

## SENATE—Wednesday, July 10, 1991

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

## PRAYER

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

Let us pray:

*Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged \* \* \*—Matthew 7:1,2.*

Gracious, patient Father in Heaven, we have become a nation of scapegoaters and self-justifiers. Most of us blame somebody else for what is wrong; rarely do any of us accept blame. We have become professionals at getting ourselves off the hook, much of the time finger-pointing at somebody else. Meanwhile our Nation suffers economic, political, social, moral, and ethical decay. Wrapping ourselves in a blanket of complacency we observe with apathy and indifference the decline of our culture, our society, our national hopes, while we accuse others of neglecting their responsibility.

Forgive us, merciful, living God, for our personal escapism, our self-justification. Renew us in our sense of the personal obligation of each of us in a true democracy. Help each of us accept our duty and exercise it when and where and how we ought.

In Jesus' name who commanded us to, "Judge not \* \* \*." 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 10, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. KERREY 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 transaction of morning business, for not to extend beyond the hour of 10 a.m., with the Senator from Connecticut [Mr. LIEBERMAN] permitted to speak for up to 5 minutes, and with the Senator from New Jersey [Mr. BRADLEY] permitted to speak for up to 30 minutes.

The Senator from Connecticut is recognized.

## CHINA

Mr. LIEBERMAN. Mr. President, we have all been thinking a lot about China lately as our country considers the contours of our post-cold-war foreign policy, as we worry about our own economic competitiveness, and as we prepare in this Congress to decide now whether to continue customary trade relations with the People's Republic of China.

I rise today to offer the first of two statements on our relations with China. This one will focus on political and foreign policy concerns. On a later day, I hope to discuss economic and trade concerns with China.

Mr. President, the Tiananmen Square massacre left a scar on China's long history and on America's attitude toward China. How ironic that in the same year that Czechoslovakia was experiencing its final deliverance from communism, Beijing had its own Prague spring until that cruel night in early June.

Since then, Chinese leaders have cracked down on their country's nascent democratic movement. Approximately 1,400 people have been sentenced to prison terms or still await trial. Sentences, which range from a few years to more than a decade, lack logic, let alone justice. The Chinese press, which reported the events of the spring of 1989, is again shackled. Some Voice of America programs, which were broadcast without interference before Tiananmen, are now jammed. Church officials have been harassed. Fear is again palpable, particularly in Beijing.

To make matters worse, China may sell ballistic missiles to Syria and Pakistan, and will assist Algeria in

constructing a nuclear powerplant. The missiles and facilities could, at some point, carry or produce weapons of mass destruction.

The frustration caused by these human rights abuses and arms sales is as deep as it is understandable. But as President Kennedy once advised: "The purpose of foreign policy is not to provide an outlet for our own sentiments of hope or indignation: it is to shape real events in a real world."

Shaping real events in a real world is the approach we must follow with China. We are engaged now in an important debate over whether we should stay engaged with China or turn our back on it until it behaves better. For better or worse, our role in the world and China's will continue to force us to remain engaged with this country of more than a billion people whose influence is felt everywhere in Asia and beyond.

China has helped to expel the Soviets from Afghanistan, protected Thailand from Vietnam, and urged a rapprochement between the two Koreas. China's cooperation will be essential if the Cambodian civil war is to end. China still serves as an important counterweight to a possible renewal of Soviet, Japanese, Vietnamese, and North Korean expansionism in Asia. China did not block the authorization to use force against Iraq or South Korea's membership at the United Nations. In these and countless other ways we are inevitably engaged with China in world events which the Chinese have shaped positively and negatively.

Shaping real events also forces us to work with China on environmental issues which are increasingly global. China's use of coal is already a major world environmental problem. As it modernizes and urbanizes, with one-fifth of the Earth's population, China's grim level of pollution will worsen, and that will affect the entire world, including the United States.

China is already one of the major producers of chlorofluorocarbons [CFCS], a major contributor to global warming and ozone depletion. China's consumption of CFCS is projected to rise 12 percent annually during much of the decade because of population growth and increased use of refrigeration. China just signed the Montreal protocol on chlorofluorocarbons [CFCS], but much work remains to be done.

If we remain directly engaged with China, we have the opportunity to influence the next generation of leaders,

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

who offer the prospect of better Sino-American relations. By the end of this decade, China will no longer be ruled by its eight octogenarians led by Deng Xiaoping. These leaders, who still remember vividly the Chinese civil war and the cultural revolution, are obsessed with the fear of disorder. Deng, for example, apparently equates the student idealists of 1989 with the violent bands of young people who wrought havoc across China during the cultural revolution, forcing Deng to flee, and leaving his son paralyzed.

The next generation of Chinese leadership will almost certainly be less paranoid about the outside world and less sensitive to any perceived slight to Chinese sovereignty. For the present rulers, the carving out of Western and Japanese economic spheres in China and the stationing of military expeditionary forces there during the early 20th century were determinative events of their childhoods. The Japanese invasion, one of the cruelest of history, consumed their youth. Even as sophisticated a Chinese leader as former Premier Chou En-lai once told Henry Kissinger that Japan, the Soviet Union, and the United States still had as their ultimate aim the division of China.

Engagement with China will also enable us to support its burgeoning economic reforms, and thereby induce political reforms. The economic reforms, which were started in late 1978 by Deng, have resulted in the privatization of agriculture, the establishment of thousands of market-based industries, particularly in the southern coastal provinces, and the sending of tens of thousands of students to learn science and technology in the west. Nearly half of China's economy is now run along free market lines.

The hardest-line element of the Chinese leadership, led by Chen Yun, opposes these economic reforms. Following Tiananmen Square, this faction tried to roll back the reforms and increase the central government's economic authority and tax revenues. But it was blocked by a coalition of more moderate Beijing and provincial officials, who has vested interests in the reforms and knew they were necessary for China to feed and employ its ever-growing population—about 17 million additional people a year. They appear to have won the struggle over economic reforms. Even the hard-line Premier, Li Peng, promised at the last Peoples' Congress that the reforms would be extended to the poorer interior provinces.

If the interior provinces are being drawn toward the coast, the coastal provinces, China's economic and population heartland, are being drawn toward the outside world. The southern provinces of Guangdong, including the city of Guangzhou, better known in the West as Canton, are already tightly linked with the Hong Kong-Macao re-

gion. The province of Fujian is becoming enmeshed with Taiwan. South Korea's influence is beginning to extend to the Shandong Peninsula. The Japanese economy is also reaching into China's provinces. In all these areas, local leaders are becoming more assertive and less willing to accept Beijing's economic dictates.

As events in South Korea and Taiwan have shown, we should not underestimate the political changes that may evolve out of economic reforms. Cracks are already appearing in the totalitarian structure of Communist China. In contrast with Beijing, provincial leaders were relatively restrained in dealing with the unrest of 1989. Many Chinese dissidents were able to make their way to freedom in Hong Kong with the help of scores of their sympathetic countrymen. The Communist state's propaganda is increasingly ignored, even in the countryside. Western dress and goods are pervasive; a Western education is cherished. All of these changes are revolutionary and suggest that the old Communist China is slowing dying.

We must hope that China's hard-line leaders see that the currents of history are working against a totalitarian state. Unlike a rudimentary, industrial economy, a modern state is too complex to be run by a small group of central planners; it demands decentralization and individual initiative. A modern economy requires extensive outside contracts for educating its young, promoting trade, and obtaining information. A modern state needs a modicum of political support from its educated citizens if they are to work in a productive manner. A modern China needs reform.

Chen Yun and his hard-line faction are reportedly still opposed to economic reform and remain deeply suspicious of the current economic contracts with capitalist Asia and the West. They managed to overturn several plans to release Fang Lizhi, the Chinese astrophysicist and spokesman for political reform at Tiananmen Square, who was a refugee in the United States Embassy for months. The Chen Yun faction argued that China would still face a series of endless demands even if Fang were released, why give into the Americans at all. They believe that the West intends to smother the Communist regime in a web of friendly contacts. While our current policy may not be that coherent, its ultimate design is, indeed, to undermine the Communist regime in such a manner.

Mr. President, the extensive trade China now has with the United States gives us an important tool to use in fostering economic and political reform. The merchants and entrepreneurs of the coastal provinces, and the students and intellectuals of the cities are China's hope and ours. We

must use our economic leverage to help them and to limit Chinese arms proliferation and increase Chinese human rights. We must continue to use that leverage until the Beijing spring that existed before the cruel night in Tiananmen Square returns fully and finally to China's capital.

#### RACE AND CIVIL RIGHTS

Mr. BRADLEY. Mr. President, this is an open letter to President Bush. I hope he will hear it and I hope the American people will listen, too. I hope this letter will put the issue of race relations in a broader context than simply the Supreme Court nomination of Clarence Thomas. I offer this letter recognizing that when a black or white American speaks about race one necessarily speaks for someone else of a different race. That is awkward and subject to misinterpretation. But silence is worse.

DEAR MR. PRESIDENT: In 1988 you used the Willie Horton ad to divide white and black voters and appeal to fear. Now, based on your remarks about the 1991 Civil Rights Bill, you have begun to do the same thing again. Mr. President, we implore you—don't go down this path again. It's not good for the country. We can do better.

Racial tension is too dangerous to exploit and too important to ignore. America yearns for straight talk about race, but instead we get code words and a grasping after an early advantage in the 1992 election. Continued progress in race relations requires moral leadership and a clear sighted understanding of our national self-interest. And that must start with our President.

There is a place and a time for politics. The Willie Horton ad in your 1988 campaign will be played and analyzed by political pundits for years to come.

There is a place and time for leadership. The place for leadership is here—for our people, uncertain and divided once again on the issue of race. And the time for leadership is now.

So, Mr. President, tell us how you have worked through the issue of race in your own life. I don't mean speechwriter abstractions about equality or liberty but your own life experiences. When did you realize there was a difference between the lives of black people and the lives of white people in America? Where did you ever experience or see discrimination? How did you feel? What did you do? What images remain in your memory? Tell us more about how you grappled with the moral imperatives embodied in race relations and how you clarified the moral ambiguities that necessarily are a part of the attitude of every American who has given it any thought—any thought at all.

Do you believe silence will muffle the gunshots of rising racial violence in our cities? Do you believe that brotherhood will be destroyed by candor about the obstacles to its realization? Do you believe ignoring the division between the races will heal it? If you truly want it healed, why don't you spend some of the political capital represented by your 70 percent approval ratings and try to move our glacial collective humanity one inch forward.

Mr. President, you say you're against discrimination. Why not make a morally unambiguous statement and then back it up

with action? At West Point you said you "will strike at discrimination wherever it exists." How will you do that and when? Why not try to change the racist attitudes of some Americans—even if they voted for you—so that all Americans can realize our ideals?

Mr. President, if these concerns are wrong, please dispel them. Please explain the following basis for our doubt.

#### DOUBT ONE—YOUR RECORD

Back in 1964 you ran for the U.S. Senate and you opposed the Civil Rights Act of that year. Why?

I remember that summer. I was a student intern in Washington, D.C., between my junior and senior years in college and I was in this Senate chamber that hot summer night when the bill passed. I remember that roll call. I remember thinking, "America is a better place because of this bill. All Americans—white or black—are better off." I remember the presidential election that summer too, when Senator Goldwater made the Civil Rights Act an issue in his campaign. I came to Washington that summer as a Republican. I left as a Democrat.

Why did you oppose that bill? Why did you say that the 1964 Civil Rights Act "violates the constitutional rights of all people?" Remember how America functioned in many parts of the country before it passed? Separate restrooms and drinking fountains for black and white, blacks turned away from hotels, restaurants, movies. Did you believe that black Americans should eat at the kitchen steps of restaurants, not in the dining room? Whose constitutional rights were being violated there?

Were you just opposing the Civil Rights Bill for political purposes? Were you just using race to get votes?

Did you ever change your mind and regret your opposition to the Civil Rights Act? If so, when? Did you ever express your regret publicly? What is your regret?

When you say today that you're against discrimination, I don't know what you mean because you have never repudiated or explained your past opposition to the most basic widening of opportunity for black Americans in the 20th century, the Civil Rights Act of 1964.

It sounds like you're trying to have it both ways—lip service to equality and political maneuvering against it.

What does your record mean? What have you stood for?

#### DOUBT TWO—ECONOMIC REALITY

Mr. President, over the last 11 years of Republican rule the poor and the middle class in America have not fared well. The average middle income family earned \$31,000 in 1977 and \$31,000 in 1990. No improvement. During the same time period, the richest 1% of American families went from earning \$280,000 in 1977 to \$549,000 in 1990. Now, how could that have happened? How could the majority of voters have supported governments whose primary achievement was to make the rich richer? The answer lies in the strategy and tactics of recent political campaigns.

Just as middle class America began to see their economic interests clearly and to come home to the Democratic party, Republicans interjected race into campaigns, to play on new fears and old prejudices, to drive a wedge through the middle class, to pry off a large enough portion to win.

Mr. President, most Americans recognize that in economic policy Republicans usually try to reward the rich, and Democrats usually do not. I accept that as part of the lore

and debate and rhythm of American politics. What I cannot accept, because it eats at the core of our society, is inflaming racial tension to perpetuate power and then using that power to reward the rich and ignore the poor. It is a reasonable argument over means to say more for the wealthy is a price we pay to "lift all boats." It is a cynical manipulation to send messages to white working people that they have more in common with the wealthy than with the black worker next to them on the line, taking the same physical risks and struggling to make ends meet with the same pay.

Mr. President, I detest anyone who uses that tactic—whether it is a Democrat like George Wallace or a Republican like David Duke. The irony is that most of the people who voted for George Wallace or David Duke or George Bush because of race haven't benefited economically from the last decade. Many of them are worse off. Many have lost jobs, health insurance, pension benefits. Many more can't buy a house or pay property taxes or hope to send their child to college. The people who have benefited come from the wealthiest class in America. So, Mr. President, put bluntly, why shouldn't we doubt your commitment to racial justice and fair play when we see who has benefited most from the power that has been acquired through sowing the seeds of racial division?

#### DOUBT THREE—YOUR INCONSISTENT WORDS

We Americans hold a special trust on the issue of race. We fought one of the bloodiest wars in history over it—brother against brother, state against state, American against American. Our communities and our schools and our hearts have been torn by the issue. We have come too far, Mr. President. We do not need to be torn further. Most Americans who have absorbed our history know the wisdom of Zora Neale Hurston's words that, "Race is an explosive on the tongues of men." Race is most especially an explosive on the tongue of the President \* \* \* or his men.

We have come too far. We need to be led not manipulated. We need leadership that will summon the best in us not the worst.

Yet you have tried to turn the Willie Horton code of 1988 into the quotas code of 1992. You have said that's not what you're doing but as you said at West Point, "You can't put a sign on a pig and say it's a horse."

Why do you say one thing with your statement against discrimination and another with your opposition to American businesses working with civil rights groups to get a civil rights bill most Americans could be proud of. Are you sending mixed signals or giving a big wink to a pocket of the electorate?

We measure our leader by what he says and by what he does. If both what he says and what he does are destructive of racial harmony, we must conclude that he wants to destroy racial harmony. If what he says and what he does are different, then what he does is more important. If he says different things at different times that are mutually contradictory, then we conclude he's trying to pull the wool over someone's eyes.

Mr. President, you need to be clearer, so that people on all sides understand where you are, what you believe and how you propose to make your beliefs a reality. Until then, you must understand that an increasing number of Americans will assume your convictions about issues of race and discrimination are no deeper than a water spider's footprint.

#### DOUBT FOUR—YOUR LEADERSHIP

Racial politics has an unseemly history in America. For only about five decades of the last 220 years have our politicians actively tried to heal racial wounds. Slavery blighted our ideals for nearly a century. Then a burst of hope from 1865 to 1876. Then nearly another century of exploitation and inhumanity including harsh and discriminatory treatment of Hispanics and many other immigrant groups. Then from 1945 to 1980, another burst of hope. Much was accomplished in this last period. But, all of us deep in our hearts know there's more to do.

Demagogues—both white and black—seek to deepen divisions. Misconceptions grow. Fears accelerate. Outlandish egos thrive on the misery of others.

Both races have to learn to speak candidly with each other. By the year 2000, only 57% of people entering the work force will be native born whites. White-Americans have to understand that their children's standard of living is inextricably bound to the future of millions of non-white children who will pour into the workforce in the next decades. To guide them toward achievement will make America a richer, more successful society. To allow them to self-destruct because of penny-pinching or timidity about straight talk will make America a second rate power. And Black Americans have to believe that acquisition of skills will serve as an entry into society not because they have acquired a veneer of whiteness but because they are able. Blackness doesn't compromise ability nor does ability compromise blackness. Both blacks and whites have to create and celebrate the common ground that binds us together as Americans and human beings.

To do that we must reach out in trust to each other. By ignoring the poverty in our cities, white Americans deny reality as much as black Americans whose sense of group identity often denies the individuality that they themselves know is God's gift to every baby. There is much to say to each other about rage and patience, about opportunity and obligation, about fear and courage, about guilt and honor. The more Americans can see beyond someone's skin to his heart and mind, the easier it will be for us to reveal our true feelings and to admit our failures as well as celebrate our strengths. The more Americans are honest about the level of distrust they hold for each other, the easier it will be to get beyond those feelings and forge a new relationship without racial overtones. Both black and white Americans need to recognize that what's important is not whether the commanding officer is black or white but how good a leader he or she is. That's true in war and it's equally true in peace.

Above all, we need to establish a social order in which individuals of all races assume personal responsibility. In a contest that's fair a chance is all someone needs. In a contest that's fair the gripes and excuses of losers don't carry much weight.

So individual responsibility is essential. And so is facing reality clearly. Crime often causes poverty. Racism exists, and so do horrible living conditions in our cities. To accept any of this as natural or necessary or unchangeable is to insure that it will continue.

The most important voice in that national dialogue is yours, Mr. President. You can set us against each other or you can bring us together. You can reason with us and help us overcome deep-rooted stereotypes or you can speak in mutually contradictory sound bites and leave us at each other's throats. You can

risk being pilloried by demagogues and losing a few points in the polls, or you can simply ignore the issue, using it only for political purposes. You can push the buttons which you think give you an election or you can challenge a nation's moral conscience.

The irony here is that as a Democrat, I am urging the Republican President to do what will serve his own party's longterm political interests. Why do I do it? Because I believe that race-baiting should be banished from politics. Because I believe communicating in code words and symbols to deliver an old shameful message should cease. There should be no more Willie Horton ads. Mr. President, will you promise not to use race again as you so shamelessly did in 1988? If you will not promise your country this, why not?

#### DOUBT FIVE—YOUR CONVICTIONS

Mr. President, as Vice President to Ronald Reagan you were a loyal lieutenant. To my knowledge you never expressed public opposition to anything that happened in race relations in the Reagan years. You acquiesced in giving control of the civil rights agenda to elements of the Republican party whose strategy was to attract those voters who wanted to turn the clock back on race relations.

The Reagan Justice Department tried to give government tax subsidies to schools that practice racial discrimination as a matter of policy. And you went along. They were reluctant to push the Voting Rights Act renewal—and you went along. They vetoed the 1988 Civil Rights Restoration Act—and you went along. For eight years there was an assault on American civility and fair play and you went along. On what issue would you have spoken out? Was your role as Vice President more important than any conviction? Obviously, the issue of race wasn't one of them. Martin Luther King, Jr. wrote from his jail cell in Birmingham, "We will have to repent in this generation not merely for the vitriolic words and actions of bad people but for the appalling silence of good people."

Mr. President, you saw black America fall into a deeper and deeper decline during the Reagan years. From 1984 to 1988, the number of black children murdered in America increased by 50 percent. Today, 43 percent of black children are born in poverty. And since 1984 black life expectancy has declined—the first decline for any segment of America in our history. Yet in the face of these unprecedented developments, you said and did nothing. Why did you go along?

In 1989, when you took over you promised it would be different. But it hasn't been. The rhetoric has been softer at times, but the problem is the same. At Hampton College, a predominantly black school, you recently promised "adequate funding" for Head Start, but three out of four eligible children are still turned away. Do you believe what you say? What is more important than getting a generation of kids on the right education track? I'm all for the important work of the Thousand Points of Light Foundation but for it to really succeed a President and his government must be the beacon.

Maybe you have no idea what to do about kids killing kids in our cities and people sleeping on the streets. Maybe out of wedlock births are outside your experience and not of importance to you. Maybe you really have concluded that urban enterprise zones and the HOPE program are a sufficient urban poverty strategy. Maybe families to you don't include white and black families living in cities, struggling to make ends meet against the same high odds, which you refuse to reduce. Maybe you just don't understand. Maybe, maybe, maybe.

Who knows? We rarely hear your voice. At West Point, you exhorted America to be colorblind. But without doing something about inequity and poverty the call for colorblindness is denial and arrogance. Mr. President, you have to create a context in which a colorblind society might eventually evolve. Right now you are neither similar to the stern father administering bad news and discipline to his children, nor the wise father helping his children come to terms with emotions they don't understand or prejudices they can't conquer. And you are certainly not the leader laying out the plan and investing the political capital to change conditions.

So, Mr. President, my concern is not just the 1991 Civil Rights Act or the fate of Clarence Thomas. Your Civil Rights Bill, the Democrats' Civil Rights Bill, the Danforth Civil Rights Bill all say pretty much the same thing to business: Pay attention to your hiring practices; make an effort to find minorities who can do the job because it is in the national interest for pluralism to truly work. There is no reason we can't find language that 60 Senators can support.

But you, or those working for you—don't appear to want a compromise. Not yet. Businessmen wanted a compromise and your White House pressured them to back off talks. Senator Danforth wants a compromise—but he hasn't gotten much encouragement. Some Senators, Republicans, want to be responsible but they say you're not dealing in good faith. Your operatives apparently don't want to lose a political issue—not yet.

Mr. President, as you and your men dawdle in race politics consider these facts: We will never win the global economic race if we have to carry the burden of an increasingly larger unskilled population. We will never lead the world by the example of our living values if we can't eradicate the "reservation" mentality many whites hold about our cities. We will never understand the problems of our cities—the factories closed, the housing filled with rats, the hospitals losing doctors, the schools pock marked with bullet holes, the middle class moved away—until a white person can point out the epidemic of minority illegitimacy, drug addiction and homicides without being charged a racist. We will never solve the problem of our cities until we intervene massively and directly to change the physical conditions of poverty and deprivation. But you can still win elections by playing on the insecurities our people feel about their jobs, their homes, their children, and their future.

And so our greatest doubt about you is this: is winning elections more important to you than unifying the country to address the problems of race and poverty that beset us?

The important thing is not whether you veto a bill in the pitched battle of politics but whether you will veto or voice the desire we feel in our hearts to build a new trust in this country—trust in unity and opportunity, trust in ourselves, trust in one nation, indivisible with liberty and justice for all.

Mr. President, this is a cry from my heart, so don't charge me with playing politics. I'm asking you to take the issue of race out of partisan politics and put it on a moral plane where healing can take place.

I believe the only way it will happen is for you to look into yourself and tell all of us what you plan to do about the issues of race and poverty in this country. Tell us why our legitimate doubts about your convictions are wrong. Tell us how you propose to make us

the example of a pluralist democracy whose economy and spirit takes everyone to the higher ground. Tell us what the plan of action is for us to realize our ideals.

Tell each of us what we can do. Tell us why you think we can do it.

Tell us why we must do it. Tell us, Mr. President, lead us, put yourself on the line. Now. Now.

I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. 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. COCHRAN. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are in morning business until 10 o'clock.

Mr. COCHRAN. I thank the Chair. (The remarks of Mr. COCHRAN and Mr. BUMPERS pertaining to the introduction of S. 1441 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### CHANGE TAX CODE, STOP HURTING FARMERS

Mr. BURNS. Mr. President, recently, I joined as an original cosponsor of S. 1130, the Family Farm Tax Relief and Savings Act. This proposal would provide tax relief and a retirement savings program for farmers. Farmers would be permitted to defer capital gains tax on the sale of farm assets by rolling the sale profit into an individual retirement account.

The Tax Code is particularly unkind to farmers. A farmer who works his whole life on the farm and then sells part or all of it in order to retire, is subject to a 28-percent Federal capital gains tax and additional taxes at the State level. This does not leave much to retire on. Recently, my colleague, Senator KASTEN, the sponsor of S. 1130, outlined this problem and our proposed solution in an excellent article published in the Milwaukee Sentinel. I ask unanimous consent that it be printed in the RECORD.

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

[From the Milwaukee Sentinel]

CHANGE TAX CODE, STOP HURTING FARMERS  
(By F. James Sensenbrenner, Jr., and Robert W. Kasten, Jr.)

With over 80,000 farmers, Wisconsin is one of the leading producers of agricultural products in America. But as Wisconsin farmers know, farming has become an increasingly difficult profession. And the federal government's tax policies haven't made it any easier.

If the current recession persists, it is estimated that up to 4,000 Wisconsin dairy farm-

ers may go bankrupt. Farmers have enough problems without the added burden of a federal tax system that penalizes work, savings and investment.

A farmer who works his whole life on the farm and then sells part or all of it in order to retire, is subject to a 28% capital gains tax on his full profit. The farmer is then left to retire on what remains.

One of the major problems with the capital gains tax is that it is an unfair tax. Most of the accumulated gains on the value of the farm is due to inflation. But the federal tax system fails to take this into account. So farmers end up paying taxes on phantom gains.

In general, the capital gains tax is a tax on jobs, on upward mobility, and on entrepreneurship. In short, it's a tax on the "American Dream." And it hits farmers particularly hard because farming is one of the most capital intensive businesses. The farmer's land, the buildings, the machinery, the dairy herd and the crops are all capital assets.

The high capital gains tax is a double blow to farmers because they often depend on the sale of farm assets to finance a secure and dignified retirement. Family farmers don't have access to big corporate pension plans. Farmers are self-employed and must plan and provide for their own retirement.

In addition, farmers often receive lower Social Security benefits than workers in other kinds of businesses when they retire. This is because farmers need to re-invest much of their income into the farm to purchase and upgrade farm equipment, machinery and other assets. There is often little left to pay salaries.

Low salaries during working years translate into low Social Security benefits at retirement. Ironically, as self-employed workers, farmers actually pay *twice as much* in Social Security taxes than workers of other businesses. So farmers pay higher taxes and end up with lower benefits.

All of this adds up to an often difficult retirement for farmers who have spent their lives feeding America's families. We believe that Wisconsin farmers deserve better. That's why we have introduced the Family Farm Tax Relief and Savings Act of 1991.

Our legislation would provide tax relief and a retirement savings program for families actively engaged in the business of farming for at least five years. Farmers would be permitted to rollover the proceeds from the sale of farm assets to an Individual Retirement Account (IRA). Taxes on those assets would be deferred until the farmer or spouse begins withdrawing funds from the IRA in the years following retirement.

The farmer and his spouse each would be able to defer tax on up to \$10,000 yearly and up to a maximum of \$500,000 per farm couple. In addition, any gain that builds up on funds while they are kept in the IRA would compound tax free. Only when the farmer or spouse begins withdrawing IRA funds would the tax be due.

Our proposal would promote retirement security for our farmers and preserve family farming in America. That's important—because we all depend on the hard work that farmers do. Let's change the tax code so it stops being unfairly punished.

#### DEFENDER OF THE NATIONAL INTEREST AWARD

Mr. SYMMS. Mr. President, our distinguished colleague from North Carolina [Mr. HELMS] has often said with a

chuckle that liberal media follow the axiom that if you cannot say something bad about HELMS or other conservatives, do not say anything.

I am not surprised that the media has kept secret the fact that Senator HELMS was awarded the first annual Defender of the National Interest Award from the U.S. Industrial Council Educational Foundation. The award was presented at a dinner at the Marriott Hotel in downtown Washington on June 5, 1991, and the proceedings were carried nationwide by C-SPAN.

In presenting the award, the President of the U.S. Industrial Council Educational Foundation, Mr. John P. Cregan, noted how Senator HELMS "works so hard and effectively to defend and conserve our American values apart from, but uniquely related to, the traditional values of our Western heritage of which the American experience is an indispensable part. What he seeks to conserve by defending is American sovereignty in all its major manifestations—political, economic and cultural. And what he tries to advance is an American foreign policy that does not dote on global democracy rather than the national interest, or a new world order based on United Nations consensus, but an American First agenda based on American pre-eminence."

