due to the elimination of perjured testimony previously submitted to and evaluated by the trier of fact in reaching a verdict. Second, the Government would have substantially less bodega witnesses to testify that Occhipinti conducted an unlawful search and a stole monies, which bears directly upon the counts of the Indictment, which previously led to aconviction. Furthermore, without the existence of prosecutorial misconduct and the other improprieties which plagued the defense in the first trial, it is apparent that the submission of this new evidence would create "a reasonable doubt that did not otherwise exist." (See previous citation).

Accordingly, the foregoing application has established that Occhipinti has satisfied every prong of the test governing an award for a new trial. The overwhelming evidence submitted warrants an award for a new trial, because it pursues the interest of justice, which is the ideal our legal system was founded upon. After all, Occhipinti was stripped of his fundamental right to be presumed innocent, until proven guilty, due to the underlying forces conspiring against him. Therefore, the time has come for this Court to remedy the injustice that was befallen on an innocent man, by aiding him in his struggle to eliminate his conviction and the stigma of guilt that surrounds him by proving his innocence by way of an award for a new trial.

CONCLUSION

Based upon the foregoing, it is respectfully requested that defendant, Joseph Occhipinti, be granted a new trial.

Respectfully yours,

Pope and Bergrin, P.A., Attorneys for defendant Joseph Occhipinti.

By: ANTHONY J. POPE.

69-059 O—97 Vol. 139 (Pt. 19) 23

FEDERAL SUPPORT FOR THE ARTS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. MAZZOLI. Mr. Speaker, last month, the House passed H.R. 2351, a bill to reauthorize the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute for Museum Services [IMS] through 1995.

I supported this reauthorization, as I have steadily over the years, because these organizations, despite the legitimate criticisms leveled against them, have done much to promote the arts and the humanities in Kentucky and across this Nation.

Because of the concerns—which again I would characterize as well founded and legitimate—expressed by our constituents about the questionable activities mostly funded by the NEA, significant limitations and guidelines were imposed by Congress on the grant-making authority of the NEA and its allied agencies in 1990.

Congress stated that: "obscenity is without artistic merit, is not protected speech, and shall not be funded." The same 1990 act established criteria for judging NEA applications, and stated: "artistic excellence and merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

Mr. Speaker, I am hopeful that these changes in the law governing taxpayer support of the arts and the recent confirmation of the new director of the NEA, the eminent actress, Jane Alexander, will create a new and most promising climate for Federal funding for the arts, humanities, and museums.

Mr. Speaker, I am particularly proud of the lively state of the arts and humanities in my State and district. Louisville and Jefferson County can properly boast of many organizations which exhibit, promote and teach art, drama, music, opera and dance to the residents of the Louisville and Jefferson County area.

Many of them, such as the Actors Theatre of Louisville, the Louisville Orchestra, and the J.B. Speed Art Museum are recent grantees of the NEA. Many others such as Theatre One, the Kentucky Opera, the Louisville Ballet, the Kentucky Shakespeare Festival, Artswatch, Inc., Stage One: the Louisville Children's Theatre, Kentucky Center for the Arts, and the Theater Workshop of Louisville are all assisted in their important missions by grants from Federal, State, and local government.

Mr. Speaker, as we know full well, the arts and the humanities enrich our world and ennoble humankind. They inspire, console, and direct us. They relax, refresh, and renew us. Federal support of the legitimate arts and humanities is critical, fitting, proper, and appropriate.

GOVERNMENT REGULATION GONE AWRY; TWO STAPLES OR ONE?

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. PORTER. Mr. Speaker, I have introduced legislation today which would require the Postal Service to make a minor clarification in one of its regulations.

The regulation at issue is a good one—it prevents commercial mailers from stuffing their magazines full of inserts without paying additional postage. However, the regulation accidently includes within its reach newspapers that appear in a bound format—newspapers with two staple bindings.

These are bona fide second-class weekly newspapers which occasionally contain loose supplements—usually advertising mailers for local, small businessmen who would otherwise be unable to afford the cost of advertising. These newspapers simply do not follow what we have come to know as the conventional format.

There are only a handful of these newspapers in the country and one of the publishers is in my district.

My legislation simply requests the Postal Service to clarify this regulation to eliminate its unintended effect on a handful of second-class newspapers.

TESTIMONY OF BETH B. BUEHLMANN ON HEALTH CARE REFORM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GOODLING. Mr. Speaker, I wanted to share with Members the following testimony of Beth B. Buehlmann before the Labor Management Subcommittee of the House Education and Labor Committee. I believe her experiences and real life story exemplifies the need to reform our Nation's health care system.

TESTIMONY SUBMITTED BY BETH B. BUEHLMANN

Mr. Chairman, I welcome the opportunity to appear before you and other Members of the Committee today to tell my story, really my son Eric's story, because it is one that raises a number of issues that I believe have to be considered in any health care reform package. Fortunately for me, this story has a "happy" ending.

Let me start by asking each of you what you were doing on January 20 of this year? In case the date doesn't ring a bell, it was inauguration day. For myself, I was looking forward to a quiet day away from the office with no outside distractions. Instead, I was at Georgetown University Hospital, praying that my 24 year old, otherwise healthy son, would survive a massive brain hemorrhage that one doctor described in the following way: it's as though his head hit a brick wall going 60 miles per hour without the protection of a helmet, yet with no outside visible signs of damage. By noon, he had made it through the emergency craniotomy, but the prognosis was dismal. His bleeding could not be stopped, and his left side was paralyzed. No assessment was made as to the damage his brain had sustained, but because the bleeding had been deep, little optimism was evident.

Less than a week before, Eric had been diagnosed with ITP (thrombocytopenic purpura), and idiopathic disease which causes the body to destroy its own platelets (the element of your blood which aids coagulation). He underwent therapy for the ITP, but was told that he was not responding well to the steroids. A different, more invasive therapy would have to be started that Thursday, January 21. It was at this point that the doctor learned a disturbing fact—Eric did not have health insurance.

Although Eric was in his last semester of law school, because of a hold on his registration, he was not officially enrolled. As some of you may know, health care coverage for many students is enrollment driven. To add insult toinjury, because Eric had technically been carrying less than a full-time course load in the fall semester, he had not been covered then either. (This fact became important in determining whether he was covered by COBRA—obviously not.) Quite frankly, even if Eric had been covered by the student health insurance policy, maximum coverage was only $25,000. If he had done everything right, it still wouldn't have mattered because his initial hospital bills alone were close to $200,000. In order for him to have had greater coverage, he would have had to affirmatively request that coverage and pay an additional fee (most students, as I found out later, were unaware of this option). For any of you familiar with the life of a graduate student, you recognize that even the smallest cost would have been difficult to scrape together when you live on loans and other borrowed money, along with possible earnings from a part-time job. Besides, why would a healthy, young adult need more, catastrophic coverage?

In the two days after his initial surgery, Eric required an emergency splenectomy and an angioplasty. Removing his spleen was the last resort the doctors had in trying to stabilize his platelet count (when Eric was admitted, his platelet count was 4,000; the average person's count is 300,000 to 400,000.) If his platelet count could not be raised, it was likely that he would have a second, probably fatal, head bleed. Each of these procedures was life threatening, but in the balance, necessary.

Throughout this period of stress and emotional upheaval, the question remained, how would all of this be paid? Medicaid? Declaring bankruptcy? (ruining his credit record for years to come) Hospital charity programs? Assumption of my house, even though Eric did not live with me, and had not been claimed as a dependent for years? After consulting a few lawyers, two things remained unclear because Eric had lived in my house until the previous August, at which time he moved into the District of Columbia. The first was, if he qualified for Medicaid, in which jurisdiction would he be covered? The second was whether my assets would be counted against Eric in determining his eligibility, and whether they would be considered as a possible source of payment for his hospital costs? I do not want to minimize this point. It is very difficult to write or speak about the genuine fear I experienced over the possibility of losing everything—including my son.

None of the lawyers was willing to assure me of the answer to either question, but I was told emphatically to sign no papers which had any possibility of creating a fiscal liability for me.

Medicaid only considers assets, not liabilities in determining eligibility. Therefore his student loan debt had no bearing on his situation. DC said that Eric only lived in the district because he was a student. Therefore he would not be considered eligible in DC and needed to apply for Virginia Medicaid. Because Eric no longer lived with me, Virginia Medicaid said he was not their responsibility either. My decision finally was made on the basis of the Medicaid that was more universally accepted at the hospital, and on the basis of where he was living—DC.

It was more than three weeks after his brain hemorrhage before Eric qualified for DC Medicaid. Only then was I somewhat assured that I would not be held liable for my son's medical bills. However, I want to make one thing clear. Regardless of the cost, I would have risked my financial future, if that is what it took, to make sure that Eric received the medical and rehabilitative care

that he needed and continues to receive. I would also like to add that even if I had divested myself of everything, I would not have paid for Eric's hospital bills—25 days at Georgetown, 10 weeks at NRH, and continued outpatient therapy to the present.

Based on my experience, I would like to make the following points:

College students are extremely vulnerable when it comes to health care coverage, which in turn places their families at risk as well;

The level and availability of health care coverage a person receives should not be decided on the basis of residence;

Family members should not have to worry about the fiscal liability they may face, when the focus of their efforts should be in support of the ill person;

Once a child is independent, parents' assets should not be placed at risk either by their proximity or involvement at the time of the crisis; and,

Artificial barriers to service should not exist because of arcane bureaucratic rules, regulations and insatiable documentation requirements.