Mr. President, this Senator could not have said it better. I ask unanimous consent that the full text of Mr. Cregan's remarks be printed at this point in the RECORD.

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

DEFENDER OF THE NATIONAL INTEREST AWARD PRESENTED TO SENATOR JESSE HELMS BY THE U.S. INDUSTRIAL COUNCIL EDUCATIONAL FOUNDATION, JUNE 5, 1991, WASHINGTON, DC (Remarks by John P. Cregan, Foundation President)

In the 1990 off-year elections there were 435 district races for the House of Representatives and U.S. Senate campaigns in 32 states. There was only one national election. It took place in North Carolina. It was much larger than a campaign which pitted incumbent Senator Jesse Helms against Democratic challenger Harvey Gantt, because the opposition faced by Senator Helms was decidedly and undeniably national in scope. A motley but powerful coalition coalesced nationally united by a common denominator of purpose: to oust Jesse Helms from the United States Senate. This coalition included: liberal elites, self-anointed minorities, multicultural commissars, Japanese lobbyists, and purveyors of the politically correct. And this was just the Los Angeles/Hollywood part of the coalition!

We all know well, however, that the breadth and ferocity of the opposition to Jesse Helms is not really national in the sense that it can be located in equal measure in places like Midland, Texas or Perrysburg, Ohio, or Huron, South Dakota, and the dozens of other locales and regions that are represented here this evening. It is, rather, national in the sense that the dozens of New York or Washington, or Los Angeles see

themselves as residing in the power centers of the nation. And we know, moreover, that the intensity of that dislike is a most accurate calibration of Jesse's effectiveness in confronting their agenda over the last twenty years.

Furthermore, the race between Gantt and Helms in North Carolina was a national race from the standpoint that Senator Helms' victory was, in turn, a victory for the nation, for the genuine national interests that he will continue to defend in the world's greatest deliberative body for at least the next six years.

Senator Jesse Helms has been called the conscience of the Senate. But I, for one, am uncertain if I subscribe to such an appellation because it presupposes that there is an agreed-to definition of that which constitutes "conscience" in today's society. After all, Howard Metzbaum has likewise been called, "the conscience of the Senate." Jesse Helms has also been savaged as an anachronism in many ways, not the least of which is the manner in which he carries out his position. But in truth he is in the best tradition of the citizen legislator, in a republican (small "r") representative government. He cannot help it if he appears to be out of step with so many of his congressional colleagues—excepting those like Duncan Hunter—who are more concerned with filling positions and seats than in serving in the office.

Finally, Senator Helms has been called a practitioner of the politics of divisiveness. This is, perhaps, the most distorted of the aspersions. For it has been precisely his keen awareness and courageous defense of the national interest which shines a fierce light on the fragmentations and tears in the American fabric today.

To accurately describe Senator Jesse Helms is to begin by calling him a North Carolinian. As Professor Clyde Wilson, a North Carolinian, wrote recently in a book review of something called the Dictionary of North Carolina Biography:

"We North Carolinians have always made up our own minds, and always been American republicans. Not democrats, not progressives, not liberals, not conservative in your Wall Street sense, but American Republicans . . . Consider Sam Ervin or Jesse Helms. You will have a hard time fitting them into any categories devised by the newspapers or the Stanford political science department."

(Wilson goes on to regret that Senator Helms is not listed in the Dictionary of North Carolina Biography because the volume discriminates against the living, who are not listed).

Well, do not let it be said that we discriminate in the same sense in choosing recipients for this award. We're delighted to be going live with this inaugural award. However, we do take pride in the discrimination with which we have approached the inaugural presentation of the Defender of the National Interest award.

In addition to the good things about being a North Carolinian, we would also like to describe Senator Jesse Helms with the adjective, "courageous." James Burnham, a very wise conservative, wrote a book many years ago titled, "Congress and the American Tradition," in which he observed that: "Political courage is a quality very different and much rarer than physical courage. For Congress to survive politically means that it shall be prepared to say 'yes' or 'no' on its own finding and responsibility, in answer to the questions of major policy; and this it

cannot do unless the individual members of Congress have the courage to say 'no' even against the tidal pressures from the Executive, the bureaucracy."

In the context Mr. Burnham so eloquently provides, when it comes to Jesse Helms, one man's "Senator No" is another man's "Captain Courageous."

But it must be remembered that political courage is a far different thing than political foolishness. A member of Congress cannot display the courage and independence of a Jesse Helms without the people's support. There must be something to Professor Wilson's characterization of North Carolinians who have defied the pundits repeatedly in the case of Senator Helms. There are few members of the Senate today who have been elected to that body four successive times. So, we must also affix the adjective, "politician" and recall its true historical meaning, in describing Senator Helms.

And we, more importantly, are happy to characterize Senator Helms accurately as an American conservative leader. What he works to hard and effectively to defend and conserve are American values apart from, but uniquely related to, the traditional values of our Western heritage of which the American experience is an indispensable part. What he seeks to conserve by defending is American sovereignty in all its major manifestations—political, economic and cultural. And what he tries to advance is an American foreign policy that does not dote on global democracy rather than the national interest, or a new world order based on United Nations consensus, but an American First agenda based on America pre-eminence.

For that reason, finally, we must also describe Senator Helms as virtuous. For as someone recently reminded, virtue used to be identified with patriotism because it required devotion to one's own country. So it is a virtuous thing that Jesse Helms questions why we go to war against one country that threatens its neighbors, incites instability, engages in nuclear proliferations and abuses its citizens, but we grant most-favored-nation trade privileges to another regime that is guilty—to an even greater degree—of those same offenses. It is virtuous to question why our government should select among artists those worthless enough to receive public funds. It is virtue which also demands that he use the constitutional powers given the legislative branch to prevent the confirmation of executive branch nominees—Republican or Democrat—who are not totally dedicated to the national interest.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

#### EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the morning business be extended for 5 minutes.

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

#### SANCTIONS ON ANGOLA AND SOUTH AFRICA

Mr. ROTH. Mr. President, I rise today to discuss this Nation's policy toward southern Africa. I suspect that all of my colleagues have noticed the headline in Tuesday's Washington Post. Apparently, the President has decided to lift the economic sanctions which the Congress placed upon the Republic of South Africa under the terms of the Comprehensive Anti-Apartheid Act.

Broadly speaking, Mr. President, I support such an initiative. Our major allies—who also happen to be our chief trading competitors—have already raised their sanctions. Some never even imposed them. But this is not, I am sure, the chief consideration in the mind of the President.

The chief consideration before him as it must be before us, is that the Government of South Africa appears to be shortly about to fulfill all of the conditions laid down in the Comprehensive Anti-Apartheid Act for the raising of sanctions.

Mr. President, the situation in South Africa today is far from perfect. The nation is still suffering from widespread violence and a depressing legacy of interracial and intertribal distrust.

However, the Comprehensive Anti-Apartheid Act is a most specific document, Mr. President. It does not visualize a perfect South Africa as its end goal.

The act is merely a means toward that end, an end which, ultimately, can be gained only by South Africans, of all colors, themselves.

The act lays down very specific conditions which must be met on the road to an overall South African settlement.

When those conditions are met and it appears they will be met shortly, then neither the executive nor the legislative branch of Government has any business trying to change the terms of the debate in order to legitimize the continuance of sanctions.

We made very specific demands—when, and if, those demands are met, we have no choice but to raise sanctions on South Africa.

However, Mr. President, I have come to the floor today not merely to discuss South Africa but also southern Africa.

Specifically, Mr. President, I would like to lay before my colleagues the idea that if it is time to raise sanctions on South Africa, it is also time to raise sanctions on Angola.

As in South Africa, the situation in Angola is far from perfect. A democratic government has yet to come to power in Luanda. But, that said, the President of the People's Republic of Angola and his chief opponent, the President of the national union for the total independence of Angola have signed peace accords in Lisbon, Portugal on May 31, 1991.

Those accords are now being implemented and few seem to doubt that democratic elections will, in fact, be held and Angola will shortly have a government which has been democratically elected by all Angolans.

Mr. President, whoever forms the next Angolan government does not wish to preside over an economic disaster—and Angola is an economic disaster area, despite its huge oil and mineral resources. Angola needs development now.

Many U.S. businesses are eager to throw themselves into this process. U.S. oil companies, in particular, are eager to expand their drilling activities in Angola, benefiting both the people of Angola and the United States trade balance.

Once again, our competitors are pushing their way into this lucrative market while U.S. investors are burdened in the competition by U.S. legislation which places an unduly heavy tax burden on their shoulders. Let us waive these restrictions—they no longer have any political rationale—and yet our companies are back into the international competition on equal terms with their rivals.

I note with some satisfaction, Mr. President, that today's Federal Register contains a Presidential determination that progress is being made toward national reconciliation in Angola.

That determination has been sent to the Secretary of State, who is directed to inform the appropriate committees of the Congress of it.

I hope, Mr. President, that this determination heralds the lifting of all United States sanctions on Angola and, if so, that my colleagues in the Senate and the House of Representatives will support this process for the benefit both of Angola and the United States.

Mr. President, I yield the floor.

Mr. SEYMOUR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

#### EXTENSION OF MORNING BUSINESS

Mr. SEYMOUR. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

Mr. JOHNSTON. Mr. President, I do not want to say no to my colleagues. But we were here late last night, and I wanted to stay to get this done. I wonder if the Senator can make do with less than 5 minutes so we can get on the bill and get going. I may have to apologize later because we may be here in a quorum call. I am not going to object. Would he try to do it in less than 5 minutes?

Mr. SEYMOUR. Mr. President, I certainly understand the request of the distinguished Senator from Louisiana. I will finish in less than 5 minutes.

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

**CONCLUSION OF MORNING BUSINESS**

The PRESIDING OFFICER (Mr. DASCHLE). Morning business is closed.

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992**

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 2427, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

**BUDGET COMMITTEE SCORING OF H.R. 2427**

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2427, the energy and water appropriations bill and has found that the bill is under its 602(b) budget authority allocation by \$518,000 and under its 602(b) outlay allocation by \$40 million.

I compliment the distinguished manager of the bill, Senator JOHNSTON, and the distinguished ranking member of the Energy and Water Subcommittee, Senator HATFIELD on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the energy and water appropriations bill and I ask unanimous consent that it be printed in the RECORD at this point.

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

**SENATE BUDGET COMMITTEE SCORING OF H.R. 2427—  
ENERGY-WATER SUBCOMMITTEE SPENDING TOTALS**  
(In billions of dollars)

Bill summary	Budget authority	Outlays
<b>H.R. 2427</b>		
New budget authority and outlays	22.0	13.1
Enacted to date	0	7.8
Adjustment to conform mandatory programs to resolution assumptions	0	0
Scorekeeping adjustments	0	0
<b>Bill total</b>	<b>22.0</b>	<b>20.8</b>
Senate 602(b) allocation	22.0	20.5
<b>Total difference</b>		
<b>Discretionary:</b>		
Domestic	10.0	9.2
Senate 602(b)	10.0	9.3
<b>Difference</b>		
International	0	0
Senate 602(b)	0	0
<b>Difference</b>	<b>0</b>	<b>0</b>
<b>Defense</b>	<b>12.0</b>	<b>11.6</b>
Senate 602(b)	12.0	11.6
<b>Difference</b>		

**SENATE BUDGET COMMITTEE SCORING OF H.R. 2427—  
ENERGY-WATER SUBCOMMITTEE SPENDING TOTALS—  
Continued**

(In billions of dollars)		
Bill summary	Budget authority	Outlays
Total discretionary spending	22.0	20.8
Mandatory spending	0	0
Mandatory allocation	0	0
Difference	0	0
Discretionary total above (+) or below (-):		
President's request	NA	2
Senate-passed bill	NA	NA
House-passed bill	.5	.3

Mr. JOHNSTON addressed the Chair. The PRESIDING OFFICER. The Senator from Louisiana is recognized.

**AMENDMENT NOS. 631 THROUGH 634**

Mr. JOHNSTON. Mr. President, as the Senators, I believe, are aware, last night we entered into a unanimous-consent agreement providing that only certain amendments would be in order. A number of those we have worked out, and I would like to submit on behalf of myself and the distinguished Senator from Oregon, en bloc, a series of amendments which I will describe as follows before I submit them to the desk:

An amendment on behalf of the distinguished Senators from Pennsylvania [Mr. SPECTER and Mr. WOFFORD] which provides that within available funds, \$850,000 shall be available to the Wyoming Valley Levee raising project in Luzerne County, PA.

A Nickles-Boren amendment providing that the Secretary of Army is directed to use \$450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront projects to be located along the northern Canadian River in Oklahoma.

An amendment on behalf of the Senators from Rhode Island [Mr. CHAFEE and Mr. FELL] providing that \$500,000 of the funds appropriated to the Secretary of the Army through the Corps of Engineers is directed to initiate the definite project report for the Cranston, RI, waste water conveyance system, as authorized by section 117 of Public Law 101-640.

An amendment on behalf of Senator KENNEDY, for himself and Mr. KERRY, providing that \$250,000 of funds appropriated to the Secretary of the Army shall undertake a reconnaissance level study to assist the water resource needs of the Muddy River in Massachusetts.

Mr. President, I now send those amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Is there an objection?

Hearing no objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SPECTER (for himself and Mr. WOFFORD) proposes an amendment numbered 631, as follows:

Insert at the end of line 17, page 8, the following: "Provided further, That of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide \$850,000 to undertake planning of the Wyoming Valley Levee Raising project in Luzerne County, Pennsylvania."

Mr. SPECTER. Mr. President, the amendment I am offering this evening to the energy and water appropriations bill provides \$850,000 for completion of the U.S. Army Corps of Engineer's study of phase II of the Wyoming Valley flood control project in Luzerne County, PA.

The Wyoming Valley flood control project has been an ongoing flood control project by the Corps of Engineers since the Tropical Storm Agnes of 1972. Although 19 years have passed since the flood in the Wyoming Valley, victims can still remember their personal tragedies and the \$3 billion in damages incurred by the communities of the region.

Currently the levee structure in the valley protects the region from a flood of 232,000 cubic feet per second. The flood of 1972 caused flooding in the valley of 318,000 cubic feet per second. The intention of phase II of the flood control project is designed to increase the region's flood protection to cover future floods at the Agnes level.

Mr. President, the administration did not include this project in its budget request due to concerns that existed during the budget's preparation by the Army Audit Agency [AAA]. Subsequently, since the budget's submission to Congress, General Brown of the Army Corps of Engineers testified before the House Subcommittee on Energy and Water Appropriations that the AAA has concluded examination of the Wyoming Valley levee project and has reported favorable findings on the project.

I want to thank Senator JOHNSTON and Senator HATFIELD for agreeing to accept this amendment to provide \$850,000 for the Wyoming Valley levee raising project in fiscal year 1992. With these funds, the Corps of Engineers should be able to significantly advance efforts to complete its design and planning efforts to allow for construction of a levee that will provide adequate flood protection to the citizens of Luzerne County, PA.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. NICKLES, for himself, and Mr. BOREN, proposes an amendment numbered 632, as follows:

On page 8, line 17, add the following before the period: "Provided further, That the Secretary of the Army is directed to use \$450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront development to be located along the North Canadian River in Oklahoma."

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. CHAFEE, for himself, and Mr. PELL, proposes an amendment numbered 633, as follows:

On page 8, line 17, insert the following before the period: "": *Provided further*, That using \$500,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the Definite Project Report for the Cranston, Rhode Island, Wastewater Conveyance System as authorized by section 117 of Public Law 101-640".

CRANSTON, RI

Mr. CHAFEE. I would like to thank the chairman and ranking member for accepting the amendment sponsored by Senator PELL and myself regarding an environmental remediation project in Cranston, RI. The amendment appropriates \$500,000 to initiate a project report as authorized by section 117 of the Water Resources Development Act of 1990. This report will encompass the second phase of an ongoing review by the New England Division of the Army Corps of Engineers.

Mr. HATFIELD. Yes, as I understand it, this appropriation will provide the moneys necessary to continue the project review. Senator CHAFEE has been a persistent advocate of this project, and I reviewed his original \$5 million request. However, the project is not yet ready for construction. The committee is aware that construction funds are in fact authorized. Of course, I understand the Senators' concerns and interest in proceeding on a fast track. With this in mind, I assure the Senators that the committee will consider construction funding requests upon completion of the project review.

Mr. CHAFEE. I thank the ranking member, and look forward to working him to secure construction funds for this innovative project next year.

The assistant legislative clerk read as follows:

The Senators from Louisiana [Mr. JOHNSTON], for Mr. KENNEDY, for himself, and Mr. KERRY, proposes an amendment numbered 634, as follows:

AMENDMENT NO. 634

(Purpose: To fund a study of the water resource needs of the Muddy River in Massachusetts)

On page 8, line 7, before the period insert the following: "": *Provided further*, That with \$250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaissance level study to assess the water resource needs of the Muddy River in Massachusetts".

Mr. KENNEDY. Mr. President, I would like to offer an amendment to the energy and water appropriations bill. This amendment directs the U.S. Army Corps of Engineers to undertake a study to assess cleanup needs and options for the Muddy River watershed in Massachusetts.

This 3½-mile waterway is a popular urban natural resource that flows from the Jamaica Plains area to Boston, and empties into the Charles River. Along its course through several residential

neighborhoods, the river is enjoyed by many for its scenery and wildlife. It also flows through Frederick Law Olmsted's "Emerald Necklace," one of the most carefully crafted parks systems in the country. And many of Boston's finest cultural, educational, and medical institutions are located in this watershed. Just a few examples are the Children's Hospital, Harvard Medical School and School of Public Health, Brigham and Women's Hospital, Dana-Farber Cancer Institute, Northeastern University, Boston University, Boston Symphony, New England Conservatory of Music, Museum of Fine Arts, and Isabella Stewart Gardner Museum.

Unfortunately, the Muddy River has fallen prey to contamination that seriously jeopardizes the beauty and safety of this important natural resource. There has been tremendous support in the affected communities for pursuing appropriate corrective measures. Dozens of local environmental and civil organizations along with the many institutions located in the watershed, are working together in a coalition to restore the Muddy River. The Massachusetts Office of Environmental Affairs has committed scarce State resources for a preliminary study that suggests several measures to alleviate the pollution problems.

The Army Corps study I am requesting will build on the information already available and will provide answers to the questions that remain about appropriate cleanup efforts. The amendment does not require an offset because it directs the Army Corps to do this \$250,000 reconnaissance study out of available funds.

I urge Chairman JOHNSTON and the rest of my colleagues to support this amendment that will mean a great deal to the thousands of people who live and work near the Muddy River, who enjoy recreational opportunities on its banks, and who hope that this resource will be there for their children and grandchildren.

Mr. KERRY. Mr. President, I rise in support of the amendment offered today by my senior colleague, Senator KENNEDY, and myself to appropriate \$250,000 for the U.S. Army Corps of Engineers to undertake a feasibility study on the Muddy River improvement plan proposed by the Massachusetts Department of Environmental Protection.

Along its way from Jamaica Plain to the Charles River, the Muddy River weaves throughout many historic areas of Boston and surrounding communities. The river is the heart of the Emerald Necklace Park system designed by Frederick Law Olmsted in the late 1800's, a system that even today is seen as an exemplary model of urban park planning. The river offers invaluable scenic areas and parkland. Individuals may enjoy numerous fishing and recreation opportunities on the river's banks.

Unfortunately, the Muddy River has succumbed to the many environmental hazards associated with urban life; contamination of sediments, sewage discharge, stormwater runoff and industrial pollution have all resulted in a degraded river environment. Revitalization of this natural resource is crucial to the reemergence of the entire Emerald Necklace Park system as a national model. The funds that we are passing today will go toward the study of an improvement plan which contains provisions to dredge the river bottom to remove hazardous sediment, to improve sewer and storm drains and to prevent oil contamination. These improvements will clean up the river and allow it to flow freely through the Fens marshland and to the Charles River. Implementation of the Muddy River improvement plan will restore the luster to this jewel of Massachusetts.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendments offered en bloc by the Senator from Louisiana.

The amendments (Nos. 631, 632, 633 and 634) were agreed to, en bloc.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the state of play now is that the chief amendments that we are aware of are a Stevens amendment, two Wallop amendments, a Fowler amendment, and a Bumpers amendment on the super collider.

Mr. President, as I said last night, we are open for business. As far as I am concerned, we will wait a reasonable time, and if Senators do not show, they are not protected under the unanimous consent order, and I do not believe we should stay here all morning and wait to keep Senators up late at night again just because Senators do not want to offer their amendments.

This is an invitation to Senators to come now to the floor to offer their amendments, because most of those on that list have now gone away and have been negotiated. So we are ready to do business.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. The Senator has indicated the amendments that the managers are aware of. I assume that those are the amendments that we understand to be controversial amendments, because there are other amendments.

Mr. JOHNSTON. That is right. There are other amendments, and we would hope that these others would probably go away. For example, Senator D'AMATO, yesterday, proposed two amendments. We took one of his amendments, but the one on Onondaga Creek, we indicated that it is in the

House bill and that we thought we could not take that amendment.

I believe that was suitable with Senator D'AMATO, not to speak for him, but I do not expect him to offer that amendment.

Some of the other amendments may or may not be offered. They are on the list. But the principal ones were those that I described.

Mr. HATFIELD. Will the Senator further yield?

Mr. JOHNSTON. Certainly.

Mr. HATFIELD. As the Senator recalls a colloquy last night that I raised with the majority leader, and I believe also entered into by the chairman of our committee, as to the possibility of lining these amendments up and putting them in a certain order, with the additional proviso that those amendments then would be broadly published and broadcast, and personal contact made to the individual authors, and that if that amendment then is not discussed when its turn on this schedule should arise, that the Senator would forfeit his right to offer that amendment within a reasonable period of time.

This was a procedure adopted by the majority leader sometime back, which seemed to add to the expeditious handling of legislation here on the floor, and I would hope would become a common practice. The majority leader did not feel that that was the time last night to adopt that, but provided—I believe the RECORD will show—that that would be a possible procedure that we might employ this morning.

Mr. JOHNSTON. I think the Senator makes a good point, and I would suggest that the Stevens amendment is first here on the list and that would be an appropriate one to consider, perhaps followed by the Wallop amendments, followed by the Fowler amendments. And, in effect, I believe that I am inclined to think that the order of listing of these amendments makes pretty good sense. We did not list them.

Mr. HATFIELD. It has already been published.

Mr. JOHNSTON. It has already been published and they have been listed on here not because we thought that was necessarily the best order, but it turns out to make some sense.

So, Mr. President, I would then, through this means—and we will also give him a call—ask Senator STEVENS to come to the Senate at this point.

And I might also add that the idea is to offer a unanimous-consent request to consider these amendments in the order stated, and if the Senator is not there when the time comes up, given some reasonable 3 or 4 minutes—I mean, we will not do it within seconds, but within minutes—if he does not show, then he would not be eligible to submit his amendment. We will ask for that unanimous consent later.

Mr. HATFIELD. Mr. President, I would certainly heartily applaud the

suggestion made by the chairman of our committee, Mr. JOHNSTON. I think that the record ought to indicate that, starting at 20 minutes after 10, we have had no one on the floor to offer an amendment. And yet, we have a listing of all of these amendments.

I would hope that the staff and others who may be involved, in the office of Senators who have these amendments and who are listening to the proceedings at this moment, will alert their Senators that we are—I would say to the Senator from Louisiana that perhaps that ought to be adopted somewhere in the neighborhood of 11 o'clock—giving ample notice for our staffs here on the floor and in the cloakroom to personally contact each office of a Senator who hopes to offer an amendment to give them reasonable time to understand that beginning at that hour, we will be taking these amendments up in due order as published by the calendar which is already in each office, and that if those Senators are not on the floor within a reasonable period of time, that those amendments then are going to be just cast into the wastepaper basket, always with the exception of unusual circumstances.

But would the Senator from Louisiana like to put any money on how long we are going to stand here this morning and wait for a Senator, without this kind of urging and this kind of leverage?

Mr. JOHNSTON. I would say to my friend from Oregon, if there is so little interest in these amendments that no one will come to offer them, then I do not think we are duty bound to put in a quorum.

Mr. HATFIELD. In other words, go to third reading.

Mr. JOHNSTON. Go to third reading.

Mr. HATFIELD. I fully agree with the floor manager of this bill, and stand ready to assist him in any way possible to carry out our responsibilities, to get this piece of legislation completed.

Will the Senator agree that perhaps at this moment we could start alerting Senators through the cloakrooms or other methods to make them fully aware that their amendments do have limited life, as this morning business proceeds?

Mr. JOHNSTON. There is indeed a limited shelf life of amendments and as the clock ticks away, that shelf life is getting shorter and shorter.

I see Senator BURNS coming in, and I believe he has an amendment. Yes, he has an amendment on the list.

Mr. BURNS. I have to visit with the managers.

Mr. JOHNSTON. 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. JOHNSTON. 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. JOHNSTON. Mr. President, I have just had a conversation with Senator BURNS, who has an amendment on the list. It relates to the Tongue River. In the Senate bill, we provide for \$2 million for this project subject to authorization because it is not now an authorized project. It is a State dam on the Tongue River. We pointed out to Senator BURNS that, while we are for the project, it would be setting a precedent to strike the requirement of having it subject to authorization.

Senator BURNS, I think, understands that and will attempt to get this matter, and believes he can get it, authorized in the RCRA bill. We will certainly support him in his efforts to get it authorized. I know Senator INOUE is also strongly supporting that.

So Senator BURNS has authorized me to ask unanimous consent that the Burns amendment be deleted. We will make every effort to continue the \$2 million subject to authorization in the conference committee and believe we can do that, and we will certainly help him later in his efforts to get this authorized.

With that understanding, Mr. President, I ask unanimous consent that the Burns amendment be stricken from the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we are still waiting for Senator STEVENS.

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. BUMPERS. 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. BUMPERS. Mr. President, if the distinguished Senator from Louisiana and the distinguished floor manager will turn to page 40 of the report, I would like to engage them in a short colloquy and, for the edification of my other colleagues, point out that this is report language dealing with a subject that this committee dealt with last year on dredging, the small business setaside for dredging operations.

I would like to point out that the committee put similar language in its report last year.

I wrote General Hatch about that language, which was report language. As we know, General Hatch is head of the Corps of Engineers. He wrote back and, among other things, he said:

I agree with you that while the language in the Senate committee report contradicts the express terms of the statute, it does not

alter the express terms of the statute. We will continue to follow the procedures specified in law and compute and report small business dredging goals as a percentage of the total annual dollar value of contracts for dredging.

In short, he was saying that the report language last year could not alter the statute which required the Corps of Engineers to go forward with a 4-year set-aside program in an effort to reach at least 40 percent; in other words, 40 percent of the dollars they spent for dredging and so on, would go to small business.

Mr. President, this has become a very controversial program with the large dredging operations in America. It became so controversial—as a matter of fact, we were getting so much mail from them—that I held a hearing recently in the Small Business Committee and allowed both the small and large dredgers to come and make their case. Staff corrects me; it is a 30-percent set-aside, not a 40 percent set-aside for small business dredgers.

But to proceed with what I was about to say, the large dredging operations had a study done by a firm called A.T. Kearney. A.T. Kearney's study showed the small business set-asides cost substantially more than other contracts because of allegedly less competition in small business procurement.

In that hearing, I say to the Senator from Louisiana, the small business dredgers responded by saying, yes, but we also have taken some of the more difficult contracts. They are smaller, they are out-of-the-way contracts and the costs would have been larger even if the big dredgers had been allowed to bid on it.

So I do not know who is right and who is wrong about this. But I want to make two points: No. 1, 1991 is the third year of the 4-year program. No. 2, because it is very difficult to get a handle on whether this is a beneficial program or not, I had written on June 20 to the Honorable Charles A. Bowsher, Comptroller General of the United States, and asked the GAO to do a study of this problem. I will offer this letter to make it a part of the Record in just a moment, Mr. President. But in the letter, I set out that the Corps of Engineers testified that costs of the small business procurement program are not unreasonable and, on the whole, less than their precontract estimates.

I am enclosing copies of the testimony from our hearing and will be glad to furnish a transcript as soon as it is printed. I would like for the GAO to evaluate the contention that the small business dredging program results in significantly increased Federal costs and particularly whether these costs are due to a lack of competition.

One of the allegations is that on occasion, the Corps of Engineers awards one of these small-business contracts when there is only one bidder. They do

not do that unless the bid is reasonable and within what they thought it ought to cost. I might also point out that they also award contracts to big dredgers occasionally when there is only one bidder.

So, Mr. President, my point, I guess, is I hope the corps, frankly, will ignore this language next year as they have this year because the authorizing committee has not altered the statute and the law that set this up.

As I understand it, a point of order is not excluded in the unanimous-consent agreement this morning, but I do not think a point of order would lie against report language. If it were legislation in the bill, you could make a point of order that it is legislation on an appropriation bill.

Mr. President, while I appreciate the report language that says we will continue to work with the authorizing committees and especially the Small Business Administration—I appreciate that in the report language—I do take strong exception to this report language directing the corps to do something that files right in the face of the law. Obviously, I think if General Hatch is presented with this language, he would have no choice but to say, "Gentleman, this is fine language and I would not mind complying with it, but I have to comply with the law and not report language."

I will be happy to hear from the distinguished floor manager on this point.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we did not understand our report language to be inconsistent with the law. The Senator is very correct when he points out that we mention that we intend to work closely with the authorizing committee.

Our concern is that, first, when you talk dredging and small business, you are almost talking a contradiction in terms because hopper dredges can cost up to \$50 to \$80 million. So we are talking about any mom and pop operation where some old country boy gets his motorboat out and is trying to dredge something. We are talking big business involving big Federal dollars and big Federal interest.

What we are concerned with is that the way this program has been run, this set-aside, this quota program, if you will, is costing the Federal Government a whole lot more than if you use the most efficient kind of equipment. And it is not only a question of it costing more, it means that we can do less because Federal funds being very limited, we cannot perform the work, or at least that is the information we have received.

So the pilot program which we request the corps to do is in order to determine what those relative costs are. We know that the Senator from Arkansas shares our same view that we want

to get the biggest bang for the taxpayer buck; we want to get as much dredging work done in areas in Arkansas and Louisiana, which are two areas that require a lot of dredging; and we want to find out the answer as best we can as to how it can be most efficiently done at the lowest cost to the taxpayer.

That was the intent of our language. The set-aside program, we understand, provides for goals and objectives. I do not think—the Senator can correct me because I think the legislation came out of his committee—but I think these are goals and objectives rather than being strict quotas.

Mr. BUMPERS. The Senator is correct.

Mr. JOHNSTON. In that sense, we thought that the pilot program, as required in our report language, was not inconsistent with those goals and objectives. In general, everybody would like something smaller rather than something bigger. We like small farms rather than big farms.

We like mom and pop grocery stores better than supermarkets. That is part of the American ethic. When you are talking dredging—

Mr. BUMPERS. We do not like small science better than we like the superconducting super collider.

Mr. JOHNSTON. That will be coming up next, right. We also like bang for the taxpayers buck, and we like those waterways dredged and open for navigation. That was the sense of our language. I hope the Senator will see it in that spirit.

It is more or less experimental to find out what the facts are. If the facts turn out to be that small dredgers are taking on more difficult jobs and have special expertise and are doing a good job, I say that is great.

I will certainly support the Senator from Arkansas if those turn out to be the facts in giving further life to the set-aside program. And contrariwise, I am sure he would join me if this turns out to be an extraordinary cost to the taxpayers—simply giving some extra money to some people based on a quota—I am sure he would also join me. It is meant to be an experimental pilot project in that spirit.

Mr. BUMPERS. Mr. President, I certainly appreciate the remarks of the distinguished Senator from Louisiana on this point. It is a very perplexing problem. Our hearings revealed that there is at least the possibility we are spending quite a bit more money than necessary in order to carry out this objective of 30 percent of the dredging money going to small business.

We oftentimes will give small business a little preference, which does in fact cost a little more. That is just trying to help people get up to the first rung of the ladder, just as we often give veterans preferences, and so on. There comes a point where you do not want

to go beyond a helping hand to where it becomes a real burden on the taxpayers and you are spending more money than you need to spend.

I appreciate the Senator's remarks, and I concur heartily with that. But after a 2- or 3-hour hearing in my committee on this, I could not reach a conclusion, because the corps was itself testifying that this is not a burdensome program, that it is not necessarily more expensive. On the other hand, you have a study here, which incidentally was paid for by the big dredgers—and of course you always have a little suspicion of those kinds of things—but I think I have done what needs to be done and that is to ask the GAO to study this problem and report back to me: Is this program a burden on the taxpayers and, if so, how big a burden? I hope that corps and all parties interested in this will wait until we get something from the GAO. We always sort of hang our hat on what the GAO says. Let them report back to us.

If the corps comes back and says what the big dredgers have been saying, that this is a very burdensome program which is costing the taxpayers a lot of money, then we will torpedo it. But I want to make this point. The program automatically comes to an end in 1992 anyway, and the GAO report will probably tell us whether we want to renew it, cancel it, or possibly renew it with some alterations.

Mr. JOHNSTON. Mr. President, I thank the Senator for his comments. I think we are talking exactly the same language with the same goals. This pilot program is really not intended to supplant the set-aside program. To the contrary, it is designed to get the statistics upon which to make a further judgment about the set-aside program. I think it is designed to do that, and I hope the Senator will see that as not an attempt to throw out the set-aside program but, rather, to get the statistics for the purpose of either renewing it or expanding it, modifying it, or at least to be able to judge the effectiveness of it.

Mr. BUMPERS. I thank the Senator very much.

Mr. JOHNSTON. Mr. President, I ask the Senator from Arkansas, on the SSC amendment, I wonder if we could get a time limit for when that amendment is brought up of 2 hours equally divided?

Mr. BUMPERS. I say to the Senator if he will give me about 5 minutes, I will come back to the floor and see if we cannot agree to that. I think we can. But as I told the Senator a moment ago privately, I had a couple Senators I wanted to call. I have not had a chance to do that, but I will do that and get back to the Senator immediately.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 669

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 669:

Insert at the appropriate place: "Provided further, That with \$12,225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and continue until completion, construction of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel Alaska Bank Stabilization Project."

Mr. STEVENS. Mr. President, this is a matter I raised in the committee and indicated that I would bring the subject to the floor. It deals with the very difficult problem of Bethel, AK, which is the center, really, of the northwestern part of Alaska that is on the Kuskokwim River, which deals with an area 50 to 60 small villages and cities of primarily Native people in our State.

At this location is the regional hospital for the Indian Health Service, a series of Federal installations, but it really is the logistic center. There on the riverbank is the only main tank farm for the storage of fuel for the whole region. The difficulty is this river is, like a lot of rivers in Alaska, raging. And the investment primarily made with Federal funds is now in severe jeopardy because of the changing of the river and the threatened erosion that may really destroy the stability of the whole city.

I am hopeful that the committee will consider this problem. I know it is a difficult problem for the committee. There is another project in this bill.

My State is one-fifth the size of the United States and has half the coastline of the United States. It is just not possible for us to limit the number of requests in this bill to one. As a matter of fact, this will make it two. But I understand that. I understand the terrible constraints that the chairman and ranking member and members of the committee have worked under on this bill.

But I again appeal to my friends who are the chairman and ranking member of the committee to help us deal with this project which is authorized. It is not an unauthorized project. It is an authorized project, but it is an emergency project. It is totally emergency, probably the major emergency in this portion of our State which is an area larger than Texas.

I ask the chairman if it is possible if we might move forward with this project now.

Mr. JOHNSTON. Mr. President, we had long discussions in committee on this project and have had lengthy discussions since then. Senator HATFIELD and I are very aware of the emergency nature of this project. However, we had 14 new starts in the Senate bill and had to draw a line or felt that we had to draw a line at that arbitrary figure. We pointed out to Senator STEVENS that he had another new start, I believe at Homer, AK. We said we can take this project, put this project in, and take that one out. He said, well, the site at Homer is also an emergency and it was for him like trying to choose between his two children. We understand that. I believe this amendment calls for \$12 million.

Mr. President, Senator HATFIELD and I have discussed this at some great length. What we are willing to do is to take care of the emergency parts of this project, and we will deal with other parts of it later if it becomes appropriate. But for this year, we think to go beyond dealing with the emergency would really be expanding this bill beyond where it is.

Mr. President, I am prepared to offer on behalf of Senator HATFIELD and myself a substitute for the Stevens amendment which would make available \$5 million from the appropriated funds to the Corps of Engineers' money to undertake the emergency construction aspects of the Bethel stabilization project. And it describes what those emergency aspects are. Clearly, this will take care of this year's problem, and I think frankly that it is a realistic and generous solution to this considering the tremendous budget stringency that we have this year.

If the Senator is willing to accept that amendment, I am prepared to offer it at this time.

Mr. STEVENS. Mr. President, if I might inquire, as I understand, the Senator's amendment will include protection of the petroleum dock, the tank farm, and the necessary installation of pipe piles that initiate this project. Is that correct?

Mr. JOHNSTON. The Senator is correct. The language says that the Secretary is authorized to undertake emergency construction including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on the pipe piles, toe protection from the west end of First Avenue to the city dock, and toe protection at Mission Road bulk head and in other areas vulnerable to collapse.

That language is without limitation. So we direct the corps to take care of those things and any other emergency aspects of this project.

Mr. STEVENS. Mr. President, understanding the constraints that I have

mentioned before that this committee has, and also understanding the offer the chairman has made, I think it is a generous offer under the circumstances. I would be prepared to accept that as a substitute for the amendment that Senator MURKOWSKI and I have offered if that is the position of the chairman and ranking member of the committee.

Mr. JOHNSTON. Mr. President, that is our position, and on behalf of Senator HATFIELD and myself—does the Senator from Alaska want to be a cosponsor?

Mr. STEVENS. Yes. I would be happy to be a cosponsor.

AMENDMENT NO. 670 TO AMENDMENT NO. 669

Mr. JOHNSTON. On behalf of myself and Senator STEVENS, I send the substitute 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 Louisiana [Mr. JOHNSTON], for himself, Mr. HATFIELD, Mr. STEVENS, and Mr. MURKOWSKI, proposes an amendment numbered 670 to amendment No. 669.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: *Provided further*, That with \$5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake emergency construction of aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662 including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on pipe piles, toe protection from the West end of First Avenue to the city dock, and toe protection to Mission Road bulkhead and in other areas vulnerable to collapse: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project."

Mr. STEVENS. Mr. President, I ask that my colleague, Senator MURKOWSKI, join as a cosponsor. I am sure he would agree with this compromise also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that if there is any defect in this amendment as a substitute that it be considered as a substitute to completely strike the original Stevens amendment and put this language in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I think this has been fully discussed. I therefore yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I thank the Senator from Louisiana and the Senator from Oregon for their courtesy. I am sure they understand the basic reason for my persistence. I am grateful to them for their accommodation on this issue.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment (No. 670) of the Senator from Louisiana.

The amendment (No. 670) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ROBB). Is there additional debate? The question is on agreeing to amendment No. 669, as amended.

The amendment (No. 669), as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, there are two Dole amendments specified. I do not know whether he intends to put in two amendments. We have one worked out, and I wonder if we can find out from him if he has two amendments. The one that we are prepared to accept relates to Wilson Lake.

AMENDMENT NO. 671

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Mr. DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DOLE, proposes an amendment numbered 671.

Mr. JOHNSTON. 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 25, line 13, insert after the ":", "*Provided further*, That using \$900,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to rehabilitate recreation facilities at Wilson Lake:".

Mr. JOHNSTON. Mr. President, this amendment provides for work on Wilson Lake from available funds. We have cleared the amendment.

Mr. HATFIELD. Mr. President, it is cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 671) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready to consider further amendments. I think that the Wallop amendment either on Shoshone or Buffalo Bill Dam would be next on the list.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have now worked out with Senators D'AMATO and MOYNIHAN the Onondaga Creek amendment which provides that the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1 million appropriated herein to carry out the purposes of section 401 of Public Law 101-596.

AMENDMENT NO. 672

Mr. JOHNSTON. 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 Louisiana [Mr. JOHNSTON], for Mr. D'AMATO (for himself and Mr. MOYNIHAN), proposes an amendment numbered 672.

Mr. JOHNSTON. 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 19 strike the proviso beginning on line 24 through line 3 on page 20.

On page 8, line 17, add the following before the period: "*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$1,000,000 to carry out the purposes of section 401 of Public Law 101-596".

Mr. JOHNSTON. Mr. President, the amendment has been agreed to on both sides and has been explained.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senators from New York.

The amendment (No. 672) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I see Senator KASTEN on the floor. I wonder if he is ready with his amendment.

Mr. KASTEN. Mr. President, if the Senator will yield, we are trying to work out some way that this amendment will be acceptable to the committee. Essentially, what happened here is that a project was started under one set of guidelines and rules. The local office of the Corps of Engineers in Minnesota was advising the city to do one thing; the Federal office was not aware of what the local office was doing. The city of LaCrosse proceeded under the local office's directions; halfway through, the rules changed, and we have what I think is an unique situation. I am not aware of it happening anywhere else in the country. But they ended up by exceeding the cap. Because the local office told the city they could appeal the cap, because it had started before the date change. We are trying to work out some kind of a way to help the city of LaCrosse on this particular project.

The amendment simply directs the corps to make this credit. I believe it is about \$1.4 million.

I know your bill is tight, but my guess is that we can find that money, if we can find out a way to rationalize an amendment. If we are unable to accept the amendment, I am hoping we can work out some kind of a way to get the appeals process back underway, so that the corps will be directed to once more review the facts of this circumstance.

Unfortunately, the local office was not in touch with the office here in Washington. The city was getting one set of instructions, and they followed the instructions, thinking that the local office spoke with authority. Unfortunately, in this case, the local office could not speak for the national office, and the city got trapped.

Mr. JOHNSTON. Mr. President, I think that the Senator outlines a problem that clearly needs to be reviewed by the Corps of Engineers. I wonder if this colloquy that we are having, together with a letter which perhaps Senator HATFIELD and I could send to the Corps of Engineers urgently asking them to review this matter, would be suitable at this time for the Senator, and then based upon what we hear back from the corps, then further action as appropriate and warranted could be taken.

Mr. KASTEN. I would be happy to work with the Senator in this regard. I think that that would be an appropriate way to deal with this particular problem at this time. The unfortunate thing here is that the city found itself following the direction of one group of Government corps employees, thinking that they spoke for the system. And the city went ahead and accelerated the project based on one set of assumptions. After they had done the work, the local office went to the national office. The national office said: No, the local office should have told you to do this.

The result was, it seems to me, that the Government has a responsibility in this case. It is not the city that caused this problem, but the local office did not communicate adequately with the national office and the national office was not following the same rules as the local office.

It is our problem. It is not a huge problem for the Federal Government. It is a huge problem for this particular city. I am hopeful we can work with and deal with the problem.

I wish to do it, at the Senator's suggestion. The Senator and Senator HATFIELD, as ranking member of the committee, could work together with a request to the corps. And if the corps cannot work this out, we look toward the next appropriate legislative vehicle to try to, in fact, attach this amendment.

Mr. JOHNSTON. Mr. President, I am very grateful to the Senator from Wisconsin for going along with that suggestion, and we will work with him in sending that letter. And we will follow up on it later on.

So, at this point, if it is agreeable, I ask unanimous consent that, in view of our agreement, the Kasten amendment, made eligible under the unanimous consent request, be stricken from the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I thank the Senator from Wisconsin.

Mr. KASTEN. I thank the chairman, and I thank the Republican Member.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HATFIELD. Mr. President, I wish to note that we are approximately 1 hour from the time we last noted the clock, and in that period of time we have handled nine amendments, which I think is, with the cooperation of our colleagues, pretty fair speed.

I wish to see if my remaining amendments—could I have the chairman's attention a moment—that I have on my list are the same as my comanager's.

I have, beginning at this point, Mr. NICKLES, the Senator from Oklahoma, has an amendment relating to the Corps of Engineers fee increase; Mr. WALLOP has two amendments, the Shoshone and Buffalo Bill; and then Mr. BRADLEY has a second-degree amendment or a number of amendments; and Mr. DOLE, high-technology research; Mr. FOWLER, renewable energy, with two second-degree amendments by Mr. GARN; and Mr. BUMPERS has a super collider amendment, with Mr. GRAMM, a second-degree amendment; Mr. WIRTH, an enriched uranium amendment; and an unspecified amendment by the chairman. Is that the same list?

Mr. JOHNSTON. The Senator is correct. I understand that work is ongoing to work out the Wallop amendments.

Mr. HATFIELD. I believe that is true.

Mr. JOHNSTON. So I hope those will go away. The Nickles amendment I am not sure will be offered.

Mr. HATFIELD. I believe the Senator from Oklahoma [Mr. NICKLES] is on his way to the floor at the moment, hopefully to dispose of that amendment one way or another.

Mr. JOHNSTON. I would think that really the amendments that ought to be considered at this time—and I would invite these Senators to come to the floor—are the Fowler amendment, if he intends to offer that; or the Bumpers amendment. These others, I hope that we will be able to work them out off stage. And so we are really ready to consider, I think, a Fowler or a Bumpers amendment, if they intend to offer those amendments.

Mr. HATFIELD. If the chairman will yield for a question, I agree that his analysis is correct according to my information, as well. Can we put a time factor as to how long we will be willing to entertain a Fowler amendment or a Bumpers amendment?

Mr. JOHNSTON. I understand with respect to the Bumpers amendment that the Senator from Texas [Mr. GRAMM] objects to a time limitation.

Mr. HATFIELD. He objects to a time limitation at this time, yes, because the Senator from Texas [Mr. GRAMM] is unacquainted with precisely the wording of the amendment that the Senator from Arkansas is expecting to offer.

Perhaps if the Senators who have the amendments were here on the floor quickly, we could dispose of those amendments faster than we might think.

Mr. JOHNSTON. I say to Senators that we may be down to really the Bumpers amendment. These others may not take the time, I am advised. They may be worked out. I will say the longer the clock ticks, the less we take seriously the intention of Senators to offer their amendments.

And I remind Senators that under the rules and under our repeated statements, and under this unanimous consent agreement, we are not required to hold this matter open for Senators who are not interested in offering their amendments.

We would like to have them considered at this point.

As a matter of fact, Mr. President, I see no reason why we could not finish this bill before the 2 o'clock cloture vote, if Senators will come over with their amendments and get them worked out.

So, Mr. President, once again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, as all of us now know from our experience last night and, of course, this morning, with the urging of the chairman of this subcommittee, we are dealing with the appropriations bill for energy and water development. There are a variety of items in that bill. One that I discussed with the chairman and the ranking member last night, for the record, is the importance of language in this legislation that deals with the very important part of nuclear medicine and the capability of developing that for this country and for our citizens.

But let me also express my sincere thanks for the cooperation this committee has provided Idaho with some interests that are not necessarily unique to Idaho but some that are very important.

As many of us in the West know, the ability of the Bureau of Reclamation to conduct environmental compliance activities as it relates to allocating water resources for some of the native Americans has been a tough issue to handle out West over the last several years. Idaho has worked hard to accomplish that in a negotiated settlement way and, as a result, we have been able to do so.

The Fort Hall water settlement agreement, that I have to believe is precedent-setting in the fact that all parties were able to come together in a water-deficient, arid Western State and agree to the division of this resource and its proper utilization, was accomplished. And in accomplishing that, this legislation today includes \$200,000 that is part of the implementation necessary that speaks to the environmental compliance necessary for this agreement to come about. And I am very, very appreciative that both of these Senators, my colleague from Oregon and my colleague from Louisiana, have worked to assure that this precedent-setting agreement go forward on schedule.

Another area that I have been very, very supportive of is language within this legislation and appropriation necessary to proceed with the new production reactor for producing tritium for our nuclear deterrent stockpile. Idaho and other national laboratories around the country will be the competitors for this most important part of our nuclear arsenal and the ability to produce tritium, and also an area I have strongly supported in the new technology developed, one that has not only defense capability but commercial application.

As we as a nation strive toward new technology that is safer and much more publicly acceptable in the area of nuclear energy, I think that we are headed in that direction now. Although we may be departing from the duality concept that drove this process over the last several years, I want to applaud the committee for recognizing

the importance of this technology and moving in that direction.

There is another area that plagues us. It was discussed some last night. It will be discussed more today. And that, of course, is the question of how you handle nuclear waste. Clearly, I believe nuclear energy has a strong future in this country. Safe reactors, public acceptance of the handling of waste, knowing that it is being handled properly is critical to the future we speak of. Funding for the integral fast reactor, or Actinide Recycle Program, of \$10 million that is in this appropriation is critical for that future. I believe we ought not create a time when we may be, in fact, providing a greater hazard by the stockpiling and the storage of waste. But we ought to move forward with the kind of technology of the type that I have just mentioned that, in fact, burns up, if you will, the bad waste, does not leave it around for the worry of future generations but takes care of it for all time. This type of research, of course, offers that type of opportunity.

Lastly, Mr. President, let me thank the chairman of the subcommittee and the ranking Republican member for inclusion of language that directs the Army Corps of Engineers to do the maintenance dredging to assure the operations of facilities along the Columbia-Snake River system. Many people who do not know my State of Idaho find it hard to believe that right in the middle of Idaho is a seaport community connected with the Columbia-Snake River water system that has major oceangoing barge traffic.

It is the constant work of maintaining the system of the Columbia and Snake Rivers that allow this kind of unique economic link with the Pacific rim and ocean to be viable in the State of Idaho. Language and the process of this legislation are key to assuring that the Pacific Northwest continues, to be the recipient of that very important economic link or maritime traffic. Those are issues that are embodied in the legislation.

I think it is important for the record that we discuss all of these in the positive, which they are meant to be. I certainly want to again express my thanks to the chairman, my colleague from Louisiana, and also the ranking member, my colleague from Oregon, for the fine work they have done in bringing this bill to the floor. I urge the Senate to operate with dispatch to move this toward final passage.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 673

(Purpose: To prohibit the implementation of increased dock construction and vegetation modification fees by the U.S. Army Corps of Engineers)

Mr. NICKLES. 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 Oklahoma [Mr. NICKLES] proposes an amendment numbered 673.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . None of the funds in this Act shall be used to implement the final rule for the Army Corps of Engineers shoreline management regulation fee schedule which was published in the Federal Register, Vol. 56, No. 125, Friday, June 28, 1991.

Mr. NICKLES. Mr. President, many of my colleagues are probably aware of the fact, if they have lakes that are managed by the Corps of Engineers, that the corps has been working on increasing fees for what they call vegetation modification. Vegetation modification is a synonym for cutting the grass. And they want to increase these fees rather dramatically.

Right now, if a person has a home on a lake that is managed by the Corps of Engineers, it costs them \$30 to get a new permit for the privilege of cutting the grass and \$10 a year. The Corps of Engineers now proposes to increase that to \$200 for the one-time fee and \$15 a year for the privilege of cutting this grass. Usually it is on the 200 feet between the home and the water's edge. So that is an increase from \$30 to \$275 on a 5-year basis.

The Corps of Engineers is also proposing increasing the fees for people who install docks on their land. Right now the fee—and this fee has been the same since 1976—if a person has a 5-year permit to construct a dock, it costs him \$30. The corps in proposing increasing that to \$400, a rather dramatic increase, 13 times as much as the current fee. They also plan on having a new periodic fee of \$15 per year. So the 5-year cost under the current system for docks is \$30 under the current system, and under the new fee schedule, it would be \$475.

Mr. President, the net result of the Corps of Engineers's efforts would be to dramatically increase costs for anyone that happens to live around a corps lake for the privilege of cutting grass or the privilege of putting in a dock. They could be pricing many people out of the ability to even have a dock.

So they would greatly reduce recreation around the lakes. These fees for vegetation modification are ridiculous. Instead of looking at more ways just to

increase money for assessing people for these permits, what the corps needs to do—and I want to thank the Senator from Louisiana because we have language in the bill that would allow this—would be to encourage lake management associations to come up with ways of monitoring both docks and the grass areas around the lakes. This makes a lot more sense without having Federal bureaucracy charging, for example, enormous fees and pricing a lot of people out of these docks.

Mr. President, the amendment that I have, would prohibit this fee increase schedule from going into effect. Again, I wish to thank my friend and colleague from Louisiana and also my friend and colleague, the Senator from Oregon [Mr. HATFIELD] for their cooperation on this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Oklahoma brought this matter up in committee. We are very sympathetic to it. We have not fully had a chance to analyze the budget impact, if any, of this amendment. It does not violate the budget agreement, but what effect it has on the ability of the corps to comply with this vegetation modification, that is, lawn mowing, we do not know yet, but we are willing to take this to conference and see if it will work. And if it will, we hope it will survive in conference.

So, Mr. President, for my side of the aisle, we are willing to accept this amendment.

Mr. NICKLES. If the Senator will yield, the fee increases are not a product of last year's budget agreement. They are nothing really but an effort by the Corps of Engineers to raise more money. We are going to encourage the corps through reorganization to cut back on the bureaucracy instead. I thank the Senator for his cooperation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to amendment No. 673.

The amendment (No. 673) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now advised that the two Wallop amendments, as well as the Bradley unlimited second-degree amendments to the Wallop amendments, have now disappeared. They are going to be worked out. They have reached agreement. I do not know whether Senator DOLE is going to have an additional amendment or not. So we are now ripe for the Fowler amendment or the Bumpers amendment, if they intend to offer those, or a Wirth amendment, if he intends to offer that.

So, Mr. President, the clock continues to run. I wish those Senators would give us a further indication as to whether they intend to offer the amendments. We await their advice. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized for up to 5 minutes as if in morning business.

Mr. PRESSLER. I thank the Chair. (The remarks of Mr. PRESSLER pertaining to the introduction of S. 1442 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. (Mr. ROBB). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, the distinguished chairman of the full committee, Senator BYRD, has brought a particular problem to our attention relating to Stonewall Jackson Lake in West Virginia regarding a recreational development there.

He proposes an amendment, and I could bring it up under my name here. It is agreeable on both sides of the aisle, because it does not involve the expenditure of any additional moneys. So I will ask unanimous consent, shortly, that it be in order to submit this amendment on behalf of Senator BYRD, which says in its entirety as follows:

At the appropriate place, insert the following: *Provided further*, That the April 1977 contract for recreational development at Stonewall Jackson Lake, West Virginia, is amended to include such element as proposed by the State on March 28, 1990, except the golf course.

All this does is expand, Mr. President, the authorized development at Stonewall Jackson Lake to include a recreational facility, which will be paid for in its entirety by the State of West Virginia, and the revenues, therefore, would be more than sufficient to pay off those bonds. That is all the amendment does; it has been cleared with Senator HATFIELD.

Mr. President, I ask unanimous consent that it be in order to present this

amendment on behalf of Senator BYRD at this time.

The PRESIDING OFFICER. (Mr. GORE). Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 676

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BYRD, proposes an amendment numbered 676.

Mr. JOHNSTON. 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 18 line 10, insert the following after "1991": "*Provided further*, That the April 1977 contract for Recreational Development at Stonewall Lake, West Virginia is amended to include such elements as proposed by the State on March 28, 1990, except a golf course".

Mr. BYRD. Mr. President, my amendment would add no additional funding to this fiscal year 1992 energy and water development appropriation bill.

The purpose of this amendment is to permit the State to include a lodge and certain other facilities within the Federal-State cost-shared recreation development program for Stonewall Jackson Lake. The State of West Virginia would finance the cost of constructing the lodge but would receive cost-sharing credit for this construction project.

To date, the Corps of Engineers has spent approximately \$30 million for recreation development which the State of West Virginia has agreed to cost share on a 50-50 basis at Stonewall Jackson. The corps has agreed to total cost-shared development amounting to \$49.6 million at Stonewall Jackson Lake. The cost-sharing contribution would be approximately \$25 million each from the State and Federal governments.