It is now nine months after Eric's experience. He has overcome extraordinary odds and has made almost a complete recovery. Given the severity of the initial effects of the hemorrhage, and the original prognosis, his only remaining residual effect is a significant eyesight deficit. He is clearly the beneficiary of outstanding medical treatment and rehabilitative services. Without the efforts of the doctors, nurses and the therapists at Georgetown University Hospital and the National Rehabilitation Hospital who have worked with him, he could not have made it this far. In fact, his therapy is now focused on getting Eric back to law school part-time in January, just one year after all this happened.

As I stated in the beginning, this is a story with a "happy" ending. However, it could just as easily have been otherwise. Eric will however, live with ITP the rest of his life—a pre-existing condition, which under the current system of health care coverage could either prevent him from getting coverage, or at best, require that he pay a much higher price for basic health insurance. We need to assure a means of funding catastrophic illnesses, without bankrupting the individual, the family, the nation, and the system. I hope that with health care reform, this goal can be achieved.

GENERAL AL HAIG'S POSITION ON HUMAN RIGHTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GILMAN. Mr. Speaker, I was disturbed to learn that Gen. Alexander M. Haig, Jr., who I have long admired and who was once our Secretary of State, NATO Commander, and White House chief of staff believes that the United States should not criticize China for its human rights violations. Both the executive and legislative branches of the U.S. Government are long on record for speaking out against human rights violations wherever they occur. The State Department's "Country Report on Human Rights Practices" has for years pointed out the terrible problems in Syria, Iran, and other places. Likewise, so has the Congressional Human Rights Caucus.

Last Friday, A.M. Rosenthal, in his "On My Mind" column for the New York Times, pointed out his puzzlement at General Haig's position. For my colleagues' review, I request that this column be printed in full in the RECORD at this point:

[From the New York Times, Oct. 29, 1993]

HOW DARE WE?

(By A.M. Rosenthal)

How dare the United States do this thing?

Alexander M. Haig Jr. wants to know. How dare the U.S. "go around telling the rest of the world" that it must live up to American human rights standards? He has China in mind.

"I think the time has come to take a different tack here," he said in Beijing. "And Tiananmen is a long way behind us."

Mr. Haig has a distinguished record—Secretary of State, NATO commander, White House chief of staff. He was in Beijing to introduce the new president of United Technologies Corporation to Chinese Communist leaders. United Technologies is in the defense business.

Mr. Haig is a take-charge kind of guy. Right after President Reagan was shot in 1981, Mr. Haig, then Secretary of State, told the country that he himself was "in control" at the White House; Vice President Bush was in a plane flying to Washington.

The Haig decision did not sit well, probably because neither Mr. Reagan, Mr. Bush nor Congress had also so decided.

Anyway, you can see Mr. Haig deserves an answer and Washington better give him one in a hurry. Until then, I will do my best.

Mr. Haig, it really is a matter of taste and, if you forgive the expression, the moral responsibility of American business.

The taste of Congress, the incumbent President and most Americans kind of runs against governments that use forced labor in and out of prison as an official part of the economy, and torture as an inducement to both labor and political obedience.

In China, the Government uses the economic advantages of that labor, and of trade with the capitalist nations, to build the world's largest army—and to sell missiles, nuclear material and weapon technology, mostly to nations hostile to America.

Mr. Haig, those Americans not well disposed to gulag government do not want to bomb China or isolate it. All they say is that it is hypocrisy and destructive of liberty to say we disapprove of Communist Chinese techniques of government and yet refuse to do what we can to pressure the gulag wardens into at least lowering the torture quotient of political life, in China proper and imprisoned Tibet.

Congress taste, and expressed will, is to put a deal to your Beijing hosts: Loosen the handcuffs or we will lift the trade privileges that have made possible the $20 billion trade advantage China enjoys over the U.S.

Business is no more holy than diplomacy or journalism. Either can help build freedom or help maintain despotism.

Certainly it is obscene that profits made through the capitalist free-enterprise system be used to strengthen a Communist society that refuses to give its citizens and Tibetans the freedoms of choice that should be the very essence of capitalism.

I know of two U.S. companies that have adopted a human rights policy that does honor to them, their country, free enterprise and their customers. They have withdrawn their plants in China or are preparing to do so rather than contribute to the daily violations of decency that exist all around those factories.

So I am writing this dressed in a long-wearing, stylist pair of Timberland boots and long-wearing, stylish Levi Strauss shirt and pants.

Beijing may not tremble before Levi Strauss and Timberland. Neither did Pretoria tremble when some American company was the first to say: "No longer."

Mr. Haig says we should help China to offset Japan. Then we can balance the two superpowers of Asia against each other, instead of having to deal alone with Japan. Neat? Presumably Japanese and Chinese cannot figure that out and one day get together to give us a two-superpower squeeze.

Patrick E. Tyler, the New York Times bureau chief in China, who interviewed Mr. Haig earlier this month, writes that he was seething at U.S. policy toward China.

Mr. Haig is an excellent seether. I always liked him for that. We two may have faults but concealment is not one of them.

A press colleague told me Mr. Haig had said he would dearly love to punch me in the mouth for asking him a political question he thought impertinent in substance and manner. It was. Mike Wallace egged me on.

But since Mr. Haig never did punch me in the mouth I took the threat as mere wishfulness. If not, I hope he gets tired of waiting in line.

INTRODUCTION OF THE ECONOMIC AND EMPLOYMENT IMPACT ACT

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. DELAY. Mr. Speaker, I have often come to the floor of this House outraged about the burden this Government places on the taxpayer through its myriad of laws and regulations. Unfortunately, instead of this trend decreasing, it has only increased, and I believe drastic measures are necessary to fight it.

Today I am introducing a bill which will force Congress and the executive branch to fully consider the costs of laws and regulations on the economy and on individuals by requiring that all legislation considered by Congress, as well as all final and proposed regulations promulgated by executive branch agencies be accompanied by an economic and employment impact statement.

Modeled after the Economic and Employment Impact Act introduced by Senator NICKLES—and which failed to pass in the Senate by a mere two votes—this bill will require that these statements contain both the positive and the negative effects of any piece of legislation or any Federal regulation on employment, the gross domestic product, and the ability of U.S. industries to compete internationally, as well as the cost to consumers, to business, and to State and local governments.

Under current law, businesses and Government agencies are required to file environmental impact statements to demonstrate any harm which may result from construction or other activities. In light of the fact that we may soon be considering a bill to elevate the Environmental Protection Agency to Cabinet level, as well as comprehensive health care reform which is guaranteed to throw a whole host of new regulations on the system, I believe it is appropriate at this time to ask that the Federal

Government live by the same rules and keep in mind the interests of those on whom it is imposing its will—the American taxpayer.

Requiring that an economic impact statement accompany legislation and Federal regulations will do just that.

Regulations—which in fact are hidden taxes—are wreaking havoc on the competitiveness of this country and the standard of living of American families. Over the last 4 years the regulatory burden has grown tremendously and as a result the private sector has lost nearly 2 million jobs since early 1990. A conservative estimate of the cost of regulation to the average American family is a staggering $8,000 to $17,000 per year.

Despite all of the hoopla surrounding Vice President AL GORE'S plan to reinvent government and simplify the layers of regulation, the Center for the Study of American Business in St. Louis found in its latest analysis that regulatory staffing shows a slight increase in the President's budget for this coming year. In all, 128,615 positions in the U.S. Government are assigned to watching over hard working Americans and making sure that they comply with every minuscule rule that might be thought up by some bureaucrat in a Washington office.

My Economic and Employment Impact Act is a commonsense step to ensure meaningful evaluation of the potential costs and benefits of regulations before they are implemented, and I urge my colleagues to sign on as cosponsors.

NAFTA

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. PACKARD. Mr. Speaker, NAFTA will launch San Diego into the international trade spotlight. More than any other area of the country, San Diego stands to gain the most from the free-trade pact. We already sell more than $1.3 billion in goods and services to Mexico every year—that's 10 percent of San Diego's gross regional product. Free trade will boost that figure by $200 to $300 million per year. That translates into 20,000 new, high-paying jobs for San Diego.

Exports to Mexico in high-technology products and services are on the rise. The Mexican market demand is especially growing in San Diego's most competitive industries. But further market penetration has been hampered by Mexico's current trade barriers. For instance, computer software coming from the United States faces a 20-percent tariff in Mexico. That's an incredible hurdle to overcome in such a price-sensitive market. But NAFTA will pave new inroads for the computer industry. Under NAFTA, tariffs will be immediately eliminated on U.S. exports up to $200 million. Eventually, tariffs on all computer exports will be eliminated. We're going from a 20-percent tariff to zero. San Diego's computer industry will be given a competitive edge in a market that is growing every year.

Many other San Diego industry strongholds will also benefit under NAFTA, including electronics and medical equipment. Not only will the 20-percent tariff be eliminated on these products, but for the first time United States manufacturers will be allowed to compete in Mexico's valuable public-sector market. Up till now, Mexico's nationalist, protectionist policies have stopped us from participating in most of Mexico's industrial sectors.

San Diego companies are also going to benefit as NAFTA removes Mexico's bureaucratic hurdles and strips away the redtape. Licensing requirements are streamlined. Quotas are reduced or completely eliminated. And intellectual property rights are strengthened.

As the largest metropolitan area on the Mexican border, San Diego will be a magnet to attract United States companies and even Mexican subsidiaries. Our proximity to the border makes us an ideal jumping off point into either the Mexican or United States market. Coupled with our highly skilled and highly educated populace, that makes us a trading powerhouse.

San Diego consumers will also appreciate NAFTA as they get more bang for their buck at the cash register. Lower tariffs mean lower retail prices.

NAFTA will bring increased trade, increased commerce, new high-paying jobs, and lower retail prices. In short, NAFTA is a good deal for San Diego.

NATIONAL CHEMISTRY WEEK

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. CALLAHAN. Mr. Speaker, I would like to take this opportunity to rise and recognize the celebration of National Chemistry Week, sponsored by the American Chemical Society and scheduled to be held November 7–13, 1993.