Unfortunately, the recreational elements of the existing plan are not expected to generate net revenues for the State. Furthermore, the State is not in a position to repay its debt on the prior development which the corps has financed.

The amendment would raise the Corps of Engineers' eventual contribution to \$27.5 million for the total project while the State would contribute a total of \$42 million. So, the State would cost-share 60 percent of the amended project plan, and the Corps of Engineers would provide only 40 percent of its cost. This is substantially greater than the 50-50 cost-sharing normally required from cooperating States.

The advantage of the lodge amendment is that it is expected to generate net income which the State will com-

mit to repayment of its prior debt to the Corps of Engineers. I believe this is a beneficial resolution for both the American taxpayer and the people of West Virginia as it will allow the completion of the recreation plan and a realistic opportunity for the State to repay its obligations.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 676) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 677

(Purpose: To provide funds for the rehabilitation and betterment of Shoshone Irrigation Project, Cody, WY)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Senators WALLOP and SIMPSON relating to the Shoshone irrigation project and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The Senator from Louisiana [Mr. JOHNSTON], for Mr. WALLOP (for himself and Mr. SIMPSON), proposes an amendment numbered 677.

Mr. JOHNSTON. 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:

On page 37, line 22, insert the following: "Provided further, That within the funds appropriated under this head the Secretary is directed to make available \$1,200,000 for the rehabilitation and betterment of the Shoshone Irrigation Project, Cody, Wyoming."

Mr. WALLOP. Mr. President, I want to bring to the Senate's attention the need to update and repair the Shoshone irrigation project in northwest Wyoming. This project embodies some of the West's finest qualities, both in terms of the hardy spirit that refused to bow to adversity in days gone by and the current ingenuity and tenacity that will ensure the West is a major provider of this Nation's future needs. It is very deserving of financial attention.

Since its inception during the early 1900's, Shoshone irrigation project has been a stabilizing force for a large part of Wyoming, particularly for the livestock industry in the Big Horn Basin. Though it now grows an abundance of feed crops, alfalfa, corn, oats, and pastureland—in addition to beans and sugar beets—the land was not always so richly productive. Prior to water delivery, those were very inhospitable sagebrush flats and if you could see the pictures of the land on which those early irrigators staked their existence,

Mr. Chairman, you would marvel at their incredible fortitude. And you would never want to reinstate the conditions that existed prior to irrigation.

It was Col. William F. "Buffalo Bill" Cody who first envisioned the possibilities in the area and it was his dream that the Bureau fulfilled by constructing Buffalo Bill Dam in a sheer walled canyon on the Shoshone River shortly after the turn of the century.

Today, irrigation water is delivered to 89,320 acres of land through a network of canals and laterals serving four irrigation districts—Deaver, Heart Mountain, Shoshone, and Willwood. Their facilities need to be updated since some of the structures, such as drops, head gates, and ditch linings, date back more than 80 years. Their worry, Mr. President, is that their project will fall down around their ears without planned attention, now.

As is typical of irrigators in the State of Wyoming, this project involves a very health share of the costs by the State and irrigators themselves. I strongly recommend that the Senate fund this very deserving project.

Mr. JOHNSTON. Mr. President, this Shoshone amendment was an eligible amendment by Senator WALLOP and Senator SIMPSON. We worked out the problem between Senators WALLOP and Senator BRADLEY, who heads up the Water Subcommittee of the Energy and Natural Resources Committee, and this amendment reflects the fruits of that agreement.

What it does is provide that, within the funds appropriated, the Secretary is directed to make available \$1.2 million for the rehabilitation and betterment of the Shoshone irrigation project.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 677) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I understand Senators FOWLER and GARN are attempting, offstage, to work out their amendment. So we wait Senator BUMPERS, if he still intends to offer his amendment.

I, again, extend the invitation to Senator BUMPERS to come to the floor, if that is his intention; otherwise, to signal the intention that he has thought better of an ill-conceived amendment. With that invitation, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk (Kathleen G. Alvarez) proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

ARIZONA CROSS DIVERSION CHANNEL

Mr. DECONCINI. Mr. President, I wonder if I may engage the distinguished chairman of the Energy and Water Appropriations Subcommittee in a colloquy concerning the Arizona Cross Diversion Channel [ACDC] flood control project in Arizona.

Mr. JOHNSTON. I would be happy to yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, as a result of the chairman's leadership, the committee bill includes \$2 million to initiate the construction of covers for the ACDC in three areas. Two of the areas are in Phoenix, AZ. The first segment in Phoenix runs 1,760 feet west from 32d Street to the property line of the Arizona Biltmore. The second segment in Phoenix is part of the project in the vicinity of Central Avenue. The third area is the part of the ACDC in the town of Paradise Valley roughly 2,600 feet from 32d Street east to Cudia City Wash. As the distinguished chairman knows, the estimated cost of covering the ACDC in these three areas is \$5.15 million. However, understanding the severe fiscal constraints the committee is operating under this year, I am grateful for the support that the chairman has given my request and his pledge to work with me next year to find the remaining amount needed to complete the covering of the ACDC in these two communities.

Mr. JOHNSTON. The Senator is to be commended for bringing this matter to our attention. However, we were at our 602(b) level and could not provide additional funds without impacting funding recommended for other activities.

Mr. DECONCINI. I understand and appreciate the difficult position the chairman is in. It is my understanding that with the funding included in the fiscal year 1992 bill, the corps and the local sponsor can proceed with preconstruction engineering and design work for the covers this fiscal year. In addition to this Senator, the chairman's efforts in this regard are certainly appreciated by many in Arizona whose lives are being affected by this flood control project.

MISSOURI RIVER LEVEE UNIT L-385

Mr. BOND. Mr. President, I would like to speak briefly concerning an important water project. The project is known as Missouri River levee unit L-385 and is located in the Riverside-Quindaro Bend levee district near Kansas City, MO. The subcommittee provided \$945,000 for preconstruction engineering and design for fiscal year 1992 and I thank them for doing so. As a followup to the subcommittee's action, I thought I would be useful to provide a brief background on the project.

Levee 385 is a flood control project authorized by Congress in 1944 for the Riverside-Quindaro Bend levee district, located north of Kansas City, MO. The total cost of the project is estimated to be \$42,640,000, with a Federal share of \$31,900,000 and a non-Federal share of \$10,660,000.

This project is deserving of funding for several reasons. First, it is necessary to prevent continued flooding of a large area of land which is undergoing a great deal of development. Second, there is strong local support for the levee and the local sponsors are willing to provide their required share of the cost. Finally, the Corps of Engineers has already spent \$2.5 million on preliminary planning and design of the project.

Levee 385 is important for my State and I thank the bill managers for giving me the opportunity to describe the background of the project.

Mr. JOHNSTON. I thank my colleague from Missouri and I will be pleased to include his statement as part of the record on H.R. 2427.

Mr. HATFIELD. I concur with the comments of the chairman and I assure the Senator that we will respond to his request.

#### RED RIVER CHLORIDE CONTROL PROJECT

Mr. BENTSEN. Mr. President, I would like to take this time to recognize the dedicated work of the Senator from Louisiana in preparing the Energy and Water Development appropriation bill. I express my thanks to Senator JOHNSTON and his subcommittee for their help on funding of the superconducting super collider, a very important project for my State and the country. Another project was in need of help as well, the Red River chloride control project. The project has already taken a cut from the needed amount this fiscal year to \$3 billion in the House report.

This project is imperative in order to realize full utilization of surface water supplies in the States of Texas, Oklahoma, Louisiana, and Arkansas. Currently, more than 1,000 miles of streams in the river basin are severely contaminated by natural brines. Consequently, water in these streams is not suitable for municipal and most industrial and agricultural purposes.

Congress authorized construction of the entire Red River chloride project to control natural brine sources as a 100-percent Federal project in the 1960's. As part of this agreement, Texas and Oklahoma agreed to eliminate any manmade sources of salt pollution in the Red River Basin, and the Federal Government agreed to deal with naturally occurring pollution. The States have so far spent \$92 million to reduce the amount of manmade salts. Federal expenditures remained at a level reached 5 years ago, until last year when \$5 million was funded. I have worked tirelessly to keep this project a

100-percent federally funded project and it is essential that funding continues in order to meet the needs of this region.

The Red River is a natural resource that provides for a base of economic development and well-being for Texas as well as for the State of Louisiana. I believe an important part of keeping it a secure resource is to provide for the cleanup of the natural salt pollution.

I ask Senator JOHNSTON for his help in securing funding during conference committee for this very important project.

Mr. JOHNSTON. I commend the Senator for his interest in this project and he is correct that the Red River is an important natural resource for our region of the country. His efforts to provide usable water for economic development are important. We were faced with a difficult situation of balancing the water resource needs of the Nation in light of the severe budgetary limitations. However, I can assure the Senator that I will review this matter and see if funds can be found for this project in conference.

Mr. BENTSEN. I thank my distinguished colleague for his assurances to work in conference committee for the Red River chloride control project. His comments are very helpful and I appreciate his dedicated work.

#### GUADALUPE RIVER, CA

Mr. CRANSTON. Mr. President, I am pleased to note that the fiscal year 1992 Energy and Water Development appropriations bill as reported by the Senate Appropriations Committee includes \$9,750,000 for the Corps of Engineers Guadalupe River project in California as requested by the President and approved by the House.

However, I am disappointed to note that the Senate committee has stricken language in the House passed bill directing the corps to proceed with construction of the Guadalupe River project in accordance with the general design memorandum of January 1991.

This project plan has been cleared by both the Sacramento district office and the South Pacific division office of the corps; it has the full support of the local community, the city of San Jose, and the Santa Clara Valley Water District; and it has received full approval by Federal environmental agencies.

It is my understanding that the corps headquarters agrees with the district and division that this GDM is a technically sound, well designed plan. But the corps headquarters is indicating that the corps does not intend to fulfill its full cost-sharing burden and instead intends to shift responsibility for environmental aspects of the project to the local community.

I believe that the Federal Government should share fully in the costs necessary to ensure that the Guadalupe River flood control project meets basic Federal environmental requirements, as the January 1991 GDM provides.

Further, I am concerned that the language in the Senate committee report on H.R. 2427 clouds the issue of whether the corps will proceed with construction of the Guadalupe River project as identified in the January 1991 GDM.

Again, this is the project that the local community supports, that has received full approval by Federal environmental agencies, and that meets all relevant criteria of the 1986 Water Resources Development Act, including cost sharing.

San Jose needs flood protection. We cannot afford a substantial delay which continues to leave 100 million dollars' worth of property at risk. It is critically important that the corps be able to proceed with construction of the Guadalupe River project with the funds provided in this bill.

Mr. President, I would like to ask the manager of the bill if he would review this situation and see if the committee could accept the House bill language in conference.

Mr. SEYMOUR. Mr. President, I also rise in support of the House language, stricken by the Senate Energy Committee, directing the Corps of Engineers to proceed with construction of the Guadalupe River project in accordance with the general design memorandum of January 1991.

It is my understanding that the project plan has the strong support of the city of San Jose, CA, the Santa Clara Valley Water District, and local and national environmental organizations. Further, as stated by California's senior Senator, Senator CRANSTON, this plan has been cleared by both the Army Corps of Engineers, Sacramento district office, as well as the South Pacific division office.

Mr. President, I respectfully request that the managers of this bill review this situation and see if the committee could accept the House bill language during conference.

Mr. JOHNSTON. I appreciate knowing of the interest of both California Senators in the Guadalupe River project. I would like to assure the Senators that I will revisit the issue when we go to conference with the House.

Mr. CRANSTON. I thank the manager of the bill for that assurance.

#### MNI WICONI PIPELINE

Mr. DASCHLE. Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Energy and Water Appropriations Subcommittee for purposes of clarification.

Once again the subcommittee recognized the importance of funding the Mni Wiconi drinking water pipeline in western South Dakota, allocating \$2.45 million for the project. This is \$300,000 more than was appropriated by the House. It is my understanding that this additional \$300,000 is for the Bureau of Reclamation to perform a needs assessment of the Rosebud Indian Reserva-

tion. Rosebud has severe water quality problems, and has officially requested to become a part of the Mni Wiconi project, which is designed to bring drinking water to the Pine Ridge Indian Reservation and other designated areas. While adding the construction of a spur pipeline to Rosebud to the project would require an amendment to the authorizing legislation, it is important that the Bureau first make a preliminary assessment to determine whether such an amendment is warranted.

Is my understanding correct that under the Senate bill, the Bureau of Reclamation is permitted to use up to \$300,000 of its fiscal year 1992 appropriation for the Mni Wiconi pipeline to perform an assessment of water conditions on the Rosebud Indian Reservation to better determine the advisability of adding the reservation to the project?

Mr. JOHNSTON. The Senator from South Dakota is correct. There appears to be a need on the reservation for clean drinking water, and the Mni Wiconi pipeline may be a cost-effective means of addressing this need. The Bureau of Reclamation should use up to \$300,000 of its fiscal year 1992 funds for Mni Wiconi to look into the Rosebud situation.

Mr. DASCHLE. I thank the chairman. There is a second issue that I feel also needs clarification. As the subcommittee is aware, there are many people in South Dakota who are concerned about the flooding situation in and around Watertown, SD. The Corps of Engineers is in the midst of performing a feasibility study of flood control options in the area. While the spring flooding again points out the fact that something needs to be done, many people are concerned about possible negative impacts of the proposed Mahoney Dam project.

These people are concerned that there will not be a chance to comment on the feasibility study, and that their concerns will not be heard by the corps. I appreciate the chairman's recognition of the importance of corps submissions of the feasibility study to full public scrutiny before any preconstruction or construction work can begin. I have learned that the feasibility study should be released for public review this summer.

It is my understanding that it is the intent of the chairman and the subcommittee that there should be complete and thorough public comment into the project before any funds are expended for preconstruction and construction activities. However, if, after the public comment period, it is determined that a given alternative is justified, then fiscal year 1992 funds can be used for preconstruction activities. Is this correct?

Mr. JOHNSTON. The Senator is again correct. Like all projects of this nature, public comment is essential.

Before the corps uses its appropriated funds for fiscal year 1992 for preconstruction activities, there must be an opportunity for extensive public comment on the proposal, including at least one public hearing, to make sure that the project is in the public interest. Once this requirement is met, the corps may proceed with preconstruction activities with its fiscal year 1992 appropriation, and nothing in the committee report is intended to imply otherwise.

Mr. DASCHLE. I thank the distinguished chairman for this clarification.

Mr. ADAMS. Mr. President, I wonder if we could discuss a few items that are related to the bill and are of interest to me and to the State of Washington?

Mr. JOHNSTON. I yield to the Senator.

#### WYNOOCHEE PROJECT

Mr. ADAMS. Mr. President, I hope the Senator will accept my most sincere thanks for his assistance on the Wynoochee title transfer provisions included in this bill. Title transfer will provide important benefits to both the Federal Government and the cities of Aberdeen and Tacoma. I would also like to confirm with the Senator that the committee is in complete agreement with the House Energy and Water Subcommittee's Wynoochee bill and report language.

Mr. JOHNSTON. The committee is in complete agreement with the House on the Wynoochee bill and report language.

#### ABERDEEN SOUTHSIDE DIKE PROJECT

Mr. ADAMS. Mr. President, the residents of the city of Aberdeen in my home State have recently been suffering through some of the worst flooding Washington has ever seen. In an area already distressed economically because of the downturns in the fishing and timber industries, we have a serious public safety problem stemming from potential high-velocity flooding. The problem has been recognized since the 1940's and the Corps of Engineers has been working on a flood control levee system for Aberdeen. Unfortunately, money is scarce in Aberdeen, and a referendum to approve the local contribution failed to receive the super-majority required by law, so the corps stopped work on the project. The local government has now revised the referendum and is optimistic that it will receive the required vote this coming November. I worry, though, that there is no money in the corps' fiscal year 1992 budget for starting work up again, and I am very concerned about the impact of budgetary delays on the safety of my constituents.

Mr. President, I would like to thank the chairman for hearing me out on this problem, and I would like to ask him a question. If the city's financial share of the project is approved in the November referendum, would the Senator support the corps' reinstating

work on the project using the funds which were programmed away from the project after the referendum?

Mr. JOHNSTON. Mr. President, the committee recognizes the need for flood control in the Senator's area, and I agree that the project should proceed when the local share is approved. I appreciate his concerns about the delays on the project and I expect that the corps will move expeditiously to renew work once the referendum is approved.

#### COLUMBIA RIVER STATE PARK

Mr. ADAMS. Mr. President, the Port of Camas-Washougal in my State seeks to purchase from the Corps of Engineers for recreational development, including development of a State park, approximately 45 acres of an 82-acre parcel of corps land adjacent to the port's industrial park and the Steigerwald National Wildlife Refuge. However, there has been some question about the corps' authority to convey the property for such purposes. The House of Representatives therefore included language in the House bill to clarify the corps' authority to make this conveyance.

Mr. President, is it the committee's intent that we will review this proposed language in conference to ensure that the conveyance can proceed?

Mr. JOHNSTON. I know of the Senator's interest in this matter and I can assure him that we will review this item and give it every consideration in conference.

#### NEW PRODUCTION REACTOR

Mr. GORTON. I rise to engage the Senator from Louisiana in a colloquy concerning the new production reactor funding in the Energy and Water Development appropriation bill. Several constituents have expressed to me the concern that the funding cut in the light water reactor tritium target program could compromise the NEPA process for selecting the best sites and technology for new production reactor capacity. Without restoration of this funding, DOE may lack sufficient authority to fund the critical technology for the light water option even if the record-of-decision chooses the light water technology or it is carried as a contingency. Given these potential concerns, can I have the chairman's assurance that he will review this issue during the conference with the House?

Mr. JOHNSTON. Yes, I can assure the Senator from Washington that the light water reactor tritium target issue will be carefully reviewed during conference. It was never the intent of the committee to compromise the integrity of the NEPA process. In fact, the committee recommendation was developed to ensure that adequate funds will be provided to complete the environmental impact statement and record of decision process. I assure the Senator that every effort will be taken in conference to avoid prejudicing the NEPA process.

THE DEEPENING OF THE ENTRANCE CHANNEL TO WILMINGTON HARBOR AND FOR A STUDY RELATING TO OREGON INLET

Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator JOHNSTON, in a discussion of two critical matters affecting the citizens and economy of my State.

Mr. JOHNSTON. I would be happy to discuss these matters with the Senator from North Carolina.

Mr. SANFORD. I would like to mention the need to deepen the entrance channel to the Wilmington Harbor in southeastern North Carolina. This project was authorized and begun by the Federal Government in the 1960's but never completed to design depth. Some of today's larger vessels are unable to pass through the shallow channel safely, so Wilmington Harbor now finds itself at an extreme disadvantage as it competes with other ports along the Atlantic coast.

We in North Carolina are very proud of the recent completion of U.S. Interstate 40 to the city of Wilmington. This event has given the city, and our State's largest port, great hope for a bright economic future. However, in my discussion with North Carolina State Port Authority officials, the port at Wilmington stands to lose millions of dollars in business if the channel to Wilmington Harbor at the entrance to the Cape Fear River is not deepened. I have also received scores of letters and calls assuring me of the real threat that exists of this port losing a substantial amount of its international steamship service. Many North Carolina industries such as lumber, tobacco, furniture, and others depend upon this port for international shipping; of course, we hope to attract new clients as well.

Because port access is critical to many industries in the region, this is a very time sensitive project. Since the Federal Government has previously approved and worked on this project, I previously requested funding for the completion of this project, or for the rewarding of a contract by the Corps of Engineers. I do, however, realize the tough choices made by the subcommittee this year, and wish only to achieve the modest funding level of \$1 million for project planning only, rather than the \$400,000 that the subcommittee has recommended. This \$1 million figure was agreed to by the relevant House appropriators.

This project represents a promise by the Government to the people of North Carolina that was never kept. I am hopeful that the conferees will give favorable consideration to my request.

Mr. JOHNSTON. I thank the Senator from North Carolina for his remarks and assure him that his request will receive full attention from the conferees. Does the distinguished Senator from North Carolina wish to discuss another matter?

Mr. SANFORD. I also wish to bring to your attention the need for an appropriation to complete the engineering design of a construction project for Manteo-Shallowbag Bay—also known as Oregon Inlet—that would keep this inlet open for the safe travel of commercial, recreational, and rescue vessels. \$500,000 is needed to complete this critical study. The House has included the \$500,000 in its energy and water appropriations bill, but the Senate has not. It is my hope that the Senate will agree to the House amount during conference committee discussions.

Mr. JOHNSTON. Would the Senator from North Carolina please explain the nature and purpose of this appropriations request?

Mr. SANFORD. This project was first authorized by Congress in 1970. Since that year, in excess of \$7 million of the taxpayers' money has been spent in the successful completion of a model study by the Corps of Engineers, Vicksburg, MS Model Study Center, and it has been updated on a periodic basis. The engineering design is near completion. Numerous cost-benefit studies have been made—all of which are favorable. The environmental impact studies have been completed, updated, and amended.

One year ago, it was determined that the project should be subject to a joint review by the Department of the Interior and the Department of the Army. During this interim period, regular work sessions have been held between these two Departments, their subordinate agencies, the State of North Carolina, personnel representing the governor of North Carolina, and Dare County officials.

The normal procedure at this time will continue to involve the Department of the Interior and the Army Corps of Engineers and their subordinate agencies meeting regularly. With this participation, all requirements will be satisfied and the necessary permits will be issued on or before the end of 1991.

The funds requested will be sufficient to complete the engineering design of this project and move it forward to the construction phase.

We have tried for a number of years to maintain the Oregon Inlet channel by dredging. However, the current dredging effort is simply not working. Since 1960, the channel has been maintained at its recommended depth less than 25 percent of the time, and the recommended width of 400 feet has never even been approached. The inlet has been frequently closed in recent years, and it presents a serious safety hazard when open. Dozens of strandings have occurred, with several incidents resulting in the loss of vessels and the loss of lives.

The latest life-threatening situations in this inlet occurred in October of last year when a dredge brought down a significant portion of the Bonner Bridge during a period of high winds.

Also, severe erosion on the south side of Oregon Inlet is threatening both the Pea Island National Wildlife Refuge and the nearby Coast Guard station. The jetty project, with its state-of-the-art sand-bypass system, should greatly reduce this erosion.

The livelihoods of many fishermen in northeastern North Carolina depend upon their being able to safely reach our rich coastal fishing waters through this pass. Some of the world's most productive fishing grounds lie offshore from our outer banks, but these waters cannot presently be efficiently utilized. Fishermen operating offshore must frequently go far out of their way to Norfolk in order to process their catch. This situation adds greatly to our fishermen's costs, decreases the quality of their catch, and prevents the usage of North Carolina's own efficient processing facilities at Wanchese.

Unless these funds are made available for fiscal year 1992, this entire project will, of course, lie dormant for 1 year. Funding the completion of the study will represent a step forward in the effort to end the needless loss of life and vessels that has occurred in this inlet over the years. Additionally, without the funds, the loss of seafood landings—in the millions of dollars annually—will continue to adversely affect Dare County and the economy of northeastern North Carolina.

You can be certain that I do not intend to support a project that would be wasteful or that would cause severe environmental damage to our coastline. I would appreciate Senator JOHNSTON's careful attention to this matter when the House and Senate conferees meet to discuss this bill.

Mr. JOHNSTON. I realize that this is an important project for northeastern North Carolina and I will certainly give the Senator's request close review in conference deliberations.

Mr. SANFORD. I thank the distinguished Senator from Louisiana for his indulgence in these matters, and I believe that my colleague, the senior Senator from North Carolina, wishes to be recognized for additional remarks on the Oregon Inlet funding.

MANTEO-SHALLOWBAG BAY

Mr. HELMS. Mr. President, I thank my friend from Louisiana for his efforts to protect the Manteo-Shallowbag Bay project.

Senator SANFORD and I have been deeply concerned about the future of Oregon Inlet as a safe navigable channel for commercial and recreational boating as well as for law enforcement and search and rescue operations of the U.S. Coast Guard. Equally as important is the future of the people who live in and around Dare County, NC, and who depend on the local fishing industry for their livelihoods.

Mr. President, Oregon Inlet is located along the outer banks of North Carolina. It is the only navigable inlet be-

tween Cape Henry, VA, and Ocracoke Inlet, NC—a distance of more than 150 miles. This makes Oregon Inlet a potential haven for all kinds of ocean-going vessels in bad weather. In addition, this area contains the most important warm and cold water fishery on the east coast.

The problem arises because the inlet is exposed to the most severe wave climate along the U.S. Atlantic and gulf coasts. This intense wave action results in the development of massive shoals and severe land erosion along the adjacent barrier islands. Consequently, passage through Oregon Inlet can be extremely hazardous for commercial and sports fishing craft.

When the Inlet is unnavigable, captains must take their boats to other ports—many miles away. This costs them dearly in time and money, sometimes making their catch unprofitable. Often captains take great risks in attempting to navigate the inlet. Sometimes they make it—sometimes they do not. Ten people have died in Oregon Inlet since 1969. People attempting to navigate Oregon Inlet today are reminded of the tragic losses by the remains of the *Lois Joyce*, a trawler that went down in 1982.

Mr. President, some who are opposed to this project argue that they do not want to give up any of their valuable Federal lands for the project. Yet since 1974, without any stabilization project, we have lost more than 150 acres on the northern tip of Pea Island. In addition, we have lost approximately 120 acres along the shoreline south of the inlet.

Oregon Inlet claimed its most recent victim in April 1988, when a French national attempted to sail his 50-foot sailboat through the inlet to escape heavy seas. The Coast Guard had received an earlier indication that the vessel could be in trouble as it sailed south along Nags Head. From their observation tower at Oregon Inlet, Coast Guard personnel saw the boat start to enter the inlet. They immediately launched their 44-foot rescue vessel, even before the ship capsized.

Unfortunately because of the accelerated erosion that has occurred at the Coast Guard station at the inlet, they no longer keep their rescue vessels there. They have moved them to the Oregon Inlet fishing center. Consequently, the crew had to drive 10 to 15 minutes to the fishing center, then take another 45 minutes to steam back to the inlet. By that time, it was too late to save the Frenchman's life.

The accelerated rate of erosion to Pea Island has also created a severe threat to the stability of the Herbert C. Bonner Bridge. As Senator SANFORD stated, the Bonner Bridge collapsed last year. Although quickly repaired it is still in danger.

According to the North Carolina Department of Transportation, approximately 1.5 million cars crossed the

Bonner Bridge in 1989. It is a vital link to Hatteras Island. How many more lives will have to be lost—how much more land will have to be lost—how much devastation will have to occur before Congress wakes up and carries through with the project authorized many years ago?

Mr. President, this situation should have been corrected long ago. On December 31, 1970, with the passage of the Rivers and Harbors Act, Congress authorized the stabilization of Oregon Inlet via a dual jetty system and also authorized the ocean bar channel to be deepened to 20 feet by 400 feet. During the 1970's, the Army Corps of Engineers undertook the necessary engineering, environmental and economic studies of the project. Also during this time, the State of North Carolina and Dare County fulfilled their part of the project as required by Congress. They expanded the harbor at Wanchese and provided an infrastructure for a seafood industrial park there. Approximately \$10 million has been invested in the park from a combination of Federal, State, and private sources.

Despite congressional authorization and the efforts on the part of North Carolina State and local governments, the refusal of the Department of Interior to grant the necessary permits has stifled further progress on this project. Unfortunately, jetties have never been built, the inlet remains unstabilized, and the hard-working fishermen of Dare County continue to risk their lives in pursuit of an honest living. As I mentioned before, 10 people have died since 1969 due to what has been one of the most ridiculous and time-consuming hassles I have ever witnessed.

During this time, the corps has attempted to maintain the inlet through intensive dredging. However, dredging has been able to keep the inlet at a depth of 14 feet less than 25 percent of the time. The corps has never been able to maintain the authorized width of 400 feet or the authorized depth of 20 feet.

Mr. President, the study which Senator SANFORD mentioned earlier is a vital part of our effort to stabilize Oregon Inlet, without it the use of a significant portion of North Carolina's coastal waters will be lost.

I thank the distinguished Senator from Louisiana for his help in ensuring that this vital commercial and recreational resource is preserved for future generations.

#### LEWIS CREEK CHANNEL, VA

Mr. WARNER. Mr. President, I rise to request that, as the Senate considers the fiscal year 1992 energy and water development appropriations bill, to include either here on the Senate floor or in conference, a provision of the House energy and water development appropriations bill which would provide \$550,000 for the Lewis Creek Channel, VA, dredging project.

The Lewis Creek Channel project is a very important project to not only the economic prosperity of the historic town of Chincoteague, VA, but also to the safety of its residents. I visited this lovely community last August and I was totally convinced of the necessity to dredge this channel as well as the adjacent Chincoteague Inlet Inner Channel.

Only recently did the Corps of Engineers obtain all of the necessary permits for the Lewis Creek Channel dredging project and, therefore, the corps is now requesting funding for the project. If funding is appropriated for fiscal year 1992, construction can begin in October 1992.

The Chincoteague Inlet Inner Channel provides a navigable waterway for the commercial fishing vessels which operate from the town of Chincoteague, VA, and also serves the U.S. Coast Guard Station at Chincoteague, VA. The Lewis Creek Channel segment of the waterway on the coast of Virginia provides access to the Chincoteague Bay for commercial fishing vessels.

Both the Chincoteague Inlet Inner Channel and the Lewis Creek Channel have severe shoaling and need maintenance dredging. The condition of the Chincoteague Inlet Inner Channel has resulted in frequent groundings and delays for the commercial fishing vessels and has caused the Coast Guard to relocate temporarily the 85-foot patrol vessel normally based at Chincoteague.

Access to Chincoteague Bay via the Lewis Creek Channel is limited to the smallest fishing vessels and even those are limited to transit at high water, thus inhibiting commercial fishing and crabbing.

The projects have not been maintained due to the lack of a suitable placement area for the dredged material. In 1991, a plan for the one-time use of an overboard placement site in Chincoteague Bay was developed and was successfully coordinated with the Virginia Marine Resources Commission in May. Because of the approval of overboard placement by the VMRC it became possible to schedule the maintenance dredging of these projects.

The construction phase of the dredging project can move forward beginning in October 1992 if Congress provides the appropriate funding.

I strongly urge my colleagues to allocate \$550,000 for the Lewis Creek dredging project.

#### FREEPORT FLOOD PROJECT STUDY

Mr. DIXON. Mr. President, Mr. SIMON and I today state our support of the Freeport flood project study in Freeport, IL.

The Freeport project was authorized in the 1936 Flood Control Act, deauthorized in the 1986 Water Resources Development Act, and reauthorized in the 1990 Water Resources Development Act.

The studies that have been taken in the past are outdated and another

study is needed before an actual flood control program can commence. The Freeport flood project study is important to this northwestern Illinois community. Recent flooding along the Pecatonica River and Yellow Creek has made this study even more imperative to reduce flood damage in this area of our State.

The local Corps of Engineers, the Rock Island District, has indicated this as a priority and has an approved study capability for fiscal year 1992 for \$350,000 to initiate a general reevaluation report.

This program is well supported by the local officials in Freeport, as the flooding causes problems not only for homeowners but for the economic well-being of the community.

Our concern, Mr. President, is to provide adequate flood protection and prevention to the constituents in our State. Therefore, we ask our friend and colleague from Louisiana for his full consideration of this important program in directing the Corps of Engineers to provide within available funds for the Freeport flood project study.

Mr. JOHNSTON. I recognize the concerns of my Illinois friends and agree that the Freeport flood project study is important to an effective flood control plan in this Illinois community. I do, indeed, recommend that the Corps of Engineers provide, within available funds, for the project.

Mr. SIMON. Senator DIXON and I thank our friend from Louisiana for his recognition of this important program. As my Illinois colleague mentioned, this project, which would allow the Army Corps of Engineers to begin work on a flood control program in Freeport, IL, is vital to the economic health of the community.

Again, Mr. President, we appreciate the Senate's support.

#### BIOFUELS ENERGY SYSTEMS

Mr. SEYMOUR. Mr. President, I wonder if the distinguished floor manager of the bill would yield for a few questions?

Mr. JOHNSTON. I would be happy to yield to my colleague from California.

Mr. SEYMOUR. I thank the Senator. I have some questions about the Biofuels energy systems provisions detailed on pages 76 and 91 of the committee's report. I note that the committee recommends \$36,800,000 for biofuels, which is the same level as the President's budget request, but \$2,500,000 less than the House allowance.

Mr. JOHNSTON. The Senator's information is correct. Our committee's recommendation is the same as the budget request, but \$3,673,000 above the level included for biofuels in the 1991 bill.

Mr. SEYMOUR. If the Senator would yield further, I see that the committee recommendation includes \$6 million for the Short Rotation Woody Crops Pro-

gram, which is \$4 million more than the request; \$4,500,000 for the Regional Biofuels Program, or \$2,500,000 more than the request; and \$1 million for the Hawaii Biofuels Program, whereas the request included no funds for this work. Is my understanding correct?

Mr. JOHNSTON. Yes; the Senator from California has correctly characterized our actions.

Mr. SEYMOUR. My final question, Mr. President, has to do with how the committee's actions will affect the Department of Energy's ability to fund promising new research and development that was neither contemplated in the President's request or mentioned in the House or Senate committee reports.

Specifically, I wonder what the effects will be on the proposal to scale-up the California biofuels process developed jointly by the University of California's Forest Products Laboratory and a private California-based company?

Mr. JOHNSTON. I would say to the Senator that the committee is very much aware of the progress which has been made to move the California system—which uses a weak nitric acid hydrolysis process—into the commercial marketplace.

We are also aware that the Department's Biofuels Program managers have tentatively concluded that the California process may dovetail very well with the enzyme process now in the early stages of development at the Solar Energy Research Institute.

I understand, further, that the proposed Federal share of the scaleup work alluded to by the Senator is estimated to cost approximately \$700,000 in fiscal year 1992 and \$1,500,000 in fiscal year 1993. With respect to the 1992 funding situation, I believe there should be sufficient funds available for DOE to start the scaleup work if they so desire.

The Biofuels Program has received substantial funding increases in the last 2 fiscal years, and the level contemplated in this bill should give the Energy Department a lot of latitude to fund promising new research and development needs.

Mr. SEYMOUR. I thank the distinguished floor manager for his assurances. The California biomass-to-ethanol conversion process is at an important juncture. Federal support for the scaleup work would accelerate its commercial deployment. That, in turn, will help lessen America's air pollution and solid waste disposal problems.

Mr. President, I thank the Senator for yielding.

#### ELECTROMAGNETIC FIELDS

Mr. COCHRAN. Mr. President, I would like to ask the manager of the bill, the chairman of the subcommittee, Senator JOHNSTON, if he would clarify a provision of the bill concerning electric and magnetic fields research, or EMF.

I understand there are funds in the bill now before us to continue research on the potential health effects of EMF. Some concerns have been brought to my attention regarding how this research will be carried out. The primary issue I have heard is that this federally funded research should draw not only on existing knowledge but should also identify new areas of sophisticated research opportunities that produce credible, reliable, and original data and results.

Scientific research surrounding electric and magnetic fields is an evolving and challenging responsibility for the scientific community and will have important environmental and economic implications over the next decade.

It is the chairman's intent that the EMF research funded in this bill be performed by credible, independent agencies—both public and private—and that it be coordinated with ongoing federally and privately funded EMF research?

Mr. JOHNSTON. The Senator is correct. It is the committee's intent that the Department of Energy will coordinate ongoing and future Federal and private programs to ensure that the maximum benefits are derived from all research efforts where duplication is minimized. Further, to ensure that any electric and magnetic field research is both reliable and credible, DOE is to seek out and support financially independent research institutions with proven records for conducting high quality research on health-related issues.

Mr. COCHRAN. I thank the Senator for that clarification.

#### ARTIFICIALLY IRRIGATED WETLANDS

Mr. WALLOP. I would like to ask my friend from Rhode Island a question about an issue which has great impact on western water as it deals with artificially irrigated wetlands under section 404 of the Clean Water Act.

In spite of agency rules which clarify that the term "water of the United States" does not include "artificially irrigated areas which would revert to upland if the irrigation ceased," there seems to be some questions on this when it comes to enforcement in the field.

I would like to ask the Senator, first of all, if it is his understanding that artificially irrigated wetlands which would revert to upland if the irrigation ceased are not jurisdictional wetlands. And that this is so even if the irrigation does not, in fact, cease.

Mr. CHAFFEE. Yes; my understanding of the regulation is that the artificially irrigated areas described by the Senator from Wyoming are generally not considered jurisdictional wetlands.

Mr. WALLOP. It was my original intention to offer an amendment to this bill, but if the Senator will assure me that he will work on this when the Committee on Environment and Public

Works considers the Clean Water Act, then I will wait to work with him at that time.

Mr. CHAFEE. I can assure the Senator from Wyoming that we will work on this issue when we consider the Clean Water Act.

#### NEW PRODUCTION REACTOR PROGRAM

Mr. SYMMS. Mr. President, I rise today to bring to the Senate's attention a provision in this energy and water appropriations bill that is of critical importance to national security. I am referring to the cut proposed in the Department of Energy's New Production Reactor Program.

In this bill, H.R. 2427, the Senate Appropriations Committee not only dropped the \$36 million addition placed in this program by the House of Representatives but also cut the Bush administration's request by another \$17 million. The Bush budget called for \$500 million for the NPR Program in 1992. Because the House of Representatives saw a need to accelerate the procurement schedule for the NPR, they increased this budget to a level of \$536 million. The Senate Appropriations Committee has only provided \$483 million.

The committee's level of funding will not only abandon the urgent schedule of funding for NPR but also cuts the research work for light water reactor tritium production.

These are disturbing cuts. Of all the programs and projects that we are paying for in this bill, the most important ones are the ones related to maintaining our national security and our nuclear deterrent. I would urge the members of the Senate Appropriations Committee to carefully consider the impact on our nuclear deterrent by reducing the funding for this program as this bill is considered in the conference committee.

For example, we have already invested over \$80 million in light water reactor research and now is not the time to abandon this program. Congress imposed the LWR research on DOE as a contingency to the modular high-temperature gas-cooled reactor and the heavy water reactor options. In response the Pacific Northwest Laboratory and the Idaho National Engineering Laboratory are working together on this research. The goal of this research program is simply to find out if light water reactors can be modified for the production of tritium and plutonium for nuclear weapons. If they can be, the technology will be put on the shelf and would only be used in the most dire national emergency.

Because these cuts only affect a contingency program and the schedule for deployment of whichever reactor is selected, the NPR Program is by no means killed by H.R. 2427. Yet, I would urge my colleagues appointed to the conference committee on this bill to

recognize the importance of this program.

It also is apparent that a much higher dollar amount will be authorized in the Department of Defense bill to be considered by the Senate later this month. This tells me that there ought to be room to negotiate on the appropriations bill. I would much prefer a final bill that is much closer to the House of Representatives or administration level of funding.

I thank the managers of the bill for consideration of my views on this matter, and I want to join my colleague from Idaho, Senator CRAIG, in praising the managers for the cooperation they have shown us on this bill. The ongoing activities of the Federal agencies funded in this bill are very important to Idaho and other Pacific Northwest States.

Mr. JOHNSTON. Mr. President, we understand Senator BUMPERS is on the way. So all interested in the superconducting super collider should report to the floor without further delay.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 686

(Purpose: To prohibit the use of funds for the superconducting super collider)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 686.

On page 49, strike line 6 and insert "\$998,789,000, except that none of the funds appropriated in this Act may be used for the superconducting super collider."

Mr. BUMPERS. Mr. President, normally when I offer an amendment, I try to offer an amendment that I have very strong feelings about from an emotional standpoint, or something that I think is great public policy or bad public policy.

My presentation on this is going to be purely clinical. I am not a scientist, and I am certainly not a physicist. So I cannot make all those arguments that the scientific community could make, but very few Senators would understand anyway.

It is with considerable reluctance that I even offer this amendment, because I know so many Senators, and especially my very good and dear friends who are seated on the floor right now, Senator JOHNSTON from Louisiana and

Senator BENTSEN from Texas, whose States stand to benefit very handsomely from the superconducting super collider.

I would be less than candid if I did not say if they were building this in my State of Arkansas, I would be seated where they are seated and making precisely the same argument they will make in opposition to my amendment to kill the superconducting super collider.

There are 1,200 people involved in this project already in the State of Texas, and I am not sure what Louisiana's interest is; as I understand it, the magnets are going to be made there, but I know it is a big deal for Louisiana, too.

Having said that, Mr. President, I might also point out for those who want to look at this as a parochial matter, that there are three States: Illinois, New York, and California, two of which will almost certainly lose their accelerator laboratories because we cannot finance the superconducting super collider and still finance the Fermi Lab in Illinois, the Brookhaven National Laboratory in New York, and the Stanford linear accelerator in California.

We are prepared to have a \$270 billion deficit this year, and the money involved in my amendment is peanuts compared to the magnitude of the deficit. But at the same time, not only are those States going to lose their laboratories because the superconducting super collider is going to slurp up at least 76 percent of all the particle accelerator research in this country, but there are going to be an awful lot of scientists in what we call small science that are simply not going to be funded.

And as a total aside, the National Institutes of Health is one of the things that I watch very carefully. I sit as ranking member on the Appropriations subcommittee that funds NIH, and every year the National Institutes of Health comes in and tell us that they can only fund 25 to 27 percent of all the good applications for medical research that they receive. It has been less than 20 years since NIH funded 60 percent of all the good applications for grants for medical research that they received.

I might just start off by saying that 30 percent of all the scientists in this country are involved in defense-making weapons. In Japan, the figure is 2 percent. In Germany, the figure is 3 percent. When it comes to the cost of the superconducting super collider, what you are going to get out of it for the money is one argument; what you are going to lose in the way of small science projects is probably as compelling an argument as any. There just simply is going to be a very short supply of money to fund small science if we go forward with this superconducting super collider.

The distinguished floor manager of this bill is the chairman of the Energy

Committee, and I sit at his right hand as the ranking member on that committee. And I have sat with him through hearings on this since 1988. The first time I ever heard of it was in 1988, and it was President Reagan who wanted this project funded.

For the laymen in this audience who have never paid very much attention to this matter, the superconducting super collider is being designed in a 55-mile oval underground track, so to speak. And presumably, atomic particles will be fired around that track and smashed somehow or other. After we spend whatever it is going to take—Lord only knows—we possibly will discover the origin of matter, a highly desirable scientific fact that scientists have always been curious about.

I am not curious about it because I am a lawyer, a politician. And I want to make this point crystal clear. It would be nice to know the origin of matter. It would also be nice to have a balanced budget. It would be nice to know what is on Mars. It would be nice to be able to put the space station in space. All of these things would be nice. And this would be nice to know.

There is a laboratory being built in Switzerland right now that is only about 30 kilometers long, but that obviously is not long enough for our scientific community. We want ours to be, I forget how many kilometers, but it is 55 miles. It is only fitting that it go to Texas since it is going to be so much bigger than the one in Switzerland, and I do not mean that to castigate the great State of Texas.

But as I mentioned a moment ago, Mr. President, when this first came to my attention in the Energy Committee, in 1988, we were told categorically that the cost of this project would be \$4 billion. Now, I had serious reservations about it when it was \$4 billion. It could have been up to \$5 billion, but it was somewhere between \$4 and \$5 billion. And now 3 short years later, even the Department of Energy says the cost will be \$8.2 billion, about a 100-percent increase in 3 years. And even an internal group of auditors in the Department of Energy say that the total project cost in today's dollars is probably going to be between \$11 billion and \$12 billion. So what you have is almost a 300-percent increase in the cost in 3 years. I leave it to your imagination as to what the ultimate cost will be if it is, in fact, completed in the year 1999 as presently scheduled.

Now, what we have here in the making is the B-2 bomber for the scientific community.

Mr. President, we are told that we must honor our commitment, that foreigners are going to invest in this. It is now said that we are trying to entice the Soviets into participating in this. Well, the Soviets cannot buy beans to feed their own people. So they are not

a very likely prospect for participating in the cost of constructing the SSC.

They say India and Korea are interested, and somebody has said Japan may make a sizable contribution toward the \$1.7 billion for an investment that we are asking for. Of the \$1.7 billion that we hope to get from foreigners, would you like to take a guess as to how much has been committed, or pledged, as we Methodists say? \$50 million pledged from India. So far, that is the total commitment of all these foreign partners that everybody says we are going to offend if we do not go forward with this project.

Japan has never uttered one word about participating in the project. Somebody who favored the project said, well, we think Japan will help us, and everybody said, well, Japan is rich; if they say they will help, you can just put that money in the bank. Well, Japan has never said that, Japan has never showed the slightest interest in this project.

Mr. President, the State of Texas, who, to their credit, is trying to make a monumental effort to come up with the purchase of the land and an additional \$875 million, the project coordinator of Texas, who was in charge of raising this money, resigned last week and said this project is not going to be funded and essentially said, I do not want to be a part of it.

So here we have a project that we know right now in today's dollars is going to cost well over \$8 billion and when you add the other items that are not considered a part of the project costs but do represent a part of the total project costs, you are looking at \$11.8 billion, a 300-percent increase in 3 years.

Mr. President, do you know why I know I am not going to get very many votes on my amendment? I will tell you why. Because the Energy Department has very thoughtfully contracted a piece of the superconducting super collider in 43 States: shades of the Pentagon, shades of the B-1, which I think covered all 50 States. That was about the best the Pentagon has ever been able to do. They got all 50 States involved in building the B-1 bomber. But I can tell you that lesson was not lost on the Energy Department when they contracted the superconducting super collider out to 43 States.

Mr. President, I also sit on another appropriations subcommittee. I found out this morning—I should have known it, but when you get involved with something you know you have to go through with, you start checking on things you were mildly curious about but that you have to know, and I know if I were successful in eliminating the \$500 million plus dollars for the superconducting super collider in 1992, I cannot move that money to any other subcommittee. It has to stay under the 602(b) allocation, it has to stay in the

Energy and Water Subcommittee. Now, it will effectively reduce the deficit by \$500 million but, good Lord, who is going to get excited about a \$½ billion deficit reduction when we are looking at a \$270 billion deficit?

Do you want to know something interesting, just as an aside? Do you remember when the people in this country said enough is enough, Jimmy Carter, we do not want to see you any more; we want somebody that can balance that budget? This year, 1991, the budget deficit was \$175 billion for the first 8 months, headed for \$270 billion. But the point I want to make is, in the 8 months of this year, which includes April, when we had a \$35 billion surplus when everybody paid their income tax, \$175 billion for the first 8 months, and the cumulative budget deficit total in 4 years under Jimmy Carter was \$159 billion.

That is all you could hear in 1980. Why do you not cut that spending? Why do you not balance the budget? Jimmy Carter, go back to Plains, and President Reagan saying on national television, and I remember it well when he looked into the camera and said, "Jimmy Carter, if you cannot balance the budget, scoot over and let me in because I can." It sounded pretty impressive to me, too.

Today, we exceed in the first 8 months of 1991 the total cumulative budgets for all of Jimmy Carter's 4 years in office.

My people are always saying, why do you not cut a lot of spending? When I run in 1992, or when I go home next weekend to make a speech, I am going to say, I got your message. I am going to vote to cut, and I am picking out the projects that may be meritorious but they are not urgent, they are not nearly as promising on the scientific side as the devastating being wreaked on this Nation by profligate deficit spending. We can take the superconducting super collider, the space station, the B-2 bomber and SDI, and even leave \$1 billion in SDI, which I have always been willing to do, and you go home and tell the folks, "Folks, I did it; I voted to cut between \$12 billion and \$15 billion in spending just in these four projects."

As I started to say in the beginning, I am just making the argument and people will come in here and most will vote no on my amendment—I understand that; I know how this place operates—but let me tell my colleagues, before you vote no, I want you to think about a few things. If I should happen to prevail on this, we have to go to conference with the House and there will be some kind of compromise figure worked out between the House and the Senate to possibly keep this thing alive but not quite on the accelerated pace right now until technically and scientifically we know that we can do it

and that the cost is not going to be quite as staggering as it looks now.

But I have always sort of led the Senate fight, along with my good friend from Pennsylvania, who is seated here, on childhood immunization. I am absolutely convinced, as seemingly was President Bush, that we must have an \$80 million increase in childhood immunization if we intend to stop the measles outbreak in the country, 27,600 cases last year, which killed 89 children. That is not very many children, unless one of them is yours. Then it is a lot.

I went over to the White House in the Rose Garden the other morning and President Bush made a beautiful speech about what we are going to do about childhood immunizations. He said I have asked for a \$40 million increase. He has, and I applaud him for it. He deserves credit for it. But that will not get the job done. It is going to require \$80 million. Senator HARKIN, who is chairman of the subcommittee that deals with this, says I do not know where we are going to find the money. We do not have it in my subcommittee. We simply cannot find the other \$40 million.

It is always just a question of priorities, is it not? Where do you want to spend your money? Do you want to spend it to save children? Or do you want to go forward with this project, the cost of which cannot even reasonably be anticipated at this point? Even the top corporate researchers in this country, of their five preferred scientific projects in this country, the SSC comes in dead last.

Back to immunizations, move on to the WIC program to help poor, pregnant women and poor infants get a decent diet. There is one thing that scientists do know already without spending \$11.8 billion to find out, and that is, if you do not give a pregnant woman enough protein while she is carrying a child, that child is going to be defective because protein and other nutrients are essential for the proper development of the brain cells of that child. And if you do not give that baby once it is born a decent protein diet, he or she is not going to develop, and then you can pick up a million buck tab or a \$2 million tab to institutionalize that child forever.

We have enough money in this budget to cover about one-half of the women in this country who are eligible for the Women, Infants, and Children Program. Why? Because things like this slurp up all the money.

Where do we think the crime in this country is coming from? It is not coming from people with college degrees. Look at the statistics. Drug use is dropping precipitously among college graduates. It is not coming from people who make over \$40,000 or \$50,000 a year. The statistics show otherwise. Why, it is coming from those children of those

pregnant women who do not get a decent diet, who are living in the inner cities, who do not have any hope of ever getting a piece of the rock.

You ask any police chief in the country where is the crime rate coming from. It is true, 80 some percent of it is drug related, but that does not take away from the fact that people are selling drugs because a 14-year-old child can come home to a mother and say, "Mother, here is \$1,000 I made last night. Go to the grocery store, get the lights turned on, pay the rent."

You could not get enough interest in this body on these issues to fill a thimble. They go right to the heart, right to the fabric of the future of this Republic. But you put out contracts in 43 States and you can get all the attention you need. Even DOE says that they are not likely to get this one-third contribution from foreign interests. I will wait for the Senators from Texas to tell me about this fellow resigning down there where Texas is on coming up with its commitment.

Mr. President, DOE put out a statement on where Western Europe is on the superconducting super collider. I will tell you where they are, and I will tell you why they are not participating in our superconducting super collider because they are committed to the one in Switzerland, the CERN project. The Germans, the Italians, the British, the French, every one of them are committed to the Swiss project. They are way ahead of us.

I will tell you what very well may happen. About the time we finish our project, this consortium in Switzerland will have the answer. Now, would that not be a hoot after we spend Lord only knows how much money.

If this thing keeps going up \$4 billion a year, by 1999, you can get a cost of about \$50 billion out of this thing. Would it not be beautiful if we wound up spending \$50 billion on this project, and the folks in Switzerland say, "Tough, we've already got the answer. We know the origin of matter." And that is not said facetiously. That is a very distinct possibility.

Mr. President, when it comes to embellishing things, I have been known to tell a story. I think Senator BENTSEN told me not to tell this story in Texas because he has already told it all over Texas. The story is about the talking horse.

This guy's car broke down, and he heard somebody say, "Could I help you?" And the only thing he could see was this horse standing by the fence.

He said, "Did you just say something to me?"

And the horse said, "Yeah, I asked you if I could help you."

He said, "My gosh, are you a talking horse?"

He said, "I am and that ain't all. I won the Kentucky Derby 5 years ago." He says, "You did?"

He said, "Yeah, I'm quite a horse."

About that time the farmer showed up. He asked the farmer, he says, "Is this your horse?"

He said, "Yes, he's mine."

He said, "Would you sell him?"

He said, "Yeah, I will sell him."

He said, "What would you take for him?"

He said, "Well, a check for \$50."

He said, "\$50? Why I would be tickled to death to pay you \$50 for that horse, but that horse is worth a fortune."

And the old farmer says, "Has he been giving you that junk about winning the Kentucky Derby?"

You read page 120 of this report and you will find that the superconducting super collider cures cancer, earaches, and gives you an appetite if you are not hungry.

I will read it to you. How many times have I heard this argument on the space station. You can take the language out of the space station report and put it on the super collider. As soon as my amendment is defeated, they will take this language out of this report and transfer it over to the space station argument. I do not know how we get all this science out of all these projects but I want you to listen to what is going to happen if we go forward with this superconducting super collider.

Industry will gain in providing the magnets and it will assist in expanding the commercial use of superconducting magnets in such areas as magnetic levitation—

Whatever that is—

efficient electrical energy generation and storage and lifesaving medical diagnostics, using magnetic resonance energy and related technology. Superconductivity has been determined by the Departments of Commerce and Defense as being critical generic technology for the Nation.

Now, is it not interesting that we are going to learn about magnetic resonance imaging when magnetic resonance imaging has been on the market since 1982 and the follow-on to it is in the process of being developed right now and will probably be marketed before the end of this year—a follow-on to the original magnetic resonance imaging that doctors use for diagnostic purposes. The follow-on will be available probably later this year, and yet here you find this old talking horse in this report boasting about winning the Kentucky Derby.

Mr. President, one of the questions that I would like for my opponents on this to answer in their rebuttal to my arguments is this. Much is made of the foreign community picking up \$1.75 billion of the tab for the SSC. I have already made the argument so I will not belabor it and make it again, but that is not going to happen. As I say, so far you have a \$50 million pledge. All of you who have run for office know how you count those pledges of contributions to your campaign. You count

them when they are received and deposited.

But I want to ask the opponents this question. The cost of this project has gone from between \$4 billion and \$5 billion to roughly \$11.2 billion in 3 years, yet the \$1.75 billion that our foreign friends are supposed to contribute has remained at \$1.75 billion.

In the first hearing we had on this they said, well, look it is only a little over \$4 billion. Texas is going to put up \$1 billion; a foreign counterpart is going to put up \$1.75 billion, and if you ever saw a bargain, here it is. But instead of a Federal cost of \$2 billion, we are now up to a Federal cost—assuming everything goes smoothly—of about \$9 billion. My question is, if it goes to \$40 billion between now and 1999, does the foreign contribution go up or is that just something we talk about to try to get a few votes?

A House committee held a hearing on this—and this is a little bit technical, but I am going to read it. It is a letter to TOM BEVILL. TOM is chairman of the Subcommittee on Energy and Water Development, Committee on Appropriations, this subcommittee's counterpart over in the House and the people who held the hearing on the SSC. They wrote to him and item 6 says:

While some have doubted that foreign contributions would ever come in to offset the SSC's project cost, few have challenged DOE's promise that significant foreign contributions would come in support of the construction of the SSC's two large detectors. However, one of the two detector collaborations, that associated with the L\* detector group, led by Nobel Prize winning physicist Sam Ting of MIT, has fallen apart. The Swiss and German teams withdrew from the L\* in March and April in the face of detector management changes demanded by the SSC Lab.

Regardless of who is right and who is wrong in the situation, the result has been a perception among the Europeans and Soviet participants in the L\* that there was an effort afoot by the SSC Lab to replace the international management of L\* with American physicists. The perception revealed in letters that have gone to DOE from European and Soviet physicists has cost former L\* participants to be reluctant to engage in further cooperation with the SSC Lab or DOE.

As a consequence and because of the length of time it takes to establish a consortium and settle on a detector design, it seems likely that the SSC will only have one large detector on line when the SSC accelerator is commissioned in 1999. This raises serious questions about whether the SSC will be able to deliver the fully range of science that has been promised to Congress and the American taxpayers.

Mr. President, I will close with this. When you ask DOE why the cost has escalated, the answer is because we changed the design. Shades of the B-2 bomber. It started out with a penetrating mission.