The American Chemical Society is a nonprofit scientific and educational organization of professional chemists and chemical engineers. Its membership of over 144,000 makes it the largest scientific society in the world. The Mobile, AL, section of the American Chemical Society currently has 203 highly educated and motivated members.

The National Chemistry Week program was first developed in 1986 to impress on the public the importance of chemistry in everyday life. Its mission is to reach the public with positive messages about chemistry and make a positive change in the public's impression of chemistry.

I congratulate the members of the Mobile, AL, section of the American Chemical Society on their hard work and dedication to the field of science, and I wish them well in their celebration of National Chemistry Week.

CHIEF AL STEVENS: A TRUE PROFESSIONAL POLICE OFFICIAL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. BARCIA of Michigan. Mr. Speaker, I rise today in appreciation of the exceptional dedication to our community exhibited by George "Al" Stevens during his 32 years of public service. One of the truly exceptional men in law enforcement, Chief Stevens has developed an admirable reputation as someone committed to his family, his neighbors, and his profession. This unusual dedication is celebrated today among his many friends and family as we remember his 18 1/2 years as the Richfield Township chief of police.

Working for the Genesee County Sheriff's Department until 1966, and the Davison Township Sheriff's Department until 1975, Al served as Richfield Township's first full-time police chief from 1975 to 1993.

A consummate professional, Al has handled the awesome responsibility of police chief with prudence, equity, and compassion. Moreover, his tireless commitment to my neighbors in the Fifth District is further evidenced by his 58 years in the Davison area, and 24-hour-a-day commitment to Richfield law enforcement.

A member of the Michigan Association of Chiefs of Police, Al's focus and devotion was serving Richfield Township, often sacrificing his personal agenda for that of the community. In Richfield, it has become almost routine to expect excellence from Chief Stevens, a civic leader in the truest sense of the word. I know I speak for my friends in Richfield Township when I thank Chief Stevens for his tireless efforts to ensure our safety and protection. I urge all my colleagues to wish him, his lovely wife Deanna, and all his children and grandchildren our very best.

HAPPY BIRTHDAY, CHINA LAKE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. THOMAS of California. Mr. Speaker, fellow Members of Congress, this weekend the Naval Air Warfare Center Weapons Division, or China Lake, in Ridgecrest, CA, is celebrating its 50th anniversary. By all standards, a 50th anniversary is a major achievement. However, in the case of China Lake, its 50th anniversary goes beyond the usual accolades.

Since 1943 when the Navy first came to Ridgecrest and it was known as the Naval Ordnance Test Station, through 1967 when the name was changed to the Naval Weapons Center, to this current designation, the facility at China Lake has met the test of time all the while representing the finest in cutting edge military technology and quality. The partial list of China Lake's accomplishments are legendary: Developed the first and still most successful air-to-air missile—the Sidewinder; developed the first antiradiation missiles—Shrike and HARM—and optically guided weapons such as Walleye; and more recent redesigns and product improvements for Sparrow, Harpoon, SLAM, RAM, and the Tomahawk cruise missile.

But its true test came during Desert Storm. Under the twin pressures of time and need, the engineers and technicians at China Lake performed near miracles. These miracles included reprogramming the HARM missile system to recognize the Iraqi radar installations;

creating a more efficient communications system between the Navy and its support facilities in the United States; rushing through a new fleet software system to meet some unique delivery conditions which arose in Iraq; making old bomb fuses serviceable; rushing through production of the GATOR weapon system, an air delivered landmine system used by the Marines; and, reviving the fuel air explosive program, which was used for clearing land mines and bunkers.

But as impressive as these accomplishments are, because I know this community, I expect China Lake will produce no less in the next 50 years.

As this country approaches the 21st century, the Nation can feel secure in the knowledge that a new era at China Lake, built upon both the glorious past and the present, is about to begin. I say this because in 1993 the Base Realignment and Closure Commission ranked China Lake the top defense laboratory in the country. Not only is this assessment well-deserved, it is one that I believe the Center will fight to hold with all its might and with continued cooperation from the people in the city of Ridgecrest and surrounding communities.

So as the relationship between the Naval Air Warfare Center Weapons Division and eastern Kern County moves into the next half century, it is my hope that the same community toughness, confidence, and spirit of achievement that so successfully worked for the past 50 continues for the next 50.

TRIBUTE TO STOP OREGON LITTER AND VANDALISM

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. KOPETSKI. Mr. Speaker, I would like to call to the attention of my colleagues the efforts of Stop Oregon Litter and Vandalism, also known as SOLV. SOLV, located in Portland, works throughout the Fifth Congressional District as well as the entire State of Oregon.

Each year, common items such as six-pack yokes, fishing line, netting and strapping bands entangle and kill seabirds, fish, and mammals. Discarded plastic products also can be mistaken for food by sea and shore birds and marine mammals. Especially vulnerable are all four species of sea turtles found off the Oregon coast.

Discarded plastic products remain in the environment indefinitely. Litter is a recreational hazard; fouling boat propellers, clogging boat engines and contributing to the degradation of Oregon's beaches and waterways.

On Saturday, October 9, Oregonians of all ages gathered to continue the tradition of ridding Oregon's beaches of litter. From the Columbia River to the California border, volunteers braved the elements in search of garbage others left behind.

1993 is a special year for SOLV and the Great Beach Cleanup. It is the tenth anniversary of the Great Beach Cleanup, the first annual beach clean up established in the world. Since the first Great Beach Cleanup, this idea has spread to 32 other States and 33 foreign countries. Over the past 10 years, more than 25,000 volunteers have picked up 386,600 pounds of beach and ocean trash off the beautiful coast of Oregon.

SOLV deserves recognition for it's efforts to maintain the beauty of Oregon's pristine coast. I salute SOLV's fine work and particularly, the Great Beach Cleanup, a shining example of Oregonians blazing a trail the rest of the world is now following.

ST. XAVIER AND ASSUMPTION HONORED AS BLUE RIBBON SCHOOLS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. MAZZOLI. Mr. Speaker, I would like to pay tribute to two schools located in my congressional district of Louisville and Jefferson County, KY, which were honored recently by the U.S. Department of Education as Blue Ribbon Schools: St. Xavier High School and Assumption High School.

The U.S. Department of Education honors various schools across the Nation as Blue Ribbon Schools based on detailed applications and visits to the schools. In 1993, 260 schools are being recognized for their high-quality teaching, up-to-date curricula, and strong parental involvement required to be Blue Ribbon Schools.

I am proud to say that St. Xavier High School, my own alma mater, is designated a Blue Ribbon School this year. St. Xavier is a three-time recipient—one of only two schools in the Nation to hold this honor. Assumption High School, the other Blue Ribbon designee from the third district, has won this award once earlier. To receive the Blue Ribbon once is remarkable. To win it more than once speaks volumes about these schools, their administrations, faculties, students, and parents.

This year's honorees were announced last spring, and the ceremonies at which the awards were made took place in October here in Washington, DC. On hand to receive the award on behalf of St. Xavier High School were its principal, Perry Sangalli, and Mr. John Hoeck, a member of the school's board of directors. Accepting the award for Assumption High School were Ms. Karen Russ, principal, Ms. Beverly McAuliffe, assistant principal, and Ms. Mary Lee McCoy, chair of the English department.

They and their counterparts from the other Blue Ribbon Schools attended a meeting at the White House and were addressed by President Clinton.

I am extremely proud of St. Xavier High School and Assumption High School for their academic achievements, and I join my community in offering both schools congratulations and best wishes for many more years of success.

Mr. Speaker, I ask that various news reports concerning awards to St. Xavier High School and Assumption High School be placed in the CONGRESSIONAL RECORD at this point:

[From the Louisville (KY) Courier-Journal, Oct. 22, 1993]

2 CATHOLIC SCHOOLS WIN BLUE RIBBONS

WASHINGTON.—Two Louisville Catholic high schools, Assumption and St. Xavier, are among six Kentucky high schools being honored by the U.S. Department of Education this week as the nation's "Blue Ribbon" schools.

A total of 260 schools in the nation won Blue Ribbons for best meeting needs and boasting high-quality teaching, up-to-date curricula and parental involvement.

The schools are chosen based on a detailed application and on-site observations by outside educators.

Representatives of the schools were to be honored at a White House ceremony and a congressional reception. An awards luncheon is scheduled today in Washington.

The other schools in Kentucky are Belfry High School in Pike County, Williamsburg High School in Whitley County, Elizabethtown High School and Fort Campbell High School.

[From the Louisville (KY) Record, Oct. 21, 1993]

ASSUMPTION, ST. X GIVEN AWARDS FOR EXCELLENCE

Representatives of Assumption and St. Xavier high schools will be in Washington this week to receive their national "Blue Ribbon School" awards for excellence in education.

The two Louisville Catholic schools are among 260 secondary schools across the country to receive the awards from the U.S. Department of Education. Award recipients were announced last spring.

For both Assumption, a girls' school at 2171 Tyler Lane, and St. Xavier, a boys' school at 1609 Poplar Level Road, the 1993 blue-ribbon recognition will be repeat performances. Assumption is receiving the award for the second time, St. X for the third time.

The principals of both schools, who will be in Washington for ceremonies today and tomorrow, Oct. 21 and 22, said receiving the award once does not automatically ensure being selected again.

"You still have to prove yourself" and "make the educational program even better," said Assumption principal Karen Russ.

For example, she noted that in the four years since Assumption received the previous award in 1989, the education department was looking at "what have you done to improve" in meeting the needs of students and "for verification that we had reached out to the community," by presenting workshops, seminars and inviting people from the community to observe the school.