Then they said, no, it is not just to penetrate the Soviet Union, it is to find noble targets. And when that was shot down twice, they said that is not a good mission for the B-2 bomber. So

they came up with another one. We are now on the fourth or fifth rationale for building the B-2 bomber.

When GAO says Brilliant Pebbles is a myth, we proceed headlong as though nobody ever said anything. And here you have scientific evidence from the scientific community that this thing is highly questionable and you know already that the cost is going out the window.

So I plead with my colleagues to vote for this and be able to go back home and tell your constituents you have not forgotten about the deficit, you have not forgotten that is why they sent you here to cut some spending that was not necessary and change your priorities to things which go to the fabric of this great Nation.

I yield the floor, Mr. President. Mr. JOHNSTON. Mr. President, the Bible says that in the beginning God created the Heaven and Earth. The Bible did not say how He did it. It did not say what we were made of or what the Earth was made of.

It just said that in the beginning God created the Heaven and the Earth. Ever since that time, the history of science, the history of all the recorded inquiries of man have centered largely on trying to determine who we are, what we are made of, how we are composed, what the forces that guide the universe are. That is at the heart of what the superconducting super collider wants to do.

#### STAFF FLOOR PRIVILEGE

Mr. BUMPERS. Mr. President, I ask unanimous consent that Carol O'Connell of my staff be permitted on the floor during the debate on this issue.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, not long ago I was in Louisiana conducting a town meeting talking about the superconducting super collider. After I explained it, one old boy in the back of the room got up and said, "Senator, all I know is I started from dust and I will end up dust. That is all I know and all I care to know." He did not quite put it this way, but he said, in effect, you can take that superconducting super collider and cram it.

There are some people who feel that way, Mr. President. They do not know, they do not want to know, they have no curiosity about who they are, about what the universe is made up of and, moreover, they think it is valueless of mankind to have that kind of inquiry.

Mr. President, it has been basic with mankind to try to determine what we were made of and what we are. At the time of Aristotle it was thought that all matter was composed of four elements: fire, air, land, and water. It was not until the 18th century that they really discovered chemicals.

Probably, the real beginning of the age of enlightenment, Mr. President,

began in 1608 when an optician from the Netherlands discovered by chance the telescope. He had two lenses and he happened to put the two together and found that they would magnify. The Government of the Netherlands at that time wanted to restrict that invention because they immediately recognized the military value of it. Nevertheless, history teaches that invention was widely distributed; that Galileo in fact came into possession of one of those telescopes; and that it opened up a whole new vista.

We originally thought the world was flat and that the stars all revolved around the Earth. Galileo, much to his argument later with the church at that time—this was still part of the Dark Ages. His teachings were greatly discouraged. But the rest is history. We know how that information about the heavens gathered through telescopes was also used to look inwards through microscopes, using the obverse of the telescope. So we began to find out that which was small and that which was large.

In 1911 a scientist called Geiger, best known for the Geiger counter, made one of the most incredible discoveries that—really by chance—that all of mankind has ever discovered. He discovered the nature of the atom. From that, bit by bit and piece by piece, we found that all the world was not composed of fire, air, land, and water or, in the next generation, that it was not just composed of chemicals or, in the next generation, that it was not just composed of atoms but that the atoms themselves, as we found out later, were composed of still smaller elements: protons, neutrons, electrons.

We thought for many years that those were the smallest elements of matter, protons, neutrons, and electrons, which in turn made up the atom and the atoms made up molecules and molecules made up chemicals, and that is what controlled all the Earth. But then, Mr. President, we began to make accelerators, and we discovered nuclear physics and high energy physics.

Ever schoolboy knows that Professor Einstein came up with the theory of relativity. We see it everywhere,  $E=mc^2$  which means that in effect energy is matter and matter is energy, and the two are translated into one another by this formula which says energy equals mass times the speed of light squared.

Using the teachings of Professor Einstein and many other professors, they were able actually to take that formula and translate it into nuclear energy, into nuclear bombs, and indeed that vast energy that is locked up within the atom has been both a curse and a great boon to mankind. It came initially because of findings with accelerators. What is an accelerator and why is it important?

Mr. President, an accelerator, in technical terms—they take hydrogen

atoms, take over the electron, which leaves a proton, and they accelerate those through the use of magnets and electrical energy around the 54-mile racetrack. They have collisions between those two protons going at a force of 20 trillion electron volts apiece or a total of 40 trillion electron volts, and the collision of those two bits of matter can be in effect photographed in a very technical way. They can measure both the particles that result from that collision, and the energy level of those particles.

That is technically what the superconducting super collider is. And all accelerators are a version of that.

The difference here is that this one is many orders of magnitude larger than those others. The one at CERN, which Senator BUMPERS says is 7 miles around, is not good enough for America. We need 54 miles around.

Well, it so happens that you cannot do it within the case of CERN. For a collision at 14 trillion electron volts, you need, our scientists believe, a collision with an energy level of 40 trillion electron volts.

I will get into that in a moment.

But in effect an accelerator is a microscope which looks into the smallest bits of matter.

Senator BUMPERS says that, well, it would be nice to know about this, to know about the elements of matter, about the origins of our beginning. But he suggests in using the words "nice to know" that it is simply an item of curiosity, a matter that is not central to science, a matter that is not central to our being, and a matter that is not central to the whole future of technology, and indeed the future of scientific endeavor in the world.

I submit, Mr. President, that which we seek to discover with the superconducting super collider is the most profoundly important scientific endeavor in the world today because it will tell us what the whole thing is composed of; what is the state of knowledge today; what do we hope to find out from the superconducting super collider, and why is that important? Using accelerators from the past, we found that the atom—that is all matter—is not composed just of protons, neutrons, and electrons, but in turn, those protons and neutrons are composed of smaller bits of matter called quarks, and there are, in fact, three sets of squarks that make up protons and neutrons—at least three that have been discovered so far.

In turn, there are other particles of matter called electrons and neutrinos, which are much smaller, and which apparently do not have any mass. The theory is—and they can demonstrate that theory in some cases; it is only theory in other cases—that those small particles are what makes up the universe.

The problem is, Mr. President—two problems—in what we do not know. We

do not know what all of those particles are. Some of them are only theoretical particles, because we have not been able to find them yet. The so-called Higgs Boson is the scientific particle that is most sought after. It is only theoretical now, because it has never been found.

We also do not know what, but there are still smaller particles that make up quarks and leptons. More importantly, perhaps, Mr. President, the four fundamental forces of nature have never been rationalized or proved.

Mr. President, those four fundamental forces of nature are the electromagnetic force, the so-called weak force, the strong force, and gravitation. It is thought that these four forces are related and that it can be demonstrated mathematically how the four forces relate.

Electromagnetism is important to us. It simply controls everything we do: All electronics, light, radio, telecommunications, electricity, the whole thing is controlled by the electromagnetic force. It, in turn, transmits its force by the photon. Most people have heard of the photon. Sometimes it acts like a particle, sometimes like a wave. But the electromagnetic force is fairly well understood.

The strong force also reacts in the area of the atom, across much smaller distances than the electromagnetic force. But its force is transmitted by what is called a "gluon," and that in turn acts like a particle sometimes, and sometimes like a wave. They have been able to demonstrate that the strong force and the electromagnetic force are similar.

The weak force is that which is transmitted in the decay of atoms, and it is noted by gamma rays and other radioactivity. It, in turn, has its own particle, which also acts sometimes like a particle and sometimes like a wave.

The fourth is gravitation, which is thought theoretically to have a particle called a graviton, which has never been proved and never been determined. But those four forces, which are fundamental to nature, are not fully understood by science.

So, in effect, Mr. President, we have that energy equals mass, and mass equals energy. We have some unknown particles and some unknown forces that react in ways that are not completely understood.

Why do you need 20 trillion electron volts; why do you need 54 miles? You need 54 miles in order to get the 20 trillion electron volts. The 20 trillion electron volts are doubled because the two particles collide with one another at a force of 40 trillion electron volts. You need that much power, because these forces do not react as they are supposed to, except at very high energy levels.

Our scientists say that you cannot prove the strong and weak force math-

ematically, except with these very strong forces. You cannot discover the Higgs Boson, this unknown particle, if it exists, unless you have these very high energy forces.

So, Mr. President, it is not simply a matter of curiosity; it is not simply a matter that is nice to know. It is fundamental to science. Is it important to know. What do we find when we find the Higgs Boson. What do we do when we make a mathematical model that tells us how electromagnetism relates to the strong force—that is, the power of the atom—which in turn relates to the power of radioactivity, which in turn relates to the power of gravity?

Mr. President, we do not know fully the significance of this. We can look back at what we have discovered and what it has meant, what accelerators have brought us in the past: CAT scanning; PET scanning; MRI, magnetic resonance imaging. And yes, I say to Senator BUMPERS, we have already discovered magnetic resonance imaging. But the scientists believe that a whole new generation of MRI comes from the discoveries to be made with the new magnets.

There is also coronary angiography, x-ray imaging of the arteries of the heart. I could go on and on with medical science that has come from high-energy physics.

We have environmental applications which are incredible. We have things like radar systems for defense purposes, for air traffic control. We have a tremendous number of other applications, such as inspection of steel pipes, curing of coatings for adhesives, surveying of rock formations.

The list goes on and on. What we think we will find, the scientists believe, with superconductivity is better electric generators, low-loss electric power transmission systems, magnetically propelled ships, torpedo launchers, high-speed levitated trains.

Senator BUMPERS spoke of the high-speed levitated train as if that was not important. Mr. President, there has already been a working model of a levitated train made in Japan. In effect, what it does is it allows the train to ride not on the tracks but on a magnetic field. When I took my last train ride and tried to put my head back to go to sleep, the train was going back and forth, rocking with the tracks, and you could not sleep. On a levitated train, you ride on a magnetic field which is smoother than glass because it is on the magnetic field.

The technology of these superconducting magnets are what we need in order to be able to build the high-speed train, magnetic energy storage systems, fuel conservation. We believe that through superconducting we can put a current in a coil in the ground, superconducting, and that the electric energy will stay there without loss almost forever so that you can store the

electric energy better than you could in any known battery, a highly important thing for the generation and conduct of electricity. Now we have these peaks and valleys in the generation of electricity and you cannot store energy. You have to build this peaking power for electric generation so that at 5 p.m. when the weather is hot you have to have this tremendous capacity, but you cannot use that at night and you cannot store it. It is thought that through this we will be able to do that.

I could go on and on: pulse power, computing, medical applications. Suffice it to say, Mr. President, that most of science today is directly related to the four fundamental forces of nature, to the elements that make it up, and that the frontiers of technology are in this field to be discovered by the superconducting super collider. We know much, but there is so much more to know because we cannot prove what is called the standard model that relates it all to one another.

The breakthroughs to be made from the knowledge gained from the superconducting super collider could be as fundamental to science as that which Professor Geiger made back in 1911 when he first discovered that the atom had a nucleus. Does anybody care about that? You bet they do, Mr. President. You bet they do, because it is fundamental to all science, it is fundamental to our defense systems, it is fundamental to telecommunications, to radio, to everything, and to say that we do not care or that it would simply be nice to know what the standard model is, what the four fundamental forces of nature are, is to understate the importance of this in such a profound way that, Mr. President, I submit that it is like those who thought the Earth was flat and did not care to know otherwise and it is like those medieval church people who would burn people at the stake. They almost burned Galileo at the stake because he was looking up in the heavens and saying that the stars did not twirl around the Earth, that the Earth was not the center of the universe. Mr. President, it is fundamental knowledge.

Let me answer quickly the question given by the Senator from Arkansas, which was about the foreign community and whether their money will materialize.

Mr. President, our committee has examined that on two occasions, and we put in our report as follows:

It continues to be the consensus of the committee that construction of the SSC should not be dependent on the question of whether foreign participation will be forthcoming.

Similarly stated, if the SSC is a high-priority project and important for this Nation, which the committee believes it is, then we should be prepared to proceed.

Frankly, Mr. President, I know that Deputy Secretary Moore, for whom I

have very high regard, has been talking to the Japanese and others about foreign participation. I hope we do not have foreign participation because I think the technology to be gained by this country, the manufacturing techniques, are so important to us that I do not want to share it. I would rather have the technology ourselves and learn how to do magnetic levitated trains, pulse power, improved radars, magnetic resonance imaging, and all the other things which I believe will flow from this. I think it is important to this Nation to do so. If they were willing to help us dig the 54-mile hole or pour the concrete or something, that would be different, but, really, foreign participation, I think, would be in the high technology and that would give others the cream of the crop of this technology. I think we ought to keep it for America. I think it has been the history of so much of this foreign participation that they do get the cream of the crop at a very low price. I would rather do it for America.

How about the cost? Mr. President, \$8.2 billion is a lot of money. Really, the initial estimates were based not upon a final design, not upon a fixed cost, but it was sort of like the Hart Senate Office Building; they made a horseshoe estimate of what the cost would be. When they got a final design, the cost went up, and it is still a bargain. I think this is a great building. I think this is going to be a great project at \$8.2 billion. I do believe it is clear it is not going to escalate beyond that, indeed, beyond the \$8.2 billion. There is \$1 billion on contingency funds just in case there is some unexpected delay. So with any luck we will be able to build this for less than \$8.2 billion.

Mr. President, the distinguished Senator from Arkansas says, pass my amendment. We will get in conference, we will reduce the amount of money, we will keep it alive until two things, he said, first, that we know we can do it, and, second, that the cost will not be staggering.

Mr. President, we know we can build the machine now. I do not think there is any doubt in the scientific community that we can do this. We know it can be done now. The question of the cost not being staggering, we have a very firm cost estimate at \$8.2 billion, which includes the \$1 billion of contingency funds, and that is the best estimate we are going to get.

There is one thing that is sure. To the extent that we delay the project, that we reduce the team, that we fire some of these people, or that we keep them on the payroll and tell them not to do anything, it is clear that that delays and increases the cost of the project. So what the Senator from Arkansas says, in a vague way, is that, yes, we know this is important, but let us wait, let us delay, and therefore the

cost will go down. In fact, the opposite is true; the cost would go up.

Mr. President, the importance of the superconducting super collider is so profoundly important to this country, it cannot be compared to the B-2 bomber or B-1 bomber or SDI or the space station, or anything else. I share a lot of the views of the Senator from Arkansas about everything he said about those projects. I share what he says about the WIC program, the vaccination program, the education program, and a lot of other things that he did not say which he might have said, things we need money for. But, Mr. President, this is, in fact, the age of enlightenment. This is a continuation of the age of enlightenment when man wants not only to satisfy his profound curiosity about that of which we and our universe is made, but how it works, and how in fact we might harness those forces and those tiny elements for the good of mankind and, yes, indeed, for the health of mankind, perhaps for the nutrition of mankind in the future. It is fundamental to what we know and what we need to know. I hope that the Senate will not cut this project, will not in effect eliminate this project as the Senator from Arkansas would wish to do.

Mr. BENTSEN. Mr. President, let me first congratulate my friend, the distinguished Senator from Louisiana. I think he has made an extraordinary presentation. He has gone into great depth concerning this project. When I think of the many other demands on his time as the senior Senator from that State, to spend the amount of time, to have the depth of knowledge of this highly technical, very important project is a real contribution to the Senate and to this debate. I am most appreciative of it.

Mr. President, I understand the objectives of my friend from Arkansas. I know that he wants to cut waste, unnecessary expenditures, at a time when we are having a tough time sorting out priorities in what we think is important to our country. I sit as the chairman of the Finance Committee looking at the health concerns in the country and the availability of it, the accessibility and cost containment of it, and doing what we can on prenatal, neonatal health care for children, the objectives of the Children's Commission; all of them terribly important to our country.

But we are talking about major, major scientific breakthroughs that we are seeking here; things that could well raise the standard of living of our people. And in this instance I think my friend has just chosen the wrong target at the wrong time when he talks about the superconducting super collider.

When you put a bunch of scientists together to try to develop a project, one of the most difficult things in the world is to put a limitation on the

project, to say this is it, these are the parameters, stay within it. Here we have what they have done. The SSC is on target, within the time limitations and within the budget limitations. The risks are manageable and the potentials are enormous. But my friend's amendment, the Senator from Arkansas, would put all of that in jeopardy.

One of the most important things we are talking about here is the future competitiveness of our country. It is a project like this that can help us keep the leadership in sight. So I commend my friend from Louisiana for his wisdom and his foresight in getting the approval of the Appropriations Committee for this \$508 million for the superconducting super collider.

That figure is 5 percent under what the President requested, but it does mark a major increase over last year's expenditures because it takes us on to the next most important phase of this project. If that amount can be sustained, then I think they will keep the project on schedule, and they will keep it within the limits of the amount of money we are talking about. But deeper cuts would inevitably delay the schedule and increase the costs.

I know that within some areas the SSC is looked on merely as a public works project, and that a good part of it happens to be located in Texas. That is utterly wrong. The SSC is science, and it is good science. It can help us find out answers to some of the fundamental questions about the nature of the atom. And in the process, it is already providing advances in technology that can help us in our everyday lives. It is a national science program to help scientists in high-energy physics unlock the secrets of the atom.

Yes, the basic facility is located in my State, but it involves people from all over America. In fact now we have companies in 43 States that have won contracts for the SSC. Forty-three States already involved. Over 90 universities and institutions in 30 States already have contracts for SSC-related research. And when that lab is completed, scientists at 77 universities in 31 States will be participating in the research.

Texas competed for the physical location of this project and won it. But how did they win it? Because they had the geological structure that was conducive to this kind of an experiment, and these kinds of tunnels, and gave the stability for it. But they did something much more.

Despite the fact that my State has been through the worst recession since the Great Depression, right in the middle of that, the Governor, the State legislature, and the people committed themselves to a billion-dollar obligation—over 10 percent of the cost of this project—to further the scientific research for our country. Texas already has spent over \$197 million of its own

money on the SSC. I think now it is incumbent on the Federal Government to live up to its part and its commitment.

Despite our Nation's historical tradition of scientific research and inventiveness, despite our trophy case of Nobel Prizes, despite the enormous improvements in our lives because of advances in technology, some people still question the value of basic research. They want a quick return for their buck.

Well that is not necessarily the view of some of our strongest economic competitors today.

Let us look at the case of Japan. Today in Japan they are spending twice as much percentage-wise of GNP in civilian R&D than we are in this country. Last year the Department of Commerce said that we were trailing in 11 of the 12 leading technologies.

The competition we face in this country today is not so much military competition. We proved that with Desert Storm and Desert Shield. Today there is only one superpower, and we are it.

But what we are looking at in the future is not so much the role of NATO or the Warsaw Pact, but we are looking at the competition from the Pacific Rim, from Japan, from Taiwan, from South Korea, and from Europe, where 12 countries are going together in EC-92 to develop economies of size, joining together in basic research, building their version of the SSC right now in competition with us.

But what we are saying is the research on the SSC is already beginning to pay off. We are just beginning the construction, but the careful planning of the program is already giving us some breakthroughs.

Consider these examples of research conducted for the SSC at laboratories and universities around the country. They could lead to advances with applications to such industries as electronics, computing, energy, communications, and medicine. I for one just had a PET scan. It is amazing what that kind of imaging is able to show to the doctors.

The University of California at Irvine is developing a high-speed data processor to sift through the trillions of particle collisions that will occur at the SSC.

Princeton University is developing a state-of-the-art computer system for measuring the subatomic particles created by the SSC's collisions, coast to coast.

Using the experience gained from their work on SSC magnets, the Fermilab in Illinois—and I heard my friend talking about its demise. To the contrary, you are seeing an increase in appropriations for it in this bill.

The Fermilab in Illinois and the Brookhaven Lab in New York, developed improved magnets for medical diagnostic machines, such as MRI's. The University of Florida, located in the

State of the distinguished Presiding Officer of the Senate at the moment, applied for a patent for a new process with widespread commercial applications for the sterilizing of plastics for SSC detectors without the use of toxic gases.

Science education will benefit from the SSC. Already, teams of scientists and graduate students throughout America are planning experiments and designing and building components for the SSC. They are excited about the challenge, they recognize the opportunity for scientific progress which the SSC provides.

Mr. President, a few weeks ago I was at the SSC Lab looking at some of the ongoing work. I saw the Nobel Prize winners collected there, excited about the prospects of this kind of research. Turn that off? Disassemble that kind of process? What a loss to the country that would be.

Let me give a brief status report on this amazing program, on what has been achieved just in the past year.

Several successful tests of five centimeter design dipole magnets have been completed; production of the prototype magnets have begun.

General Dynamics and Westinghouse are completing contract negotiations to build the initial superconducting dipole magnets for the SSC at below estimated costs, below.

Construction of conventional facilities is underway at the SSC site with a magnet development laboratory nearing completion, and I can attest to that, having just been there.

The Department of Energy has signed a memorandum of understanding with the State of Texas regarding its \$1 billion commitment to the SSC, and the State's land acquisition program is well ahead of schedule.

The funds contained in this bill will permit the SSC to move ahead, to continue the innovative research already underway.

It is a big project in physical size but even more so in potential benefits to the people of our country, and ultimately to the world. The costs are significant but the payoffs are already beginning.

I believe it has earned our support, and I hope the Senate will support it in its entirety.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I join my dear colleague from Texas and my dear colleague from Louisiana in support of the SSC. I think this is a critical year. I think when you look at the level of commitment made here with our decision to move ahead with the program this year means that the largest scientific project to be built anywhere in the world in the last quarter of the 20th century is going to be built in the United States of America by Americans, keeping us at the cutting edge of science and technology.

Our dear colleague from Arkansas has raised a fundamental point about choosing, and that is exactly what we are talking about. We are talking about priorities. At 2 o'clock we are going to meet at the appropriations subcommittee level to make a decision on another major project, the space station. And, again, the choice we are making there is really a choice as to whether we want to invest in the future, whether we want to invest in developing science and technology that will create jobs, growth, and opportunity in the future, that will extend the view that mankind has of nature and his ability to use nature to enhance our productive capacity and improve the quality of our life or whether we want to continue to invest in programs that represent consumption. That does not mean those consumption programs are not good programs. That does not mean they do not benefit. But fundamentally we are choosing between an investment for the future or consumption in the present.

Mr. President, basically, what we have come down to is a choice on the SSC and on the space station. It is a choice between investing in the next generation or spending the same money on programs that have big political constituencies and that represent investing in the next election.

I do not need to tell my colleagues it is often difficult—whether you are talking about a family or a business or whether you are talking about the greatest Government in the world—to make fundamental decisions about investing in the future. I believe we should invest in the future, and that is why I am opposed to this amendment.

I know it is easy to find people in science who say do not build SSC, build my project. We have a debate underway: Small science against big science. But that is not really the choice here. If this amendment is adopted, the money that is taken out of the SSC before the fiscal year begins will be spent on something else. It will not be spent on other science.

The choice here is not between the SSC and other scientific projects. The choice is between the SSC and spending money, basically, on programs that do not represent a fundamental investment in our future capacity to produce goods and services and to improve the quality of life of our people. This project is broad based. This project is being built in one location in terms of actual assembly and operation. That is true. But 43 States are involved, directly or indirectly, in the project.

The bottom line is not State involvement. The bottom line is not the location of the project. The bottom line is that no nation in history has ever been as blessed with high returns on investment in fundamental science and technology as the United States of America

has been. If there is any nation that stands as a shining example of what primary research can do, it is the United States of America. And the bottom line is when you look at the amount of money we are spending this year and you look at how much of that represents an investment in the future that will make the American people more productive in the future and raise the quality of life in this country, that amount is too small, not too large.

We should not take this step. Cutting this country out of the SSC will deny us world leadership in the development of new technology. High-energy physics is vitally important. But the issue—while the science is complicated—is very simple. The issue is this: Do we want to invest in the future, in expanding science and technology so Americans can provide that leadership in the future and so we can benefit tangibly in terms of our ability to be competitive on the world market with new products and new technology, to expand our ability to do all these other things in the future that people talk about doing today?

It is a question of whether we want to invest the money sending our child to college or whether we want to buy the child an automobile today. I think it is an easy choice if you are looking at the future. I think it is a difficult choice if you are looking at the first Tuesday after the first Monday of November 1992.

I believe we should take the long view, and I believe we should invest in science and technology. I think we should fund the SSC. I think we should fund the space station. I think we should fully fund the National Science Foundation because that represents an investment in the future of America. We are not making enough investment. We need to make this investment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. I will be happy to.

Mr. JOHNSTON. There are 10 minutes left until 2 o'clock. I wonder if we could divide that time equally and allow me to make a motion to table at 2 o'clock? Or 1 minute of?

Mr. BUMPERS. I always like to accommodate my good friend from Louisiana.

Mr. JOHNSTON. Then say, "yes."

Mr. BUMPERS. I will make this proposition. We have a cloture vote scheduled at 2 o'clock.

Mr. DOLE. Maybe.

Mr. JOHNSTON. Maybe.

Mr. BUMPERS. I suggest we divide 10 minutes equally following that vote, and then my colleague moves to table.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Bumpers amendment next comes up for consideration, that there be 20 minutes

of debate equally divided, after which a vote will occur, without anything intervening, either on a motion to table or on the amendment itself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there has been a reference to what the Japanese are doing. I want to tell my colleagues something they are not doing. They are not investing in the SSC.

They are spending, as the senior Senator from Texas has correctly said, more money on civilian research as a percentage of their GNP than we are. Do you know what they are putting their money in? They are putting their money in projects that have civilian applications to make products to send to the United States and maintain their \$40 billion to \$50 billion trade balance against the United States.

Here is living proof in this little \$11 billion jewel as to why the Japanese are eating our lunch. You take this \$11 billion and put it into the kind of research the Japanese are doing or you put it directly into magnetic resonance imaging, and not in a 55-mile hole underground, and the benefits will be 10 times greater.

Just so my colleagues will at least understand this point before they vote, this \$11 billion project, with the cost headed for God knows where, maybe as much as \$40 billion, has no civilian application. None. This is a curiosity on the part of a lot of physicists in this country. I understand and I applaud their curiosity about the origin of matter.

But I want to point out again, Mr. President, it is a matter of priorities. What are we going to spend our money on that makes us a great Nation? You talk about putting this \$11 billion under this project because we are the only superpower. I submit that if this country continues to run \$270 billion annual deficits—as we are this year and will next year and as far as the eye can see—we will not be a superpower. The best way in the world to make sure of that is to continue to squander money on projects like this.

All science is not good. Do you remember the supersonic transport, the SST? It is a God's blessing that the U.S. Congress torpedoed that back in 1971. Do you remember the nuclear powered airplane in the 1960's? It is a God's blessing that we torpedoed that project. Of seven key elements that we started out with on SDI research, five have been discarded. So much for that science.

I recognize that science is, indeed, often a trial and error process. They tell me that Thomas Edison did everything in the world before he finally got the light bulb perfected. I am not suggesting that we do not have trial and error, but what I am suggesting is that

the civilian benefits from this project simply do not exist.

I want to say again, I am not saying this project is not meritorious. In a perfect world, I would vote for it in a New York minute. We are facing a \$750 billion deficit and we just continue to say we have to cut but not here, not here, not here, not here, anyplace but here. Let us assume the best case scenario, that this project is built and is performing according to plan. Take a guess at what the annual operating cost is going to be. As high as \$600 million a year and as low as \$380 million a year.

Mr. President, we have already put about \$597 million into this. Not much of that has been spent. Put this \$500 million-plus into it and next year the argument will be we have already spent so much money we cannot turn back.

How many times have you heard that argument on the floor of this body? Get your nose under the tent for a couple of years and then you cannot turn back.

When you talk about the Government keeping its word, let me tell you what the Government's word was to the Energy Committee on which I sit. Admiral Watkins said, and I quote, "If we cannot build this SSC for \$5.9 billion, it will not be built." That is what the Secretary said. This morning, he sends a letter to every colleague and puts it on every desk saying the universe hinges on going forward with this project. As has already been said, he has now said we do not care whether we get foreign participation or not, we are going forward with it.

On those so-called civilian applications, Mr. President, the scientists from the Bell Laboratories and Cornell University say those who claim that the SSC is going to help us with imaging and transistors is hogwash. When it comes to magnetic levitation, it would not require a 55-mile track underground to develop a magnetic train.

I am just simply saying, if you want to put these moneys into these things talked about, put it into them directly. We do not have to do that particle acceleration which the Swiss consortium is already going to do. And they are going to do it for under \$2 billion. Why do we not participate in that project, get the same answers for about one-fourth the cost?

As the Senator from Louisiana has said, we know we can do it. I take strong exception to that, and there are a lot of scientists in this country who take strong exception to it, too. There are those who say it is highly questionable that we can make these magnets and produce them en masse while we are still testing them.

We knew that the Hubble telescope would work, and we put \$2 billion in it because we knew it would work, and it did not.

I will just close with what Freeman Dyson, professor of physics at the In-

stitute for Advanced Study at Princeton said:

Every new machine is a gamble. If we build the SSC, it might turn out to be a glorious success or it might turn out to be a flop. In either case, we will want to build other machines to carry on from where the SSC stops. Unfortunately, the SSC is an end rather than a beginning. It does not offer much hope of further development. It does not incorporate a new idea. I am afraid that it may be a trap, tying our particle physicists to an old technology and barring the way to newer and more powerful alternatives.

That is not DALE BUMPERS, lawyer, who does not know the first thing about physics; that is the man who is one of the most distinguished scientists in the United States.

Mr. President, I ask my colleagues to think long and hard about whether they think this is an appropriate way to spend their money. Consider the cost escalation, roughly, under the best case scenario, a 60-percent increase each year since 1988 and headed north. Ask yourself. Is this what you want to do with the money when you consider the fact that we cannot even immunize our children; we cannot provide Head Start for our children. One in every five children is in poverty, and we are going to spend money on this? Is that the priority the U.S. Senate wants to send across this Nation?

I submit, Mr. President, when it comes to saving money, we can cut a lot of spending, and there is not a better place to start than right here.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### VIOLENT CRIME CONTROL ACT

Mr. DOLE. Mr. President, I indicated last evening to the majority leader we would have a conference this morning on the crime package, a Republican conference, and I would like to state what I think the general consensus of the conference was, although there is no binding of any members who attended conference. There are still a few unresolved matters on this side that we would like to have resolved before cloture is invoked because, very frankly, once cloture is invoked, some of these

matters would not be germane; amendments would not be in order.

Therefore, on this side of the aisle, it would be my suggestion that cloture not be invoked on the first cloture vote, and in the time interim between now and hopefully later today, if we could have a second cloture vote today—if not, it could occur after midnight or it could occur tomorrow morning—we could work out some of the differences.

I know that staff is already in the process of working out differences. I am talking about the staff of Senator THURMOND and the staff of Senator BIDEN and others who have been directly involved in the negotiations.

So I wanted the majority leader to understand it is not that we are opposed to the bill before us. Some are. Some will vote against this bill on final passage. But there are three or four or five areas we would like to clarify between now and the time cloture is invoked for the reasons that I have stated.

For that reason, I think the leader is going to find a number of my colleagues voting against the first cloture vote, and hopefully for cloture on the second cloture vote.

The PRESIDING OFFICER (Mr. REED). The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to address the Senate for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I appreciate the distinguished Republican leader's remarks. I regret them.

It was over 100 days ago that the President addressed the Congress, and repeatedly since then, to stress the importance of acting on the crime bill, originally within 100 days and now as soon as possible. The Senate has now been considering the bill for over 3 weeks, and every effort to obtain an agreement to expedite consideration of the bill has been objected to by the Republican Members of the Senate.

I know there are things to be worked out, but we have been at it 3 weeks, and I suspect we could be at it 3 months and there would still be things to work out.

I hope my colleagues will vote for cloture. I think a vote on cloture is a test on whether someone is for or against the crime bill. There is no greater gulf in human affairs than the gulf between words and deeds. We have heard the words. The votes are the deeds. The only way we are going to get a crime bill is to invoke cloture, and to proceed to disposition of this bill. Otherwise, there is not going to be cloture, and there is not going to be a crime bill. There will not be a crime bill for the next couple of years although there will be a lot of talk about it.

This is the time for action. A vote on cloture is a vote on whether a Senator

is for a crime bill or against a crime bill. A vote for cloture is a vote for a crime bill. A vote against cloture is a vote against the crime bill. If we do not get cloture the first time, we will proceed a second time. I hope that we can get it today, if possible. I have discussed that with the distinguished Republican leader. I hope that we will be able to get it later today and not wait until tomorrow. We may be in session for a long time and end up doing it early in the morning hours tomorrow, something I hope very much we do not have to do. I hope we can proceed.

I recognize the concerns raised by the distinguished Republican leader. The managers have worked diligently, and I think quite well, together—Senators THURMOND and BIDEN—to try to compose their differences. We are very close on that. But I hope that we can get cloture now, and then proceed to finish this bill immediately thereafter. I thank the Chair.

Mr. DOLE. Mr. President, I have just an observation. I want to make it clear that there are some real concerns. It is not that they are opposed to the crime bill. There are some who feel it is the gun bill, and they are opposed to that portion of it. But my view is there are a number on this side of the aisle whose concerns can still be resolved in the negotiations Senator BIDEN and Senator THURMOND are having.

Mr. MITCHELL. Mr. President, I hope that will occur. I hope that we will get enough votes here for cloture. Obviously, if no Republicans vote for cloture, we are not going to get it. But we will see how it goes, and we will proceed from there.

Mr. BIDEN. Will the leader be willing to yield for 30 seconds?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Delaware be permitted to address the Senate for 1 minute.

Mr. BIDEN. Mr. President, I say to my Republican colleagues who will have amendments that will be shut out by cloture that I would be willing to vote on those amendments. The leader and the ranking Republican have been willing to vote on those amendments. But there has been an unwillingness on the part of at least one Republican—objecting to proceeding on every single amendment. So let us get it clear. Any of you who think you are being shut out and not having a chance to vote on your amendment and that is your rationale for not voting for cloture, it is not because we have been unwilling to have a vote on whatever your amendment is. It is because there has been a blanket opposition on the Republican side to any amendment beyond the ones that we have brought up being able to be even considered. The Senator from South Carolina and I have done everything but beg all of you, everyone, to bring your amendments to the floor and we will vote on them. There

is a blanket objection. For those of us who are using the rationale to vote against cloture, who say that you are unwilling to vote for cloture because you did not get a shot at your amendment, understand why you did not get a shot at your amendment.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden, Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1241, a bill to control and reduce violent crime, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—56

Adams  
Akaka  
Bentsen  
Biden  
Bingaman  
Boren  
Bradley  
Bryan  
Bumpers  
Burdick  
Byrd  
Chafee  
Cranston  
Daschle  
DeConcini  
Dixon  
Dodd  
Dole  
Durenberger

Exon  
Ford  
Fowler  
Glenn  
Gore  
Graham  
Harkin  
Hatfield  
Hollings  
Inouye  
Jeffords  
Kassebaum  
Kennedy  
Kerrey  
Kerry  
Kohl  
Lautenberg  
Leahy  
Levin

Lieberman  
Metzenbaum  
Mikulski  
Mitchell  
Moynihan  
Nunn  
Pell  
Reid  
Riegle  
Robb  
Rockefeller  
Sanford  
Sarbanes  
Sasser  
Simon  
Thurmond  
Wirth  
Wofford

NAYS—43

Baucus  
Bond  
Breaux  
Brown  
Burns  
Coats  
Cochran  
Cohen  
Conrad  
Craig  
D'Amato  
Danforth  
Domenici  
Garn  
Gorton

Gramm  
Grassley  
Hatch  
Heflin  
Helms  
Johnston  
Kasten  
Lott  
Lugar  
Mack  
McCain  
McConnell  
Murkowski  
Nickles  
Packwood

Pressler  
Roth  
Rudman  
Seymour  
Shelby  
Simpson  
Smith  
Specter  
Stevens  
Symms  
Wallop  
Warner  
Wellstone

NOT VOTING—1

Pryor

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Delaware.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

Mr. BIDEN. Who controls the time now? What is the parliamentary situation?

AMENDMENT NO. 688

The PRESIDING OFFICER. The pending business before the Senate is the amendment by the Senator from Arkansas on which there is now 20 minutes of debate equally divided.

VIOLENT CRIME CONTROL ACT

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed to speak on this cloture vote for just a few minutes.

The PRESIDING OFFICER. How long does the Senator wish?

Mr. BIDEN. I do not know.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I do not want to object, will the Senator give us a number of minutes, and can we have assurance we do not open up a whole question of debate here for replies and rebuttal and surrebuttal?

Mr. BIDEN. Ten minutes.

The PRESIDING OFFICER. The Senator from Delaware has requested 10 minutes. Is there objection?

Mr. THURMOND. Mr. President, I do not know what the Senator is going to say. I may want to say something, also.

Mr. BIDEN. Mr. President, I ask unanimous consent that there be 7½ minutes for the Senator from Delaware and 7½ minutes for the Senator from South Carolina.

The PRESIDING OFFICER. The request of the Senator from Delaware is 15 minutes divided between the Senator from Delaware and the Senator from South Carolina. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I thank the manager of the bill for allowing that. I realize it is a bit unusual, but

the way we are proceeding is a bit unusual.

Mr. President, 126 days ago, the President of the United States called on the Congress to pass a crime bill.

The Democratic leadership in the Senate has taken this challenge seriously. We have introduced a crime bill, we agreed to bring it directly to the floor, without any delay in committee—and to the majority leader's great credit, he agreed to make the crime bill the first order of business in the Senate after we disposed of the President's other 100-day challenge, the transportation bill.

After 3 weeks of debates, amendments, and votes—today, the Senate stands prepared to pass a crime bill that answers the President's challenge.

Now it is true that this crime bill more closely resembles the Democratic crime bill than the President's—it includes a version of the Brady bill in it, it includes the DeConcini assault weapon ban, it includes our exclusionary rule provision, it includes most of our death penalty procedures, and it includes the many, many important crime fighting programs we Democrats have proposed.

But to the President's credit—and I do want to give him credit for this—it is my understanding that he and the Justice Department have said, that notwithstanding these differences from the President's bill, the President supports Senate passage of this crime bill.

So here we are. The Senate has a crime bill that most Democrats are prepared to support, that the President is prepared to support—why can we not pass it?

We cannot pass this crime bill because some Senators are engaged in a filibuster of it.

Why? Why do these Senators want to block our adoption of this bill?

It cannot be because the Republicans have been denied their chance to offer anticrime amendments.

When my Republican colleagues wanted a vote on the President's crime bill, we agreed to their request.

And then, when they said, "No, actually, we want a vote on a revised crime bill"—a bill that dropped items from the President's bill and added most of our bill to it.—we agreed to that request. And the Senate voted, and rejected this hybrid proposal soundly.

The Republicans wanted a vote on exclusionary rule reform. So we said, OK let's vote on the President's package. And they said, "No thanks," and proposed a reform that was one-half of what the President proposed.

And still, we took an up-and-down vote on it. And again, we rejected it.

The Republicans said they did not want to have the first gun vote be on the Brady bill—they wanted to have a gun substitute, the Stevens bill. So we gave them a vote on the Stevens bill—and, again, we rejected it.

And on, and on, and on. Each time, we have been, in effect, dared to take up and vote on Republican amendments to this bill—and each time, we have voted on them, up-and-down, just as requested.

So we have had a full airing of the philosophical differences between the President's bill and our bill—the President has won on some, we have won on others, and whatever you want to say about the product, no one can be against cloture because there has not yet been a full airing of our respective views.

Now maybe the opponents of cloture will say that they are voting "no" because they have nongermane amendments they wish to offer to the bill.

We all have amendments we would like to put on this bill. There are dozens of Democratic Senators who have amendments—I have amendments.

But we recognize that there comes a time when each Senator's desire to have his amendments adopted must give way to the Senate's need to complete a bill. On this bill, the Senate has considered and disposed of 84 amendments—84 amendments.

So, it can hardly be said that the bill has been closed to amendment. And so I say to my Republican friends: if we Democratic Senators are prepared to forgo our amendments to pass this bill, why will you not do the same?

Now, perhaps we will hear that some people do not want cloture because they are afraid that the key provisions in the bill will be changed after cloture is invoked.

But yesterday, I stood here and proposed that we lock in the key provisions of the bill—an offer the distinguished ranking member accepted—only to have it rejected by other Republican Senators.

So much for that excuse for being against cloture.

Perhaps we will hear the opposite complaint: that cloture should not be invoked because the major provisions in the bill need to be changed.

But to this I say: many amendments that would change the major provisions in the bill would remain germane postcloture. So invoking cloture does not cut off all efforts to change the exclusionary rule or habeas corpus.

So much for that excuse.

Now I am sure that we will hear a host of other explanations as well. But let us lay the cards on the table. If cloture is not invoked today, it is for one simple reason, and it can be summarized in four letters: g-u-n-s, guns.

If cloture is not invoked, it will be because opponents of the firearms provisions in this bill vote to block further progress on the bill.

I respect the rights of any Senator to vote against cloture for any reason. If a Senator wants to oppose cloture because he does not want any crime bill if that bill includes the Brady bill or

the DeConcini bill, that is his prerogative, and I respect that.

But I hope we do not hear that Senators are voting against cloture because, as one of my Republican colleagues claimed last week, this is a "gun bill, not a crime bill."

This is not a crime bill? With 60 death penalty offenses—more than even the President's bill contained? With 10,000 new local cops?

Not a crime bill? With unprecedented limits on habeas appeals? With 3,000 new Federal agents? With a rural crime plan?

Not a crime bill? With new mandatory penalties for every gun offense? With an antigang plan? With new prisons and boot camps?

Not a "crime bill?" Tell that to the police officers waiting out in the reception room—or to those walking the beat today in neighborhoods around the country.

They want this bill. And they want you to vote for cloture on it.

In closing, Mr. President, I want to make two observations.

First, I want to say to my colleagues, that we all make speeches about getting tough on crime. Boy, do we make speeches.

We make TV ads. We go to town meetings and tell our constituents how tough we are on crime. And we make more speeches.

Well today, we vote on whether we are going to have a crime bill. And it is high time to see whether our votes are going to match up to our raised voices. Are we going to just give speeches on crime, or are we going to have a crime bill—that's the question.

My second observation concerns the administration, and the politics of crime.

When this bill came to the floor, I called on the administration to take the politics out of this bill; to make it a bipartisan effort; to join us in working out a compromise crime bill.

It has not been easy, but here we are with a crime bill—not the way I wanted it, not the way the President wanted it—but basically, in a fashion that we are both prepared to accept it.

Simply put: I support this crime bill. The President supports this crime bill. That dispute is resolved.

I do want to say this: I have been reading over the past few weeks that the White House intends to make crime an issue in the upcoming elections.

And if that is true, I hope the President and the media will not forget today's vote. Because if cloture fails today, and the crime bill is blocked, it will not be because a majority of Democrats vote against cloture, it will be because a majority of the Members of the President's own party vote to block a crime bill.

So let us not hear about the Republicans being tougher on crime. I hope we will not hear any statements from

the White House about congressional foot-dragging on crime—unless those statements also include an accurate report that the cause of the delay is Members of the President's own party. Crime is not a political issue, or at least it should not be. And before anyone tries to make it one, they should stop and reflect on today's vote, and what it means.

Mr. President, as I said, it was precisely 126 days ago that the President of the United States started what I suspect most would consider to be a drumbeat to make the case that he wanted his crime bill and he wanted a tough crime bill. And it was a challenge that, Mr. President, we took very seriously on this side and in this committee.

We took it so seriously, Mr. President, that we came to the floor with a bill, and from the outset we accommodated everything that the President said he wanted. He said he wanted an up or down vote on his bill as a substitute to the Biden bill. That vote was not delayed. That vote was allowed. That vote was defeated. We then went through the process of amendments to the Biden bill. With the full cooperation of the managers and, I might add, the leaders on both sides, we tried as best we could to bring this, what is always a contentious piece of legislation, to fruition and final passage.

All along, Mr. President, I might add, from the time the President indicated that he wanted a crime bill, I asked the Attorney General whether or not he was willing to meet with me to work out a crime bill, to save us the time to get by not only the 100 days but to get it well under 100 days, and there was a deafening silence from the administration in terms of the willingness to talk about any potential compromise on a crime bill.

But as usual, the senior Senator from South Carolina, the man who we still call the chairman of the Judiciary Committee, Senator THURMOND, was fully prepared to try to produce a tough crime bill by and through negotiation. We began that process. And on a number of issues, the Senator from Delaware and others on this side won. On a number of issues, we lost.

We ended up producing to this point a crime bill which at least the administrative spokespersons in the White House are saying the President is ready and willing to sign. But here we are. We are at a point now where the same President who was beating—to use the literal term—politically beating to death the chairman of the Judiciary Committee and every one on the Democratic side on this challenge of 100 days to pass a bill, we are 126 days down the road with a bill he says he would accept, as I understand it, but an unwillingness on the part of all but seven Republicans to allow it to come to a final vote.

Forty-nine Democrats on this floor today voted to bring debate to an end,

to allow only 30 hours of debate, only 30 hours of debate from this point on, after 3 weeks, and allow germane amendments to be debated on, voted on, and finally vote on this bill. And only seven Republicans were willing to do the same.

Now I understand from the distinguished leader of the Republican party in the Senate that in a second cloture vote there is a likelihood that there may be some changed minds. I sincerely hope that is the case.

We have a tough crime bill. I would like very much to be able to finally let the Senate work its will on a bill that the President, the administration, and the Attorney General, as I understand it—not directly said to me, though—are willing to accept, think is a good, tough bill.

Let me conclude my short time here by suggesting that I want to thank the Senator from South Carolina, who has been as tough and as consistent and as thorough and as relentless as anyone could possibly be trying to bring this bill to a close. And I pledge to him that between now and the next vote I am willing to meet with him and anyone else to try to work out an accommodation that could allow this bill to be ultimately voted on.

I sincerely hope, if we have a second cloture vote, that we do not have to wait another 24 hours for that cloture vote. I hope that if what people say privately here, that there are enough votes to have cloture, why wait and drag this out so that we spend another whole week on this legislation.

From the time we get cloture, we still have filed—I do not know how many—scores of amendments that are still in order under cloture and are contentious. Why not bring this to an end, move to the House, move to conference, and get a tough crime bill?

Last, and I will cease and desist with this comment, I wish the President would be as articulate and as vocal publicly with his Republican colleagues who are in the process of killing a tough crime bill as he was with his Democratic friends who were trying to negotiate a crime bill with his administration which would not speak with the Democrats who were trying to put together a crime bill.

I call on the President to call publicly upon his friends in the Republican Party to allow this bill, which I understand he thinks is a good bill, to allow it to come to a vote so we can move on to do what everyone in this body says they want to do, come down much tougher on crime and enhance the possibility that American citizens will be a little bit safer tomorrow than they are today.

I yield the floor and I thank my friend from Louisiana for the opportunity to speak.

Mr. THURMOND. Mr. President, we worked hard on this crime bill and I

think we are going to get a crime bill. There are a few on this side that said they wanted to offer some amendments, and possibly we could have another cloture vote tonight. I suggest maybe we get off this bill and give them a chance to offer these amendments and get them out of the way and then vote cloture tonight, if that is agreeable with the majority leader.

The distinguished assistant Republican leader wanted to say a few words.

Mr. SIMPSON. Mr. President, I have been very intrigued by the work of Senator BIDEN and Senator THURMOND. I really do commend them. They have done a splendid job and we are going to get a bill. We really should keep our eye on the rabbit here as to what is happening.

If those on the other side of the aisle had wished to invoke cloture, they had all the horses to do it. Because we had the votes and gave them the votes to do it, seven of them. So if their 57 had held tough, they would have had cloture. So I think perhaps we can skip this exercise in, you know, slapping it back and forth and up into the net and getting the puck down the ice. There were seven Democrats who decided to drag their feet, I guess, on that side.

So let us, instead of just babbling about it and beating the President to death—and I did not hear the Attorney General or the President ever ask to stall this, not once. In fact, if all could have heard the eloquence of the Attorney General this morning in our conference they would have been quite intrigued and moved by it. So if we can now dampen down a little of the old partisan scratching and stop whacking on the President in a feckless exercise which really does not have anything to do with anything here—this is the President's bill in many respects.

This is Senator BIDEN's bill in many respects; this is Senator THURMOND's bill in many respects. That is what this is. The only purpose here is on the part of a lot of people we are calling westerners, of both parties. Look at the rollcall vote and you will find there are not many westerners, maybe one or two, who are not deeply involved in this issue called gun control. It is a burning issue, and we cannot get away from it in our part of the country.

We have important amendments. People have been very forthcoming. If we have one person over here who continued to stall amendments, I know one person on the other side of the aisle who is always trying to do that. So let us get on with the action and see if we can do some amendments.

I rely on the good faith of the Senator from Delaware and the Senator from South Carolina to see what amendments they will process. We might get unanimous consent to do the cloture vote without waiting until 12:05 tonight, but I am ready to do that. But let the RECORD disclose very simply

that any time the other side wished to have their cloture, they could have achieved it, because they knew exactly what the score was on this side of the aisle.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I ask unanimous consent to use just a portion of my leader time to make one concluding comment on this subject, and I thank the distinguished Senator from Louisiana for his patience and courtesy.

Mr. President, under the rules of the Senate, the next cloture vote will occur, unless otherwise agreed to, 1 hour after the Senate convenes tomorrow. I am advised that that, therefore, could be any time from 1 a.m. tomorrow on.

I am extremely reluctant to pursue that course of action, but it is a course of action which I must consider under the circumstances. We have now been 3 weeks on this bill. There is no end in sight at this point. And I hope my colleagues will consider the request that I made earlier, which I have discussed with the distinguished Republican leader, to agree to permit the second cloture vote to occur today by consent at an earlier time. Because, although I am reluctant to proceed to have a vote on cloture at 1 a.m. tomorrow, that may be the only option available.

So I call upon my colleagues to consider that, and I hope they will be cooperative and that we can work this out, and that we can get cloture and proceed to complete action on this bill.

Mr. JOHNSTON. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Yes. Sure.

Mr. JOHNSTON. May I suggest it be scheduled immediately after the vote on final passage—which I understand has been requested—on the energy and water appropriations bill, so those can be back-to-back? I hope that will be early this afternoon.

Mr. MITCHELL. We have asked that it be as early as possible. We are awaiting the response from our colleagues. As the Senator knows, this requires unanimous consent, as so many things do in the Senate, and one Senator can prevent that from occurring.

But my point is that in so doing, that is, in preventing it from occurring, that Senator would in effect, or at least possibly, cause all Senators to be inconvenienced and to have to be in and have a cloture vote at 1 o'clock in the morning, which I think none of us want.

I thank my colleague. We will try to pursue that on a back-to-back basis.

Mr. BIDEN. Mr. President, let me say, in 30 seconds, that we did hear the Attorney General in the Republican Caucus. We listened and we voted with him; and the Republican Caucus voted with the NRA.

I yield the floor.

Mr. THURMOND. Mr. President, I suggest, if the majority leader would see fit, to set a time tonight for another vote and then get off the bill. And between now and then act on a few amendments that some have, and have a second vote tonight.

Mr. MITCHELL. Mr. President, if I might respond. That is precisely my request, Mr. Chairman. I have asked exactly that of you and your colleagues.

I think Senator JOHNSTON's suggestion is an excellent one: That we simply have the cloture vote immediately following final passage on the energy and water appropriations bill, which we hope will come sometime later today.

Mr. THURMOND. How long will that take?

Mr. JOHNSTON. I hope we can dispose of it in a couple of hours.

Mr. THURMOND. A couple of hours? They may need those hours to get off a few of these amendments. If we can get off of it now and let these amendments be disposed of, then we can go and get the cloture vote, and then go back to finish that.

Mr. MITCHELL. Mr. President, why do we not proceed? Let us now take the time to permit yourself and Senator BIDEN to meet and try to work out these matters as they occur on this bill.

Mr. THURMOND. If the Senator could allow a reasonable time to permit several amendments to be offered here, I think we can get cloture then.

Mr. MITCHELL. We will do that. I again thank the Senator from Louisiana.

The PRESIDING OFFICER. The time of the Senator from Delaware has been used. The Senator from Delaware has yielded back his time.

The Senator from Louisiana is now recognized.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, in not more than 20 minutes, and I think not less than that, we will vote on a motion to table the Bumpers amendment. The Bumpers amendment would take all the funding from the superconducting super collider and terminate the project.

Mr. President, I reviewed a little earlier, and I will do so very quickly right now, why we should have the superconducting super collider.

First, we have a very solid cost estimate at \$8.2 billion which includes \$1 billion of contingency funding.

We have a very solid cost estimate on this project. I reviewed earlier the incredible breakthroughs in science that can be expected from pursuing the superconducting super collider, from

magnetic resonance imaging to magnetically powered ships to magnetic levitating trains to all kinds of PET scanning and CAT scanning and medical breakthroughs. And I listed those in great detail.

Suffice it to say that the scientific and technological breakthroughs that can be expected from this project are overwhelming and almost without limit. But more fundamentally, the superconducting super collider is expected to tell us the very secrets of the universe, the very secrets of matter.

I pointed out earlier we used to believe in science that the smallest part of matter was the atom. Then, in 1911, we found out that the atom itself was composed of protons, neutrons, and electrons.

And more recently, through use of accelerators, through use of machines like this, only less powerful; we have found that atoms, in turn, are composed of quarks and leptons. In turn, Mr. President, there are three pairs of quarks and three pairs of leptons.

Scientists believe that this pattern, based upon experience and based upon history, suggests that there is a basic structure to matter, the structure of which we do not yet fully understand and cannot prove mathematically. So the superconducting super collider is designed to discover that structure. It is designed to discover the particles as yet unknown, some of which exist only theoretically, that make up all of the parts of that structure.

The answers to that everlasting puzzle are likely to be surprising. They may be breathtaking. They will surely be fundamental in their scope and in their profundity. They are sure to be important for the future of the world in science, probably medicine, nutrition, technology, and clearly the understanding of the world.

We are also likely, with this research, Mr. President, to unlock the secrets of the four fundamental forces that control everything: Electromagnetism, the strong force that controls the atom, the weak force that deals with radio activity, and gravity, all of which we believe are related. They are related mathematically, and the mathematical formula through the superconducting super collider can be proved and verified. It is the grand design of the universe.

When we say the universe, we now know that in proving the smallest of things, we unlock the secrets of the whole universe. We think, for example, that the dark spots in the universe are probably composed of neutrinos, which, in turn, are one of the small leptons, the character of which we are likely to unlock in the superconducting super collider.

Why do we need a machine of such vast size, 54 miles in circumference with a collision which takes place at a force of 40 trillion electron volts? Be-

cause, the scientists tell us, it is only at those great energies that, for example, the strong force and the weak force behave in a characteristic way that allows us to determine the formula by which the four forces are connected.

Mr. President, this is the most important scientific endeavor in the world today—the most important in the world—because it tells us about the very nature of our universe and all that it is made of. I hope that the United States will continue its lead with the superconducting super collider.

**THE PRESIDING OFFICER (Mr. LIEBERMAN).** The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I hope that I will not use the 10 minutes that has been allotted to me. I think basically everything that can be said on this subject has been said. I want to say to my colleagues, finally, that this is the last chance you will have to stop this project. If we put the \$500 plus million into the 1992 budget with the \$597 million that has already been appropriated over the preceding years, the nose-under-the-tent argument next year will be irresistible. The argument will be that we have already spent \$1 billion and we are going to lose it if we do not go forward with it. In my opinion, and based on 16 years in the Senate, I have never seen this body resist an argument where a billion dollars has already been spent. So this is your last opportunity, I say to my colleagues, to stop a project that may have some merit as a scientific curiosity, but as an economic or scientific payback project, it is a terrible waste.

The junior Senator from Texas says if we save this \$500 million here, we will just spend it somewhere else. Why is that? Has this body become so irresponsible that if you save \$500 million on something because it is a waste, you take it and try to find something else to waste it on? It depends on what happens with the conferees in the House. Surely, the U.S. Senate conferees will not go in there and say we saved this \$500 million, but our instructions under the budget agreement are to find some other boondoggle to put this money in so we meet our 602(b) allocation. I thought the 602(b) allocation was supposed to be a cap, not a floor.