A school may apply for the award only every four years.

St. X principal Perry Sangalli said the award still means a great deal, even though St. X also received it in 1984 and 1989.

"It reinforces what we are doing, that we are on the right track in terms of what Catholic education and national high school education is supposed to be about," said Sangalli. Also, he added, it "challenges us to try to maintain the level of quality and develop further the programs that we offer."

Sangalli said St. X is one of two schools this year receiving the award for the third time.

The blue-ribbon awards (which include a flag and a plaque) are scheduled to be presented at a luncheon tomorrow. Other events include a meeting at the White House today for school representatives.

Representing Assumption in Washington will be Ms. Russ, Beverly McAuliffe, assistant principal, and Mary Lee McCoy, chairperson of the English department. St. X will be represented by Sangalli and Mr. and Mrs. John Hoeck. Hoeck is a member of the school's board of directors.

Both Ms. Russ and Sangalli said nomination for a Blue Ribbon School is an extensive process that involves the school's completing a lengthy and detailed application, followed by an onsite visit by education department representatives.

"It is a very thorough study of your school, looking at how well you meet the needs of students," academically as well as through personal growth and extracurricular activities, Ms. Russ said. The on-site visit is to verify what a school states in its application, she added.

She said the on-site visit includes meetings with groups of teachers, students and parents.

Both principals said the award is one of the highest a school can receive.

Ms. Russ said the award is important because it is based on a school's entire program and takes into account meeting the needs of students of "all levels of ability."

Sangalli said the award is noteworthy with the emphasis now on educational reform. "It is validation of some quality programs that are in place, that are already cutting-edge type programs," he said.

ANCHOR SPEAKS THE TRUTH ABOUT DECLINING JOURNALISM STANDARDS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. PORTER. Mr. Speaker, CBS News anchor Dan Rather made some rather startling remarks recently before his radio and television colleagues—he told them they were putting ratings ahead of responsible journalism. When a leading figure in television news speaks out in this way, you know there's a problem.

He criticized the tendency of news programs to compete not with other news shows, but with entertainment programs, by emphasizing—in his words—"dead bodies, mayhem, and lurid tales."

Sadly, he's right. News judgment isn't driving news content, Mr. Speaker—marketing departments are. They have found that horror, conflict, and exploitation sells, and they're selling it to the American people.

This profit-centered philosophy generates especially misleading and irresponsible reporting on Congress and government, emphasizing combat politics and ignoring the difficult issues of process and content. The result is growing cynicism and the steady erosion of faith in our governmental institutions.

Mr. Speaker, Unfortunately—sadly—Dan Rather, was right on target. He has sent a needed wake-up call to his network colleagues. I hope they're listening.

TRIBUTE TO SPERRY'S DEPARTMENT STORE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. BONIOR. Mr. Speaker, I rise today, with pride, to announce the centennial celebration of Sperry's Department Store in Port Huron, MI. For those of you who have not yet had the good fortune to visit the wonderful city of Port Huron, you should know that it is an especially lovely and livable community. Sperry's Department Store in the heart of downtown reflects the same traditions and values as its home town.

When J.B. Sperry arrived in Port Huron in 1893, he purchased the stock of a failed store. Beginning with little more than a dream and the willingness to work hard, the plucky founder slowly built a prosperous business. The simple retail store thrived on the growth of the city itself as well as the dedication and vision of Mr. Sperry. In 1923, Sperry's Department Store moved to its current location where it anchors a key corner on Huron Avenue.

Sperry's has always represented quality and service during its long history. Over the years, patrons have been able to depend upon the store's commitment to excellence. Generations of families have shared the experience of shopping there. Loyal customers were certain to find a friendly smile from the staff, capable assistance, and satisfaction with their purchases.

That same spirit extends to community involvement and civic participation. From the Santa Claus parade to redevelopment, Sperry's has consistently promoted the viability of downtown. Through bad years, temptations to leave, and debilitating road and bridge closings, Sperry's has rededicated itself to the city. When other stores left, they remodeled and expanded merchandise selection.

I ask my colleagues to join me in saluting Sperry's for 100 years of success and service. This vital and growing business now embarks on its second century. I have every confidence that the years ahead will see a glowing future for the city of Port Huron and Sperry's Department Store.

CONGRATULATIONS TO CHILDREN'S HOSPITAL MEDICAL CENTER

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. MANN. Mr. Speaker, please join with me in recognizing November 13, 1993, as Cincinnati Children's Hospital Medical Center Day. On this date, a new hospital tower will be dedicated at the center. For the past 110 years, Children's Hospital in Cincinnati, OH, has been dedicated to helping infants, children, and adolescents throughout the Nation. Within the past 60 years, Children's Hospital has worked diligently to advance medical knowledge and pediatric care through clinical and laboratory research.

Children's Hospital Medical Center serves more patients than any pediatric emergency room and has the largest pediatric residency program in the Nation. Through excellence in diagnostic capabilities, medical care, and surgical expertise the medical center has earned an enormous amount of respect from people throughout the medical field.

Children's Hospital Medical Center recognizes its increasing responsibility in helping resolve complex health care problems. Children's Hospital also realizes that the everyday health care problems such as the common cold are just as important. By opening up the hospital tower, the quality of patient care services for the seriously ill and injured children will become even better.

Please join me in offering Children's Hospital Medical Center wholehearted congratulations on the dedication of the new hospital tower and the celebration of Children's Hospital Medical Center Day on November 13, 1993.

THE SIEGE IN KASHMIR

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. QUINN. Mr. Speaker, I rise today to bring to the attention of this body, the horrifying events currently occurring in the Indian state of Kashmir.

As we commence today's legislative business, a deadly siege continues around the holiest mosque in Kashmir. More than 200 men, women, and children are inside the mosque trying to prevent the desecration of a holy relic by Indian security forces. These same men, women, and children are trapped with little food, and few medical supplies.

On October 15, Indian forces fired without warning upon peaceful Kashmiris demonstrating against the siege. During the massacre, more than 40 were killed, and 200 wounded. Eyewitnesses have stated that as the demonstrators marched toward the mosque, they were fired upon by security forces. Even those attempting to aid the wounded and those trying to surrender came under fire.

Since the renewal of the Moslem separatist movement in late 1989 more than 1,700 Kashmiris have been killed.

I urge President Clinton to pressure the Indian Government to end its siege immediately.

A SALUTE TO THE TRINIDAD ALL-STEEL PERCUSSION ORCHESTRA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. TOWNS. Mr. Speaker, it is my pleasure to acknowledge the efforts of the Trinidad All-Steel Percussion Orchestra [TASPO] for its monumental contribution as musical pioneers. In 1951, this group introduced steel band music to the international music world. This weekend in Brooklyn, NY, an all-star thank

you concert will be held at the Whitman Hall, Brooklyn Center for the Performing Arts, Brooklyn College. The concert will feature contemporary stars, who will salute these musical trailblazers.

The story of TASPO is legend throughout the Caribbean world. Their initial appearance at the Festival of Britain in 1951 marked the beginning of a fledgling musical movement and sound that is now synonymous with the Caribbean. Of the original 10 members of the band 8 are still alive. The "Thank You, TASPO" concert is a benefit for the Trinidad and Tobago Folk Arts Institute, a research-oriented think tank whose focus is the indigenous folk culture of Trinidad and Tobago.

It is my pleasure to acknowledge the contributions of this remarkable and innovative group.

SMALL BUSINESS: THE BACKBONE OF OUR ECONOMY

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. KYL. Mr. Speaker, small business is the engine that drives our Nation's economy. I am not alone in thinking this, since this week's issue of Forbes magazine says that smaller companies have created virtually all of the country's new jobs.

In its annual selection of the "200 Best Small Companies in America" Forbes ranks two companies located in Phoenix, AZ, and I recognize them today. Swift Transportation is one of the largest trucking companies in the State of Arizona, and Three-Five Systems manufactures and distributes electronics. These and the other 198 companies have the best job-and wealth-creating possibilities in the small business world, according to Forbes.

Small business employs almost 60 percent of the private work force and contributes 44 percent of all sales in the United States, along with 38 percent of the gross national product. Arizona's economic health is dependent on small businesses, and the national economy relies on them as well. The small business sector is expected to generate 75 percent of all new jobs in the next 25 years.

I congratulate Swift Transportation and Three-Five Systems for their accomplishments and wish them every success in their future endeavors. I applaud the efforts of each small business that is working to create the jobs and economic growth that will keep America competitive. Small businesses have the vision, energy, and innovation that will improve our economy and put us back on the road to economic growth.

CONGRESSIONAL MEDAL OF HONOR PENSION INCREASE, H.R. 3341

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3341, legislation that will increase the monthly pension provided to the recipients of the Medal of Honor from $200 to $400. As a cosponsor of this legislation, I commend the gentleman from Kansas [Mr. SLATTERY] for introducing this worthwhile legislation. Under the leadership of the ranking member, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, the gentleman from Arizona [Mr. STUMP] the House Committee on Veterans' Affairs has shown a true commitment to the issues that affect our Nation's servicemen and women.

I am proud that the Members of the 103d Congress have approved a number of significant legislative initiatives that will positively benefit our Nation's veterans. However, we must continue to work on behalf of the servicemen and women who have given so much to our Nation. As a nation, we, must support the recipients of the Congressional Medal of Honor. Their valiant service has earned them the highest military decoration that the United States offers. Furthermore, considering that the monthly stipend has not been increased since 1978, I believe that this monthly increase is long overdue.

Mr. Speaker, the approval of H.R. 3341 is just one more way that we will continue to support our Nation's veterans who have given so much for the freedom and the liberty that we all enjoy.

A REPUBLICAN SWEEP

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, yesterday the people of New Jersey, Virginia, and New York City elected Republicans to their highest offices. This electoral sweep comes on the heels of Republican victories in special elections for the Senate in Texas and Georgia, as well as mayoral wins in two Democratic bastions, Jersey City and Los Angeles.

While I am pleased that Republicans nationwide did well last night, I am especially gratified with Christie Whitman's victory over New Jersey Governor Jim Florio. Throughout that campaign, most of the press and pundits were predicting a Florio win. The polls even had Christie trailing Mr. Florio right up until election day. Last night, however, the people of New Jersey proved the polls, press, and the pundites wrong.

The voters of New Jersey also returned Republican majorities to the State assembly and State senate, ensuring effective government in Trenton. Working with her Republican colleagues in the State legislature, I am confident that Christie will be able to turn New Jersey around after 4 years of economic stagnation. I wish her well.

THE 75TH ANNIVERSARY OF PORT OF TACOMA

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. DICKS. Mr. Speaker, I want to join my colleague, Mr. KREIDLER, from the State of Washington in honoring the Port of Tacoma on the occasion of its 75th anniversary.

The history of the city of Tacoma is very much connected to the development of one of the west coast's and the Nation's finest deepwater ports. In its early days, Tacoma was a hub of commerce because of its geography and because of its location as the terminus of the Northern Pacific Railroad. It continues today as one of the most modern and efficient ports in our Nation.

Mr. Speaker, as the Representative of the Tacoma area and the Port of Tacoma throughout the past decade of growth and development, I want to take this opportunity to mention to my colleagues how important shipping and international trade has been to the sixth Congressional District—and now also to the new 9th Congressional District of Washington.

The Port of Tacoma was established in 1918 at Commencement Bay, and over the years has grown from its original 240 acres to its current size of 2,400 acres. Today it is a highly diversified port, handling containerized cargo, lumber and forest products, automobiles, ores, and electronics. The Port of Tacoma is now the 6th largest and the fastest growing container port on the west coast and the major engine of economic growth in Pierce County and southern Puget Sound.

This growth has created and sustained jobs in our State for three-quarters of a century, and today I believe it is appropriate that we recognize this important milestone here in the House of Representatives as it is being celebrated in the city of Tacoma.

ADMINISTRATION'S REFORM OF THE PENSION BENEFIT GUARANTY CORPORATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GOODLING. Mr. Speaker, while the issue of health care security has lately riveted the attention of the Members of this body, I want to also bring to the attention of my colleagues another initiative which is aimed at securing people's hard earned pensions. This proposal, which has been advanced by the administration to reform the Pension Benefit Guaranty Corporation [PBGC] single-employer termination insurance program, the Retirement Protection Act of 1993, takes an important step in the direction of addressing the well documented problems of the PBGC.

The PBGC was created in 1974 under ERISA title IV in order to guarantee the private pension benefits of employees and retirees in the event their company goes bankrupt and leaves their pension plans less than fully funded. In PBGC's 1992 financial statement the

single-employer fund established to make up any pension shortfall is said to be underfunded by over $2.7 billion. Subcommittees of both my Committee on Education and Labor and the Ways and Means Committee have held a number of oversight hearings to determine the true extent of PBGC's problems and the remedies that may be needed to avoid such a taxpayer bailout.

At these hearings, the U.S. General Accounting Office [GAO] testified that the PBGC has made significant progress in financial management in the last several years under the leadership of the former PBGC executive director, James B. Lockhart III. However, the GAO considers more important the fact that problems beyond the PBGC's control continue to mount, posing multibillion-dollar risks, thus creating a need for Congress to act.

The current cash flow accounting used in the Federal budget to measure the effect of PBGC's evolving obligations is also inadequate. For example, the number of PBGC insured plans has already declined 43 percent, so that only 67,000 defined benefit plans remain in the system. This presents an additional challenge to maintaining the program on a self-supporting basis that is maintained solely from the premiums levied on all covered defined benefit plans, and initially set in 1974 at $1 per plan participant, to pay for any PBGC shortfall. In fact, per capita premiums have escalated to $19 for fully-funded plans and to $72 for badly funded ones. These 2,000+ percent increases have not stemmed PBGC's flow of red ink. The increasing risk which has to be carefully weighed is that merely increasing premiums on the well-funded plans may accelerate their exit from the system, thus shrinking the tax base on which to levy the premiums necessary to finance present and future deficits.

In response to PBGC's current problems, the administration's reform proposal targets improved funding security for the participants covered in underfunded pension plans. Broad incentives to encourage faster funding for underfunded pension plans are at the heart of the reform proposal. Restrictions on certain transactions which would adversely affect seriously underfunded plans are also included. In addition, the proposal would require underfunded plans to provide pension participants with pertinent information regarding the plan's current funding, the role of the PBGC, and the status of individual benefits.

I commend the administration's efforts to increase the protections for our Nation's pensioners. Without timely and major reform to the PBGC insurance program, the retirement income security provided by our private pension system will continue at risk. For this reason, I urge my colleagues to closely study the several legislative approaches that have been introduced so that the debate over this important retirement income security issue can proceed expeditiously.

NISSAN, WORKERS DESERVE RECOGNITION

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GORDON. Mr. Speaker, I rise today to congratulate the 5,800 Tennesseans who work with Nissan Motor Manufacturing Corp. U.S.A. in Smyrna, TN.

Nissan's plant in my home State of Tennessee has recently been recognized on two counts: As a manufacturer of an outstanding product and as a model employer.

The Nissan Altima, which is built in Tennessee, was named the 1993 Import Car of the Year by Family Circle, the world's largest-selling women's magazine. The Family Circle Car of the Year Award is the only consumer magazine-sponsored automotive award program based entirely of the opinions of new car buying families. The thousands of carowners who participated in Family Circle's survey said the Altima is the import car that best meets the needs and standards of American families. The Altima was a winner in the survey, which rated its performance, safety, appearance, value, durability, space, comfort, and suitability for intended use.

I agree with Jerry Benefield, president and CEO of the Smyrna plant, who said when he accepted the award:

I'm proud of our employees, who make this award possible. It's gratifying to know that the Import Car of the Year is made right here in middle Tennessee. We know we build a high-quality product in Smyrna. This award helps to confirm that message to the rest of the world.

Nissan is rightly proud of its high-quality vehicles and of its place in the middle Tennessee community. Last month, our Governor presented Nissan an award from the Tennessee Committee for Employment of People with Disabilities. The Employer of the Year Award honored Nissan for its efforts in recruiting and hiring people with hearing disabilities. In its nomination, the League for the Hearing Impaired in Nashville said:

Nissan goes out of its way to make its hiring and work environments encouraging to all disabled applicants, regardless of disability.

Nissan and its employees work hard to make the company a place where excellence is the goal, both among people's lives as well as on the shop floor. These awards demonstrate that their efforts are well spent.

I congratulate the employees of Nissan Motor Manufacturing Corp. U.S.A. for both of these outstanding accomplishments. They deserve our praise.

CENTENNIAL OF JONES, DAY, REAVIS, AND POGUE

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. FINGERHUT. Mr. Speaker, I rise today to call attention to a very special event in the Greater Cleveland community: The centennial anniversary of the founding of the law firm Jones, Day, Reavis, and Pogue. Since its establishment 100 years ago in Cleveland, OH, Jones Day has lived up to its commitment "to deliver the highest quality legal services to each of its many clients." It is due to this commitment that the firm has grown from the single office in Cleveland to 20 offices in 10 countries.

The backbone of Jones Day quite simply is its people. The skilled lawyers and competent staff work together to benefit every client. Many of its lawyers are noted for their excellence. In 1993 one of the partners had the honor of serving as the first woman president of the Ohio State Bar Association.

Jones Day has many clients ranging from large corporations to small businesses, estates, religious institutions, universities, as well as individuals. Because of this diversity of clientele, the lawyers of Jones Day are regularly challenged with interesting issues in assorted practice areas.

Jones Day takes pride in the fact that its attorneys are among the leaders in law firms across the Nation in the application of technology to law practice. The firm has a sophisticated computer network and a voice and data communications system tosupport its facilities. The objective of these systems is to ensure that the lawyers have the resources to provide the most efficient delivery of legal services.

Not only do Jones Day lawyers work for the benefit of their clients, they also work for the betterment of the communities. Jones Day lawyers are encouraged to participate in public service activities, including pro bono work. As a firm, Jones Day undertakes many law-related charitable endeavors that are of general public interest. This work includes volunteering as tutors and mentors at an inner city school through the adopt-a-school program and donating time and money to the United Way.

Were it just for their success in the practice of law, this centennial would simply be noteworthy. But Jones Day means much more to the Greater Cleveland community. The lawyers of Jones Day, recognizing their unique role in our community, have been in the forefront of every major civic and governmental activity of recent decades. Time and again, they have given of their time and financial resources for the greater good. It is for this reason that their centennial is a celebration that is worthy of notice by the Congress of the United States.

These prominent features of Jones Day combine to make it one of the foremost law firms, not only in the United States, but in the world. Perhaps this is why the National Law Journal's May 1993 survey cited Jones Day as the second most used law firm among the Nation's 250 largest corporations in 1992. I hope that you will join me in congratulating Jones Day on its first 100 years and wishing it well for the next 100 more.

CALLING FOR AN END TO THE ARAB BOYCOTT

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. SWETT. Mr. Speaker, the Arab League economic boycott of Israel has been a tool of economic warfare directed at that nation since its birth in 1948. To call an end to this belligerency, today I joined with some of my colleagues in introducing legislation which expresses the strong conviction of Congress that the Arab League boycott of Israel must be ended. We also urge that in every appropriate international trade forum the U.S. Government continue to raise the boycott as an unfair trade practice.

The Arab League boycott seeks to isolate the Israeli economy through primary, secondary, and tertiary boycotts. The damage to Israel's economy caused by this boycott is incalculable, but the cost is substantial. While the primary level of the boycott prohibits import of Israeli-origin goods and services into boycotting countries, the boycott has been applied at secondary and tertiary levels, which acts as a barrier to U.S. exports. Even Kuwait, where we risked and lost American lives during the Persian Gulf war, has not lifted its application of the boycott.

Mr. Speaker, this far-reaching effort has hurt Americans. In trying to destroy Israel's economic and military viability, theArab League also directs its boycott at any company that has business contacts with Israel. American companies, forced to choose between doing business solely with Israel or with the Arab countries, have suffered indeterminate loss of opportunity and potential employability of Americans. United States companies consistently have felt the economic hardship of this secondary and tertiary level of boycott, with over 400 American firms believed to be on an Arab blacklist.

The signing of the Declaration of Principles between the Israeli Government and the Palestine Liberation Organization and the ongoing peace talks between these two principles and other Arab countries signals a new era of cooperation in the Middle East. The climate surrounding these events makes this an opportune time to call on the Arab countries to life the economic boycott against Israel as a tangible symbol of their intention to keep the commitment they have made to establish a just and lasting peace in this region.

True peace in the Middle East can only be established and endure if there is economic cooperation in the region. This new cooperation must be extended to include trade relationships. Currently, the West Bank and Gaza survive solely on Israel's economy, the only nation that trades with this area and the country which the Arab League seeks to isolate. The continuation of this economic warfare will be a severe impediment to the prosperity of the region.

So far, the Arab response to a call for ending the boycott has been less than favorable, ranging from Syria's call for an expansion of the Arab blacklist to statements by the PLO that the boycott cannot be lifted without a unanimous vote by the Arab League. This Arab entrenchment makes one question the sincerity of their peace commitment.

Mr. Speaker, Israel has taken substantial risks in pursuit of peace, and it has assumed those risks in no small part because of its confidence in the unwavering support of the United States. To follow through with our commitment, I urge all of my colleagues to join me in supporting this legislation and demand an immediate end to this economic warfare.

Now is the time to take advantage of the recent advances toward peace and bring a long overdue end to this unfair practice. Ending the Arab economic boycott against Israel must be a top priority of Congress and the administration to secure peace in this region.

COMBATING ETHNIC INTOLERANCE IN ROMANIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. HOYER. Mr. Speaker, earlier this month, the Congress voted to support the administration's request to grant most favored nation [MFN] trading status to Romania. I was among those Members who spoke in favor of MFN when it came to the floor for debate on October 12, 1993.

I stressed at that time, however, that I would be monitoring developments carefully, as I fully expected progress in Romania's democratization process and human rights performance to continue. As co-chairman of the Helsinki Commission, I attach particular importance to Romania's compliance with the human dimension commitments of the Conference on Security and Cooperation in Europe, the CSCE. This includes the commitment to "take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property."

Respect for this commitment is particularly urgent with regard to Romania's substantial Roma—Gypsy—population. Over the past 3 years, at least 20 attacks on Roma communities have occurred. Most recently, on September 20, 1993, in the village of Hadareni, an altercation between members of the Roma—Gypsy—and non-Roma community in which one non-Roma villager was killed led to the lynching of three Roma individuals and the destruction of 13 Roma houses by several hundred non-Roma villagers. Most of the more than 100 Roma who lived in the village fled in fear. Particularly troubling are allegations that the deputy mayor of Hadareni, Gheorghe Bucur, played a role in instigating the assault.

The Government of Romania promptly issued a statement expressing serious concern over these events, and noted that measures have been taken to investigate the case and bring incriminated persons to trial. The Government also offered financial support to rebuild the homes that had been destroyed, and to school and lodge the children of the affected families. I commend the Romanian authorities for their attention to this matter, and will follow with interest the proceedings of the investigation. In this regard, I appreciate the efforts of the Romanian Embassy to keep me informed of the latest developments. I have also been told that the head of the local police department has been dismissed for his failure to coordinate an effective response.

I am deeply concerned, nonetheless, by certain elements of the Government response. The statement opens, for example, by asserting that the behavior of Roma families illegally settled in the area, "culminating in the cold blood killing of a young man, stirred the spontaneous reaction of the other inhabitants of the village." Such charged language conveys the strong impression that the Romanian Government considers the Roma community itself to bear responsibility for the attack it endured.

I am aware that in previous cases, Romanian authorities have offered to work with local Roma organizations and representatives to improve community relations and to protect the rights of Roma. Such constructive approaches are essential, but the gravity of this most recent incident indicates a need for renewed commitment and cooperation. I would urge my Romanian colleagues to reassert publicly and persistently that acts of collective punishment and vigilante justice can never be acceptable in a state governed by the rule of law; to ensure that attacks on Roma communities are clearly and publicly condemned by political authorities at all levels; to speed the investigations of violent attacks against Roma and to bring the perpetrators to justice; and to recognize and condemn the poisonous effect that negative stereotyping can inflict not just on the targeted community, but on society as a whole.

At this difficult time in Romania's transition to democracy, and given the destabilizing conflicts in the region, respect for individual human rights becomes all the more critical. I look forward to continued dialogue and cooperation from my Romanian interlocutors, and urge that the aggressors in this case will be brought swiftly to justice.

THE 75TH ANNIVERSARY OF PORT OF TACOMA

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. KREIDLER. Mr. Speaker, today the Port of Tacoma, located in my district, is celebrating its 75th anniversary as a public port authority.

As early as 1871, sailing ships carried lumber from Tacoma's waterfront to foreign destinations. The Port of Tacoma became a major shipping center after Tacoma became a major railhead in 1887. A public port authority was not established, however, until 1918.

Tacoma came to be known as the Lumber Capital of the World. Even today, the Port of Tacoma is America's leading forest products port by value.

In the 1970's, Tacoma attracted its first container shipping customers. In 1983, Sea-Land signed a long-term lease with the port and Tacoma took off as an intermodal port. Today,

the Port of Tacoma is the sixth largest container port in North America and one of the top 25 container ports in the world.

Two of the keys to the Port of Tacoma's success have been its extraordinary efficient longshore work force and its use of state-of-the-art intermodal technology. The Port of Tacoma is now implementing its 2010 plan which will enable the port to expand its terminal facilities to meet the challenges of the 21st century.

I am proud of the role played by the Port of Tacoma as an economic engine for my congressional district and the entire Puget Sound region. I salute the port on its 75th anniversary and wish it continued success in the years ahead.

HERBERT AND MARY MILLER CELEBRATE 40 YEARS OF WEDDED BLISS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. POSHARD. Mr. Speaker, in an era when many are concerned with the demise of the institution of marriage and the family unit in the United States, I rise today to honor Herbert and Mary Isabelle "Belle" Miller of Pope County, IL, on the occasion of their 40th wedding anniversary. Herbert and Mary were married November 8, 1953, in Nahaunta, GA. Herbert and Mary will gather with their children, Tony and Debbie, and the rest of their family and friends on November 8, 1993, to celebrate this joyful occasion.

Herbert and Mary have actively contributed to life in southern Illinois, participating in social, civil, and religious affairs. Herbert is retired from Central Illinois Public Service Co. with 18½ years of service, and International Brotherhood of Electrical Workers as a business agent for 18½ years. Belle has dedicated her life to raising her children and being a homemaker.

Although, this anniversary may not make the national headlines, I believe we all could benefit from the fine example set by Herbert and Belle. Their commitment to marriage and family has prevailed through good times and bad. This feat, no doubt, required a tender balance of respect, humor, love, and affection. I join with the family and friends of this wonderful couple in celebrating this joyous occasion. To Herbert and Pauline, my heartfelt thanks for all you have done for all those whose lives you have touched.

RECOGNITION OF THE ACHIEVEMENTS OF MS. ESTELA M. DE LA CRUZ, MR. ARIEL ANTONIO RODRIGUEZ, AND JUDGE MARIANNE ESPINOSA MURPHY, MEMBERS OF THE HISPANIC BAR ASSOCIATION OF NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate Ms. Estela M. De La Cruz of Fort Lee, NJ, who is being sworn in as the new president of the Hispanic Bar Association of New Jersey. Ms. De La Cruz brings with her the experience of a long and notable career in the practice of law in New Jersey.

A graduate of the Rutgers School of Law in Newark, Estela has been associated with three prominent New Jersey law firms, and has built a reputation as an outstanding attorney. Her dedication to her profession and to the community is commendable.

Estela has served since 1992 as a member of the Governor's Commission on Racism, Racial Violence and Religious Violence, and as a member of the Supreme Court of New Jersey Fee Arbitration Committee for Bergen County, district II–B. She also serves as a trustee of the United Way of Essex and West Hudson C÷ounties. During her upcoming term as president of the Hispanic Bar Association of New Jersey, I expect that Ms. De La Cruz will continue to grow as a leader in the legal community.

Mr. Speaker, the Honorable Ariel Antonio Rodriguez of North Bergen, NJ, is another notable member of the Hispanic Bar Association. Through his work he has made significant contributions to the State of New Jersey and Hudson County.

Judge Rodriguez, born in Cuba, is fluent in Spanish, English, and French. He received his juris doctor from Rutgers School of Law in Camden and has furthered his legal education through various prestigious universities throughout the country, including Northwestern University School of Law and Harvard Law School.

Judge Rodriguez has considerable experience, including 8 years as a partner at Iglesias & Rodriguez, Esqs. He has dedicated many years of his professional career to the State of New Jersey, and presently is serving the Superior Court of New Jersey in vicinage VI. He has been affiliated with the Hudson County Community College where he instructed Law in the Criminal Justice Program and with the Hudson County Prosecutor's Office where he served as an assistant prosecutor.

Judge Rodriguez is an active member of various professional and legal organizations. He is a member of five Supreme Court committees, as well as, a member of the advisory board of editors of the Bilingual Dictionary of Criminal Justice Terms and the State Bar Committee on Effective Dispute Resolution.

Knowing of Judge Rodriguez's commitment and dedication to Hudson County, the State of New Jersey and the Hispanic community, I am confident he will continue to strive for excellence and that he will excel in his pursuits.

Mr. Speaker, Judge Marianne Espinosa Murphy of Chatham, NJ, has excelled beyond most in her career, achievingpositions in the private and public sectors. In 1986 she was appointed by Governor Thomas Kean to the Superior Court of New Jersey in Morris County where she continues to serve with distinction.

Judge Murphy graduated from Rutgers Law School in Newark and proceeded to serve as a law secretary to the Honorable Richard J. Hughes, the chief justice of the Supreme Court of New Jersey. She has served as the deputy attorney general for the department of law and public safety where she prepared the position paper for the attorney general on the death penalty following Gregg versus Georgia. She also served as assistant counsel to the Prudential Insurance Co. and as the assistant U.S. attorney in the Criminal Division District of New Jersey.

Judge Murphy's unparalled experience and commitment merit recognition, I am sure she will continue to serve the State of New Jersey in some future capacity.

I am confident that my colleagues join in recognizing the achievements of these distinguished members of the Hispanic Bar Association of New Jersey and join me in saluting all the members of the Hispanic Bar Association of New Jersey for their service and dedication to the community at large.

CHIEF CORNELIUS J. BEHAN RETIRES AFTER 47 YEARS OF SERVICE IN THE LAW ENFORCEMENT PROFESSION

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, I rise today to recognize Baltimore County Police Chief Cornelius J. Behan who will be honored on November 7, 1993, as he enters retirement from his 16 years of dedicated service to the Baltimore County Police Department and the citizens of Baltimore County, as well as his 47 years in the law enforcement profession.

In his 47 years of law enforcement, Chief Behan has added a new dimension to the law enforcement profession. He is a man who believes the work of the police is equatable to that of a priest. In terms of mission, they both are revered as holding true to the ideals of honesty and moral rectitude, and are both responsible for the welfare and propriety of the community. Chief Behan has been exemplary in fulfilling this role.

The innovations Chief Behan enacted have become paragons for community policing techniques and have gained him international prominence. His influence has reached far beyond Baltimore County, as he has become one of a handful of policemen who set the national agenda for local departments around the Nation and abroad. In a Baltimore Sun article, John E. Eck, executive director of the Police Executive Research Forum, is quoted as saying, "He'll leave a major legacy in the profession of law enforcement."

Among his major accomplishments, Chief Behan fought tremendously hard to establish responsible gun control laws. In 1988, he carried his gun-control campaign to the Maryland General Assembly, where he was influential in shaping the State's new law restricting the purchase of handguns. To cope with the changing patterns of crime and community development in the 1980's and 1990's, he reorganized and modernized the Baltimore County Police Department with innovations in training, management style, crime-prevention and fear-reduction programs, community policing implementations, and advanced technical support. These innovations transformed the department into a crime-fighting and crime-prevention organization. Yet, Chief Behan cites his most important accomplishment as, "developing the 1,400 member Baltimore County department to a point that would allow someone from within to succeed him." This goal was achieved when Col. Michael D. Gambrill, a veteran of the Baltimore County Police department, was sworn in as the new chief on September 20, 1993.

Mr. Speaker, my fellow colleagues, it is with great pleasure and pride that I congratulate Chief Cornelius J. Behan upon his retirement from 47 years of devoted service to law enforcement. His work with the Baltimore County Police Department is most deserving of commendation. I extend my best wishes to Chief Behan for many more years of continued success and happiness.

A STRONG MESSAGE TO THE MIDDLE EAST

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. DEUTSCH. Mr. Speaker, today, I am introducing legislation which calls on the nations of the Arab League to end their boycott of Israel. The Arab boycott of Israel was instituted in 1948, its motive to isolate Israel and to deny her very existence.

The new commitments to cooperation that today abound in the Middle East must be backed up by concrete action. By lifting the boycott the nations of the Arab League demonstrate their good faith effort to secure a lasting resolution of tensions and hostilities.

It is ironic that the only nation in the Middle East that trades with the West Bank and Gaza Strip is Israel. The West Bank and Gaza's mainly Palestinian residents survive on an economy whose lifeline is the nation whose existence the Arab League seeks to deny. If the nations of the Arab League continue with their boycott, they put the economic prosperity of the West Bank and Gaza on the line.

Without a stable economy, the areas soon to be under PLO control are likely to fall to the influences of terrorist organizations. Daily, we hear about the killings of Israeli soldiers and Palestinian residents who support the accord. And, yesterday the first plot to assassinate Chairman Yasser Arafat was uncovered from within his inner circle.

The stakes in the peace agreement are very high, and a strong showing of support is critical to its survival. Economic revitalization is the cornerstone of the Declaration of Principles signed by Israel and the Palestine Liberation Organization on September 13, 1993. If there is true support for this agreement, then lifting the boycott is the next logical action.

Recently, I had the opportunity to participate in a discussion with President Mubarak of Egypt. While Egypt does not actively participate in the boycott, I raised the issue of the boycott's effect on further negotiations and a lasting Middle East peace. The President's response left me dumbfounded. He stated that there was, in practice, no boycott of Israel, and the only aspect of the boycott that remained was the daily rhetoric that is the fodder of official public statements.

We are now in the 45th year of the Arab boycott and, Mr. Mubarak is correct, that the rhetoric used to enforce the psychological alienation of Israel has not changed. However, his statement that there is no longer an economic boycott of Israel is altogether false.

On October 29, the New York Times reported rumors of a lucrative natural gas deal between Israel and Qatar, one of the nations of the Arab League. However, the Qatari Oil Minister, when asked to publicly confirm the rumor denied that there was any deal in the works. He was quoted as saying that economic relations are not possible while the Arab boycott against Israel remains intact.

In the early 1950's, the United States was drawn into the economic fray of the boycott when the Arab League chose to blacklist firms worldwide which did business with Israel. To this day, many of the names on this list are U.S. companies. On a quarterly basis, the Department of Commerce compiles figures on the number of letters that U.S. firms receive asking that they comply with boycott regulations. Under U.S. law, providing evidence of compliance with the boycott is illegal.

Astonishingly, the United States counts among its allies many of these nations which intentionally and indiscriminately damage U.S. commercial interests abroad. And yet, until now the U.S. Government has brushed aside this issue, and to date, there has been no diplomatic price to pay. The time for allowing these nations to deliberately harm U.S. economic interests abroad must end.

As the discussion with President Mubarak came to an end, I approached him with a list of U.S. firms that were suffering under the Arab boycott. He had no real response to the evidence that confirmed the boycott was more than mere rhetoric.

If the framework of the peace agreement is to survive the difficulty of negotiations that are to follow, there must be a unanimity of commitment among the United States, Israel, and the Arab nations. To this end, the Arab League boycott of Israel is a serious impediment that strikes a blow of no confidence.

I ask my colleagues to join me in sending a strong message to all of the nations of the Middle East. As American lawmakers, we will no longer tolerate American allies holding U.S. firms hostage to a boycott which they can not and will not support. If the Arab nations support peace, then the boycott of Israel must be lifted.

VIOLENCE ON TV

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to bring to the attention of my colleagues an issue that we shouldn't need to be discussing on the floor of the House of Representatives—a television cartoon.

It has been reported that the cartoon in question may have contributed to a situation in Moraine, OH, which led to the unnecessary death of a 2-year-old girl. The 2-year-old's brother, who is 5, started a fire in a mobile home earlier last month that led to the tragedy. The young boy watched the MTV cartoon "Beavis and Butt-head," which features two teenagers who comment on rock videos and spend time burning and destroying things. The two characters apparently had stated, "fire is fun." The cartoon is aimed at teenagers and adults but is viewed regularly by many young children because it airs at 7 o'clock in the evening on weeknights.

Regardless of whether there was any connection between the cartoon and the young child's death, one message should be clear: impressionable young children should not receive a message from any source that playing with fire is fun.

Many of the efforts of fire fighters, teachers and parents to warn children about the dangers of fire are diminished and dismissed when messages are sent from TV shows that playing with fire is in anyway acceptable, much less positive.

Mr. Speaker, I am speaking on this topic because I believe that the issue of violence and irresponsible behavior which is perpetuated by certain television shows, especially those that are watched by young people, must be further addressed by Congress.

As the father of two young children, I believe the burden for ensuring that young people will some day contribute positively to society falls on parents such as myself. But the entertainment industry must do its part to not complicate that job, and Congress should encourage it.

My office has been in contact with MTV and the producers of this program should know that there are probably better times than 7 o'clock in the evening to air shows with this type of content and there are better subjects for the show than encouraging young people to play with fire. To MTV's credit, the network has responded by pulling the episodes that promote childplay with fire and by committing to review the format and content of any shows aired that early in the evening. I ask my colleagues to join me and several national fire prevention organizations in calling on MTV to agree to air public service announcements promoting fire safety and hope that they will also respond positively to this reasonable request.

INTRODUCTION OF THE SECURITIES REGULATORY EQUITY ACT OF 1993

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. MARKEY. Mr. Speaker, today, I am pleased to cosponsor, along with Chairman DINGELL, the Securities Regulatory Equality Act of 1993. This legislation responds to the critical need for a clarification of the rules of the road governing the participation by banks in the securities business. Congress can no longer hide behind the fiction that a separation between the commercial and investment banking industries exists. The Glass-Steagall Act has, in salient part, been repealed by the bank regulators, the courts, and the aggressive push by banks into the securities field. The two industries are merging rapidly and substantially, with few if any rules to ensure that investors are not injured in the inevitable collision between two still very different businesses and cultures.

Today, banks' current interest in mutual funds raises with fresh urgency the question of whether investors are being properly protected, whether they understand that converting their CDs into securities offers no guarantees and places their principal at risk, and whether they are properly shielded from the conflicts of interest that may arise when a bank affiliates with a mutual fund. Currently, about one-third of all mutual funds are available through bank channels, and banks are turning increasingly toward proprietary funds for their sales. These are not necessarily bad developments. However, those who purchasefunds at their bank—especially those who abandon the safety of CD's for the higher potential returns of mutual funds—are among the less sophisticated and more vulnerable of the Nation's investors.

The absence of a clear roadmap for how banks should engage in securities activities is increasingly noticeable. But what is lacking above all is a clear delineation of who the traffic cops are whose job it will be to regulate this brave new world of financial juggernauts. For some time now, I have been advocating so-called functional regulation as the best means of ensuring that both bank depositors and securities investors, respectively, are protected. What functional regulation recognizes is that the best agencies to protect banks and their depositors are the experts in bank regulation, the banking regulators, and that the best agency to protect investors is the expert in securities regulation, the Securities and Exchange Commission [SEC].

Currently, regulation occurs somewhat whimsically, along institutional lines. Such regulatory whimsy results in disparate rules for investors depending on what building they choose to enter for purposes of buying their stocks, bonds, or mutual funds. The products are the same, but the rules applicable to their sale may well not be. But whether an investor walks into the bank on the corner or the brokerage branch in the local mall should not affect the quality and substance of the protection he or she is provided.

Accordingly, the bill we are introducing today would require banks that engage in securities activities to conduct them within the established framework for doing so. In addition, our bill addresses certain issues in the securities laws raised by the affiliation of banks with securities firms. For example, the bill prohibits the use by a bank-affiliated mutual fund of a name that is the same as or similar to the name of the bank. The risk of confusion to the investor—the mistaken belief that the product is federally insured or backed by the bank—is substantial if the names are easy to confuse.

I am aware that Chairman GONZALEZ and Congressman SCHUMER have recently introduced legislation that seeks to accomplish some of these same goals. I applaud them for the concern for investors demonstrated by their bill. Their bill does, however, raise important issues about further balkanization of securities regulation by investing in the banking regulators' redundant authority to regulate securities activities—not only of banks but also of related securities entities. While proper disclosure to investors about the uninsured status of their investments is an important leap forward, reinforcing the current mismatched regulatory structure for no defensible policy reason would be a significant step backward. Ideally, the sound ideas to be found in both of these vehicles should be combined, so that better regulation, benefitting all investors, can be the result.

INTRODUCTION OF METRIC HIGHWAY SIGN PROHIBITION ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. WILLIAMS. Mr. Speaker, I recently introduced legislation that will permanently prohibit Federal funds from being spent on changing our Nation's highway signs to metric units, in addition to forbidding the Secretary of Transportation from ordering States to erect metric signs.

The 1988 Trade and Competitiveness Act requires all Federal Government agencies to convert to the modern metric system. It mandated that each agency must begin using the metric system except to the extent that such use is impractical. Suddenly converting all of our highway signs to the metric system is not only impractical, but expensive, unnecessary and potentially dangerous.

The scope of the conversion would be enormous. We are not only talking about changing every 55 mile-per-hour sign on major highways. This policy would force the change of signs marking clearance heights through tunnels and under bridges and overpasses. Every single mile post marker—soon to be kilometer post markers—in the country would need to be moved and renumbered. Distance markers to highway exists or towns and cities would need to be modified. Signs warning of the narrow bridge or lane width would need to be changed. Unnecessary? Try dangerous. Quick—you tell me if your car or truck will fit in a 2.7-meter lane.

Congress has reaffirmed this sentiment in the past. The 1978 Federal Aid Highway Act prohibited the use of Federal funds for metric-only signs—a ban that stood until the passage of the Intermodal Surface Transportation Efficiency Act [ISTEA] in 1991.

My legislation would make permanent the ban on Federal funds to construct, erect or otherwise place any sign which contains metric measurements.

The Department of Transportation is currently gathering comments on no less than three potential policies to change our road signs—and not one of them offers the option of simply saying no to this ill-advised policy. And, it is not far-fetched to imagine a mandate from above to require States to erect the new signs—at State and local expense. We simply cannot afford this. So, this legislation prohibits the Secretary from mandating this change.

Changing over some areas in our daily lives to metric may make sense in some areas. However, modifying our highway signs does nothing to promote international trade. It does nothing to keep businesses in America. It will cause confusion. Some estimates peg the national cost to converting the nations highway signs at more than $200 million. Those dollars can be better applied to fix our crumbling infrastructure. We must permanently stop Federal funds from being spent on such wasteful projects—and ensure the buck does not get passed onto our States.

IN SUPPORT OF H.R. 3340, COLA ADJUSTMENT FOR DISABLED VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3340, legislation that will set a 2.6-percent cost-of-living adjustment [COLA] for compensation payments to veterans with service-connected disabilities. I commend the gentleman from Kansas [Mr. SLATTERY] for introducing this worthwhile legislation, and I praise the commitment that House Committee on Veterans' Affairs has shown to the issues that affect our Nation's servicemen and women. Under the effective leadership of the ranking member, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, the gentleman from Arizona [Mr. SUMP], the 103d Congress has approved a number of significant legislative initiatives that will positively benefit our Nation's veterans.

Mr. Speaker, passage of this legislation is just one way that we, as a nation, will continue to support our Nation's veterans who have given so much for the freedom and the liberty that we enjoy. By providing the cost-of-living increase, we are ensuring what eligible veterans have valiantly earned.

OSTEOPATHIC PHYSICIANS SHOULD BE INCLUDED IN HEALTH CARE REFORM

HON. JAMES A. BARCIA
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1993

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to introduce the Osteopathic Medicine Awareness and Appreciation Act, a House concurrent resolution recognizing the contributions of osteopathic medicine to health care in America.

Many Americans may be unaware of the fact that there are two paths to becoming a complete physician: the allopathic route, denoted by the initials M.D., and the osteopathic route, designated by the initials D.O. Osteopathic physicians are complete physicians, fully trained and licensed to prescribe medication, perform surgery, and all other services within a physician's scope of practice.

In addition to these shared elements between D.O.'s and M.D.'s, osteopathic physicians are dedicated to a holistic philosophy of health care, and receive extra training in the musculoskeletal system, the body's interconnected system of nerves, muscles, and bones that make up two-thirds of its mass. This training provides osteopathic physicians with a better understanding of the ways that an injury or illness in one part of the body can affect another. It gives D.O.'s a therapeutic and diagnostic advantage over those who do not receive additional specialized training. In addition to the traditional art of medicine, an integral component of osteopathic medicine is the utilization of osteopathic manipulative treatment [OMT], a procedure through which D.O.'s use their hands to diagnose injury and illness and to encourage the body's natural tendency toward good health. By combining traditional medical practices with OMT, D.O.'s offer their patients the most comprehensive care available in medicine today.

For more than a century, osteopathic physicians have been filling a unique and vital niche in the delivery of health care in America. Despite the fact that osteopathic physicians constitute only 5.5 percent—about 35,000 osteopathic physicians—of the Nation's physician-manpower, they are often the only physicians in rural areas, as well as those which traditionally have difficulties in attracting and retaining physicians. Osteopathic physicians in fact comprise more than 15 percent of all physicians practicing in communities with populations of less than 10,000 people and 18 percent of all physicians serving communities of 2,500.

In addition, osteopathic physicians serve approximately one out of every seven Medicare and 25 percent of all Medicaid recipients in the United States. Osteopathic physicians also comprise 10 percent of all physicians serving in the military. In all, over 100 million patient visits are made to osteopathic physicians annually.

Further, the unique focus of osteopathic medicine, with its guiding principle of treating the whole person, has rooted the profession in a philosophy which emphasizes primary care and prevention, and has contributed to making the profession one of today's fastest growing segments of the medical professions.

Mr. Speaker, one point on which virtually all experts on health system reform agree is the disproportionately high percentage of recent medical school graduates choosing to specialize in areas other than primary care, and their distribution nationally. Because of this fact, a significant and critical demand for primary care physicians has developed—a trend which will not easily be reversed. For more than 100 years, the osteopathic profession has trained more than 50 percent of its physicians in primary care areas. Today, over 50 percent of osteopathic physicians practice in primary care areas, such as pediatrics, general practice obstetrics/gynecology [OB/GYN], and internal medicine. While osteopathic physicians may choose to specialize, and are represented in all specialty areas, the osteopathic internship requires a unique rotation in internal medicine, OB/GYN, family practice and surgery. This unique educational requirement ensures that osteopathic physicians are first trained as primary care physicians.

Despite these significant contributions to American health care, many Americans remain unaware that there are two types of full physicians in the United States, D.O.'s, and M.D.'s. I am deeply concerned that in the wake of comprehensive health system reform—which may include the establishment of minimum benefits packages, health networks, and other managed care systems—the services of D.O.'s may be unintentionally excluded, causing the eventual demise of an important treatment option for many Americans.

That is why I am introducing this measure, which I strongly urge my colleagues to support. It is my hope that this resolution will provide a significant step toward ensuring that the vital services provided by osteopathic physicians remain available to any American seeking them. In addition, the osteopathic profession is doing something right in the battle to develop high numbers of primary care physicians: it is my hope that the Congress will seek the counsel of the osteopathic profession, and learn from the century-old example that it has set when we address this critical problem.