When it comes to the cost of this project, you want the U.S. Government to keep its word. Secretary Watkins told our committee that if this could not be built for \$5.9 billion, it would not be built. Now the cost is up to \$11 billion, and he is the biggest cheerleader in Washington for this project. He said it would not be built unless we got \$1.75 billion from other countries. So far, we have a \$50 million pledge from India. We do not have a dime in hand from them. Now he is saying we are going to go forward whether our foreign counterparts contribute or not.

I can tell you one thing. If I were any of those people who were considering participating in this, that would be enough to tell me not to. The Secretary said essentially do not worry about it, we are going forward with this whether you contribute or not.

How many times have you heard on the floor of the U.S. Senate in the past 5 or 10 years about how brilliant the Japanese are. I will tell you how brilliant they are. They have enough sense not to participate in this project. The suggestion has been made that the Japanese might put up \$1 billion. That was made by the Department of Energy, not the Japanese. Why would they participate in it? They are busy building electronics and doing basic research to build products to send to the United States to continue eating our economic lunch while we squander \$11 plus billion on a project that has gone up roughly \$4 billion a year in costs ever since it was first conceived by President Reagan in 1987, and it is not off the drawing board. Senators can hardly wait to vote for it.

Do you want me to tell you something worthwhile? The human genome project where medical science wants to map every gene in the human body, now you talk about science that we know will work and would have an unbelievable benefit for mankind, it is the human genome project. Do you know what the chances are of our funding both this and the space station and the human genome project? You guessed it. Zip. Not a prayer.

I will warn those Senators from California and Illinois and New York that Brookhaven Laboratory in New York, the Fermi Labs in Illinois, and the Stanford Linear Accelerator in Stanford, every one of those projects are almost certainly going to close when this thing is fully funded.

One of the most devastating things about this, Mr. President, is that the Western European consortium called CERN is way ahead of us doing the same thing, at a cost of a fraction of what we are proposing to spend here, and are very likely to have this exotic answer to the origin of matter before we ever get our tunnel built.

I asked somebody on the other side to answer the question this morning: Assuming under the best case scenario that our foreign counterparts put up \$1.75 billion, what if the cost of this project goes to \$40 billion in 1999, and it almost certainly will, their contribution will still be \$1.75 billion and old Uncle Sucker would have picked up the rest of the tab.

Mr. President, the GAO says this is not a sure thing; that there are plenty of significant technical risks in developing these dipole magnets.

I will just close by quoting President Reagan, who used to write to all of his constituents and say on television, because he came to power saying, "I am

going to balance the budget," and when the budget went completely out of control—as I quoted this morning, the first 8 months of this year the deficit is more than the entire 4 years of Jimmy Carter, and one of the reasons is because this body cannot screw up its courage to cut anything—anything. These four projects, the SSC, the space station, SDI, and the B-2 bomber. George Bush wants the line-item veto. A line-item veto is not a drop in the bucket compared to what the U.S. Congress can do if we want to do it.

He could not save \$2 billion with a line-item veto. We have a chance to stop \$15 billion of waste. We might, incidentally, take \$40 million of that, about one one-hundredth of this, and vaccinate our children against measles. We are so caught up in this stuff we cannot see the forest for the trees.

President Reagan, when the deficit went completely out of control, said, "I cannot spend any money that Congress does not appropriate." Well, technically that is right. The Constitution says that. He cannot spend any money that we do not appropriate. God knows, we have been plenty cooperative around here, too.

But it was President Reagan and President Bush who wanted even more for the super collider than we would appropriate, even more for SDI than we would appropriate, 75 B-2 bombers at \$1 billion each, submitting us a grandiose education program at a total cost of \$200 million less than the cost of one B-2 bomber. That is not what I call a commitment to education.

There is one thread that runs through every poll I have seen, and I believe this thread; I go home every weekend and I talk to my constituents. I will tell you what that thread is. Congress is not doing anything that is relevant in their lives. They are having a tough time. There are a lot of people in my State who do not believe this recession has bottomed out because they are still hurting. I know a couple who, wanting to buy a home so badly, just yesterday could not come up with the \$24,000 downpayment. How many people in America do you think can? Maybe a U.S. Senator can. But the ordinary citizen cannot.

We do not do things relevant in their life. And you ask the ordinary citizen on the streets of America, what do you think about the superconducting super collider? Well, they will dial 911. They have never heard of it. They think it is profane. But I will tell you one thing, if you go home and you tell the American people you voted to cut \$12 or \$15 billion of utter wasteful spending, they will consider that relevant in their lives.

So, Mr. President, if we can do one thing which would renew their faith ever so slightly, this would be a very good beginning. I yield the floor.

Mr. SYMMS. Mr. President, I rise to oppose the Bumpers amendment to

eliminate funding for the superconducting super collider. I appreciate the concerns of my colleague from Arkansas about developing clearer priorities for science research and development in this country. However, in my view, the SSC ought to be a priority program.

Whole new industries could be developed by the research to be done by the SSC. Past research in physics have helped develop the following technologies—radar, x rays, television, microwaves, semiconductors, computers, and lasers. Most of these originated in the United States.

Research is probably one of the most beneficial use of taxpayer dollars. The innovation to be inspired by a better understanding of atomic particles could revolutionize the U.S. economy. Such a revolution could dramatically improve living conditions throughout our society. That is a benefit worth pursuing.

Even though research and development on the SSC has barely begun, we already have our first spin-off. The University of Florida has discovered a new treatment for plastic materials with possible widespread commercial application. This new treatment allows certain plastics to withstand repeated sterilization, which will directly impact the manufacture of medical-grade plastics.

SSC technology has also helped to improve magnet technology. For example, the current-carrying capacity of superconducting cable has increased 50 percent since the start of SSC research and development. Similar improvements in magnet technology can be expected as industry increases production capabilities.

Often in this country, and indeed on this Senate floor, we hear statements lamenting America's economic woes and our loss of high-technology markets. Solutions to the problems that industry faces and our ability to produce better and more competitive products depend upon continued technological progress.

We must invest in our technological future. That means investing in the science that yields technology. Please join me in supporting the SSC—it is an investment that is sure to pay for itself many times over in the years to come.

In closing I would urge my colleagues to vote against this amendment or for a motion to table.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON addressed the Chair. The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I believe this matter has been adequately debated. The superconducting super collider is not just another project. It is not just a curiosity. It is fundamental. It is the most important research project in America today, in the world today, be-

cause it tells us the basic secrets of the universe, the basic secrets of energy and matter, and it must be pursued. I urge my colleagues to vote to table the Bumpers amendment.

I yield back the remainder of my time. I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BUMPERS. I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Arkansas. 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 Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—62

Akaka	Glenn	Nunn
Baucus	Gorton	Packwood
Bentsen	Graham	Pell
Bingaman	Gramm	Pressler
Boren	Grassley	Reid
Breaux	Hatch	Robb
Brown	Hatfield	Rockefeller
Burdick	Heflin	Roth
Byrd	Helms	Rudman
Cochran	Inouye	Sarbanes
Craig	Johnston	Seymour
D'Amato	Kasten	Shelby
Danforth	Lieberman	Simon
Daschle	Lott	Specter
Dixon	Mack	Stevens
Dodd	McCain	Symms
Dole	McConnell	Thurmond
Domenici	Mikulski	Wallop
Durenberger	Moynihan	Warner
Ford	Murkowski	Wofford
Garn	Nickles	

NAYS—37

Adams	Cranston	Kerry
Biden	DeConcini	Kohl
Bond	Exon	Lautenberg
Bradley	Fowler	Leahy
Bryan	Gore	Levin
Bumpers	Harkin	Lugar
Burns	Hollings	Metzenbaum
Chafee	Jeffords	Mitchell
Coats	Kassebaum	Riegle
Cohen	Kennedy	
Conrad	Kerrey	

Sanford Simpson Wellstone  
Sasser Smith Wirth

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 686) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we have only two amendments remaining, because I understand that Senator DOLE will not have an amendment. So the only two amendments are the Fowler and Wirth amendments and any second-degree amendments which may be attached thereto. I hope we can work those out.

The PRESIDING OFFICER. The Senator from Louisiana retains the floor.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Georgia. I believe we have the amendment worked out.

Mr. President, I would say to my colleagues that I think we have two amendments, both of which are worked out and can be quickly disposed of and we will go straight to final passage I hope within 10 minutes or so.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HATFIELD. On behalf of Senators WALLOP and DOLE I ask unanimous consent to withdraw two amendments, that they not be offered: The Wallop amendment on Buffalo Bill dam and the Dole amendment on high technology research.

The PRESIDING OFFICER. The Senator has that right.

The amendments will be withdrawn. Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. FOWLER].

AMENDMENT NO. 709

(Purpose: To improve the funding of energy systems)

Mr. FOWLER. Mr. President, on behalf of the Senator from Vermont [Mr. JEFFORDS] and myself I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] for himself and Mr. JEFFORDS proposes an amendment numbered 709.

Mr. FOWLER. 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:

On page 47, line 11, before the period, insert “; and of which \$60,400,000 shall be for photovoltaic energy systems (of which \$58,900,000 shall be for operating expenses and \$1,500,000 shall be for capital equipment), \$29,100,000 shall be for solar thermal energy systems (of

which \$28,650,000 shall be for operating expenses and \$450,000 shall be for capital equipment), \$39,300,000 shall be for biofuels energy systems (of which \$35,000,000 shall be for operating expenses and \$4,300,000 shall be for capital equipment), \$21,400,000 shall be for wind energy systems (of which \$21,200,000 shall be for operating expenses and \$200,000 shall be for capital equipment)".

Mr. FOWLER. Mr. President, I want to yield to the cosponsor and author of this amendment, the Senator from Vermont [Mr. JEFFORDS] for his statement.

But before I do that I thank the chairman of the committee, my friend from Louisiana, and the ranking member, Mr. HATFIELD, who have helped us very much in expediting this matter, and also the Senator from Utah [Mr. GARN], the Senator from New Mexico [Mr. DOMENICI], and others, who have bent over backward to make sure that we had fair and thorough consideration of this matter, for all of which I am deeply appreciative.

Mr. President, I yield the floor to my friend from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this amendment reinforces the importance of developing a national energy strategy that places a priority on renewable energy technologies. It restores funding for renewable energy technologies to the levels passed by the House of Representatives.

I commend the Senator from Georgia [Mr. FOWLER] who, like myself, has long been a proponent of solar, wind, and biomass energy resources. I think it is clear that the American people are looking toward Congress to develop viable energy policy options, and there is a clear preference for low-polluting—or nonpollution—renewable technologies.

The amount of money effected by our amendment is \$14.7 million. We propose to restore the Senate funding levels to that approved by the House of Representatives. This amounts to \$2.5 million for biofuels, \$3.6 million for photovoltaics, \$3.5 million for solar thermal, and \$3.5 million for wind energy.

Originally we had proposed that this money come from the nuclear space energy programs, but after consultation and working with the managers of the bill, we have agreed that it should come instead from the general research and development pot which is, I think, over \$330 million.

Now, what does this amendment do and what areas are we talking about? There are basically four areas that we are looking at to provide just a little bit more, and what it does is essentially bring the funding levels up to the House levels.

The Fowler/Jeffords amendment reprograms a total of \$14.7 million of the funds in the committee bill. It goes into four separate areas. One, which I think is a very, very important area is

the biofuels research area. Last February, I had an opportunity to visit the Department of Energy's Solar Energy Research Institute in Boulder, CO. The work being done there, and in other DOE research labs across the country, is fascinating.

In the biofuels research area, great strides have been taken to move us closer to the commercial development of liquid fuels from biomass. The DOE has reduced the costs associated with biofuel conversion to the \$1.20-per-gallon range, with a target of 60 cents per gallon by the year 2000. It has clearly defined the research efforts it needs to undertake to get from here to there, including the development of a commercial user facility with the flexibility to test various feedstocks and process steps. I think it is important that we fund these programs, without unnecessary strings attached, so that we can move more quickly to the commercialization of biomass resource potential of the United States.

The second general area is one which I have been watching very closely over the past decade or more, and was excited to find, in my visit to SERI this year, in which there have been substantial improvements, is photovoltaics. That is a direct conversion of Sun into electricity through various techniques.

The photovoltaics program would regain the \$3.6 million as requested in the House bill. This would allow funding for important manufacturing and utility initiatives, including the photovoltaic utility scale application, the photovoltaic manufacturing technology initiative and the thin-film materials program. In other words, the additional money will assist in the commercial development of these promising technologies, moving the laboratory into the marketplace.

I must say, Mr. President, that what I learned out there is that we are fast approaching the time when these will be commercially viable and competitive and this would be an incredible step forward not only for this country but essentially for developing nations which have little or no fossil fuel sources but can utilize solar energy.

In the solar thermal program, the additional \$5.1 million will be used to boost the dish/engine validation and the solar baseload powerplant joint venture. Another initiative involves the use of the newest solar concentrators to break down toxins in water using sunlight as a heat source. In Boulder this year, I saw solar units that could burn through steel. Again, we demonstrate our national commitment to the commercial development of these American technologies.

The \$3.5 million restored to the wind program will be used to fund the small turbine initiative. This project is an effort to develop, in cooperation with private sector partners, a next generation wind turbine that would bring

costs down to a nickle per kWh, making wind-generated electricity widely competitive with conventional technologies. Wind power is currently demonstrating its effectiveness in mountain passes in California and atop mountains in Vermont. Newer technologies will make wind power a viable option in more areas, both here and abroad.

Mr. President, the world faces an energy dilemma similar to our own. Conventional energy resources are becoming scarcer, both in terms of resource reserves and location. Additionally, there are growing environmental concerns about fossil fuel resources. Renewable energy offers benefits which overcome both of these problems. By definition, the sources are continuously available. By inference, the environmental impacts are minimal.

Now is not the time to cut back our efforts to further the commercial development of these technologies. Many of the initiative which will be funded under the Fowler-Jeffords amendment are cost-share opportunities with the private sector. In terms of absolute dollars, the benefits of this amendment are greater than the \$14.7 reprogrammed under this amendment.

In terms of priorities; in terms of commercial readiness; in terms of clearly defined policy objectives; it simply makes sense to restore these renewable energy investment dollars to the levels approved by the House of Representatives.

Solar, wind, and biomass energy technologies are a fundamental part of our national energy strategy. In order to realize the widespread commercial development of these renewable energy resources, a continued Federal effort is required. This amendment provides the funds to keep us on track, and I urge its adoption.

Mr. FOWLER. Mr. President, the amendment the Senator from Vermont and I have before the Chamber would increase the appropriations level for renewable energy research and development programs for fiscal year 1992.

For the first time in recent memory, the Senate Appropriations Committee has recommended to the full Chamber figures appreciably lower than the other body. While I commend the Senator from Louisiana for his support for an increase from the current fiscal year, I believe that the environment in which we find ourselves today merits a full-blown commitment to increased research and development for renewable energy. I believe that our amendment accomplishes that.

Specifically, our amendment would increase the line-item accounts for solar thermal, photovoltaics, wind, and biofuels by a total of \$14.7 million, bringing the Senate figures in line with the recommendations made by the other body. As I mentioned previously, all of these programs received an in-

crease in the Senate version over the previous fiscal year. But it is important to keep in context these increases. For example, our amendment would increase funding for the solar thermal program by \$5.1 million, for a total of \$29.1 million for the coming fiscal year. The last time we went through any sort of any energy crisis, that funding, the Congress reacted, finally gave this and other renewable energy sources a serious look, and funding was increased to \$119.9 million.

Similarly, photovoltaics R&D would be increased to \$60.4 million. In fiscal year 1981, it was funded at \$153.2 million. Even without taking into account inflation over the last decade, you can see that these programs have suffered a decade of abuse and neglect. Each time this country encounters a situation where our energy supply is threatened, our collective eyes look toward renewable energy, and the Congress increases its support for research and development, or creates a small tax credit for some of the industries.

And shortly after our crisis is resolved, we continue on our merry way.

Mr. President, the Fowler-Jeffords amendment represents a very small increase in these four programs. But, even more importantly, I believe it sends a message to the renewable energy, and to the country, that this Congress is not going to fall back to the status quo. That this Congress understands the tremendous potential clean sources of renewable energy like solar and wind, that this Congress understands the importance of nonpolluting sources of energy and energy generated within our borders, and this time—we will not forget.

Even a cursory look at these technologies shows how far they have come, even with the neglect of the Federal Government. Wind-generated electricity, for example, cost 25 to 30 cents per kilowatt-hour only a decade ago. Today, that figure has been reduced to between 5 and 9 cents. Wind alone generates 2.5 billion kilowatt-hours per year in this country, enough to provide for the residential needs of a city of nearly a million people, or even the entire State of Vermont.

Solar thermal, steam-to-electric plants produce 8 cents per kilowatt-hour electricity, down from 24 cents just 5 years ago. Nearly 400 megawatts of solar electricity provides energy for a city of nearly 350,000 people.

Mr. President, these are not laboratory successes. These examples are proof positive that these technologies can play a significant role in our energy picture. But not without at least a fraction of the support that we heap upon conventional energy sources.

As we look around, we see growing public support for these technologies. Solar thermal, photovoltaics, wind, biomass—each of these renewable sources of electricity generation has

decreased cost, increased reliability, and increased its share of the electricity market over the past decade. And, I want to stress again, we can look to the gentleman from Louisiana for a large share of the credit for these advances. Despite heavy pressure from the last two administrations, the gentleman has worked to ensure that the R&D programs continued to receive a reasonable share of the R&D funds spent by the DOE.

Mr. President, changing circumstances require changing approaches.

The lengthy debate in hearings on the national energy strategy conducted by the Senate Energy and Natural Resources Committee, on which I am a member, served only to highlight the increased emphasis that is being placed on environmentally clean sources of energy generation.

And, of course, the gulf war served as an expensive reminder of this country's dangerous reliance on imported oil.

I do not think that there is a single one of my colleagues that does not believe that alternative energy sources can and should play a larger role in our energy supply mix. The Fowler-Jeffords amendment gives us all an opportunity to put in the RECORD our support. It is a message that needs to be heard, and I hope you will join me in sending it.

Mr. JOHNSTON. Mr. President, last year we had \$114 million for solar applications. The administration requested an increase to \$122 million. In the bill as we reported it to the floor we included \$137 million, which was an increase over the budget request of some \$15 million, an increase over last year of some \$23 million. What this amendment does is add an additional \$14 million to the Solar Program so that it would then be \$152 million.

I have long supported these programs. Although they do not produce at this time a great deal of energy, it is hoped that they will fill an important niche in the energy future of the country. And they are certainly widely supported across the country.

I think it is important in any comprehensive energy strategy to have renewables and solar as part of that strategy. It is not going to solve the problem. If we put \$20 billion here, it is not going to solve the problem. But it will help. And for that reason we are willing to go along with the additional increase of \$14 million.

I call the attention of my colleagues to the fact that this is a sizable increase over last year, almost \$40 million, well, a \$38 million increase over last year, and a tremendous increase, some \$30 million over the budget request. So I think we are treating with this amendment solar energy very generously.

I congratulate my distinguished colleague from Georgia and my distinguished colleague from Vermont for

their long-time leadership in this area. And with thanks to them, we on this side of the aisle accept the amendment.

Mr. HATFIELD. Mr. President, I would like to put this proposal into a broader context. Back in the seventies, when we had the Arab boycott and under the Carter administration we were responding to the problem of a national energy policy, there were those of us on that committee at that time who were deeply committed and concerned about the failure to have addressed the possibilities and the potential of renewables, including solar.

Let this figure that is quoted now with the addition of this amendment seems staggering, we were considering the appropriations, considering the tax credits that were provided for renewables as incentives, we were up to almost a billion dollars in 1 year of expenditures and investments in renewables, including solar. So when we are talking about this figure, it is really an interesting contrast and comparison. Now my problem is that we cannot expect to get the results from the investments if we do not sustain our commitment over a reasonable period of time.

The billion dollars really was never given an opportunity to give us a return on our investments because it was dropped and gradually declined to the point where it was next to nothing. We have to not only get these sustained levels but we have to realize that these are long-term returns that do come back to us for the investments made initially.

I want to also make a second observation. In the Johnston-Wallop energy bill that has been tried and tested and debated and heard through many, many hours in the Energy Committee, which Senator JOHNSTON also chairs, this issue was carefully considered. And once again a commitment is found within that bill, the authorizing bill, in which the Senator from Georgia and others have been very much involved.

So lest there are those who think this is one of those floor amendments that pops up out of context of any kind of background, or testing, or discussion, or debate, I do not know of any amendment that really has more heritage of legislative involvement, legislative consideration, than this amendment.

I am very pleased that the Senator from Georgia and the Senator from Vermont have taken this initiative as far as this bill is concerned.

It has been cleared and is enthusiastically supported on this side of the aisle as well.

Mr. SIMON. Mr. President, I just want to take 2 minutes to commend my colleagues, Senator FOWLER and Senator JEFFORDS, as well as Senator JOHNSTON and Senator HATFIELD on this.

Just two little experiences. My wife and I 10 years ago built a home in deep

southern Illinois. It tends to be pretty warm territory. But about 18 months ago we had an unusual period of weather, below zero weather. I did not want to build active solar because I am no tinkerer. I did not want a bunch of pipes to tinker around with. But we made a home that was a passive solar. During the daytime in below zero weather the furnace did not kick on. It works.

The second experience was back when Jimmy Carter was President. When Archbishop Makarios, President of Cyprus, died, President Carter picked a delegation to go over to Cyprus for the funeral events. One of those picked was our former colleague, Senator Mac Mathias from Maryland. We thought while we were there we would go and visit the refugee housing, built 55 percent with American taxpayers' funds.

Every refugee unit in Nicosia, Cyprus, has solar heating devices on them. Somehow, if we can use American taxpayers' funds to see that in Nicosia, Cyprus—there is solar heating units, solar heating that help the people conserve energy—we can do it here in the United States of America. And what this amendment does is nudges us a little more in the right direction.

I commend everyone who has been involved.

Mr. FOWLER. Mr. President, I ask unanimous consent that Senator DASCHLE be added as an original co-sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 709) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 710

(Purpose: To transfer funds for the Department of Energy from space reactor power systems to the Reduced Enrichment in Research and Test Reactors Program)

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 710.

Mr. WIRTH. 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 46, line 16, strike "\$2,940,916,000" and insert "\$2,940,516,000".

On page 57, line 23, strike "\$415,976,000" and insert "\$416,476,000".

On page 58, line 15, before the period, insert the following: "Provided further, That of the sum herein appropriated, \$1,300,000 shall be used for the Reduced Enrichment in Research and Test Reactors Program under the Office of International Affairs and Energy Emergencies".

Mr. WIRTH. Mr. President, the recent events in Iraq, and the search for the highly enriched uranium weapons grade material in Iraq, brings to all of us the issue of nuclear proliferation around the world. Over the last 40 years, the United States has been the No. 1 exporter of nuclear technology around the world, and has been the No. 1 exporter of highly enriched uranium which leads to weapons grade material, which leads to proliferation of nuclear weapons around the world.

In the mid-1970's the United States began an effort to convert reactors, university reactors, research reactors, and others around the world to convert those away from use of the highly enriched uranium, HEU, to alternative fuels, to a lower grade uranium which was not of weapons grade, and that was a program called the Reduced Enrichment for Research and Test Reactors Program.

That program is now about 95 percent complete. About 100 reactors are converting or looking at conversion; 8 have converted completely; 11 are in the process of conversion today; and about 80 others are watching very carefully what is happening to that first group.

In addition, three reactors, one in Belgium and two in France, are very dependent upon the United States export of highly enriched uranium. If we are concerned about proliferation, we want to deal with the Belgian and the French reactors, and with other reactors around the world.

Initially, I had offered an amendment to do two things: One, to continue to provide—to increase the amount of technical assistance the United States gives to the 100 reactors that are looking at conversion or are in the process of converting; and second, to develop the highly enriched uranium for the Belgian and the two French reactors.

The latter part of the amendment causes us a variety of problems. That gets into foreign policy issues and gets into the foreign aid bill. I think we have worked out report language asking the Secretary to develop a report back to the committee, working with the Secretary of State on negotiations with the French and with the Belgians on the conversion process there.

What we are doing is increasing, in this amendment, the funding to the level right up to what the Department of Energy that they can use, \$1.3 billion, to provide technical help to those nuclear reactors, the university research and other reactors, that are in the process of converting from highly enriched uranium, the weapons-grade

material, to a lower level alternative fuel.

The purpose of this amendment, on which I appreciate the help of the distinguished chairman of the subcommittee, and which I believe the subcommittee has agreed to, is to provide the level of technical help which the Department of Energy says they can usefully provide around the world.

It would be my hope that this amendment will be accepted. This is another step forward in our attempts to lower the level of nuclear proliferation around the world.

To reiterate, Mr. President, this is an amendment to reallocate \$3,500,000 in the Department of Energy budget for the purpose of restoring to full funding the so-called RERTR [Reduced Enrichment for Research and Test Reactors] Program. The additional funds would come from space reactor power systems, leaving that program with a still quite substantial \$40,500,000 and permitting the RERTR appropriation to rise to \$4,300,000 from the presently proposed level of only \$800,000.

The purpose of this amendment is to complete a very important, yet remarkably inexpensive, piece of unfinished nuclear nonproliferation business—developing the substitute nuclear fuels that will permit the United States to end its dubious role as the world's principal exporter of bomb-grade uranium for peaceful research programs.

Since 1978, the Argonne National Laboratory has been highly successful in developing high-density, low-enriched uranium fuels that are unsuitable for use in nuclear weapons to replace most, but not all, of the highly enriched, bomb-grade fuels that have been supplied by the United States to more than 100 research reactors in 34 other countries. The problem is that the fuel-development portion of the RERTR Program was terminated by the Department of Energy in fiscal year 1990 before the job was finished, placing in jeopardy the other portion of the program—the actual conversion of foreign research reactors for which substitute, non-weapons-usable fuels have been developed. To make matters worse, proposed funding to facilitate these reactor conversions has been slashed for fiscal year 1992 from \$1,300,000 to \$800,000, a further sign to foreign reactor operators that the United States is no longer a strong supporter of its own program.

One result of the wrenching experience in Iraq is that we all have come to see how worrisome even a rather modest amount of bomb-grade, highly enriched uranium fuel for research reactors can be. Indeed, a key element of President Bush's ongoing Middle East arms control initiative—to seek a ban on further production or acquisition of bomb-grade nuclear materials in the region—was prompted in large measure

by the realization that Saddam Hussein's known inventory of about 90 pounds of highly enriched uranium gave him enough nuclear explosives to build two Nagasaki-type atomic bombs.

Although Iraq's "peaceful" nuclear research program provides one of the few examples of non-United-States-supplied highly enriched uranium—Saddam's imported fuel was provided by France and the Soviet Union—we would be unwise to miss the object lesson for our own highly enriched uranium export program. The nuclear proliferation and terrorism risks associated with bomb-grade uranium transcend Iraq and the Middle East. The Iraqi example vividly illustrates the need to remove this dangerous material from civil nuclear research programs throughout the world.

Just how dangerous is highly enriched uranium was made clear in the recently published memoir of Luis J. Alvarez, a key figure in the Manhattan project. "With the modern weapon-grade uranium," he wrote, "terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one-half of the material onto the other half. Most people seem unaware that if separated U-235 is at hand it is a trivial job to set off a nuclear explosion. \* \* \* Even a high-school kid could make a bomb in short order."

Restoration of full funding for the RERTR Program—\$1.3 million for reactor conversions and \$3.5 million for fuel development—will make it possible to eliminate bomb-grade uranium from civil nuclear programs. We should support the President's Middle East arms control initiative by completing the RERTR Program and thereby demonstrate United States resolve to replace bomb-grade uranium in all foreign research reactors with lower-enriched fuels that cannot be used in bombs. As the Nation that has exported more than 9,000 pounds of bomb-grade uranium—compared with dozens of pounds exported by France and Britain and hundreds of pounds by the Soviet Union—the United States has a special responsibility to exercise the leadership necessary to see this program through.

Compared with the hundreds of billions of dollars spent annually on defense, the RERTR Program is a national security bargain—requiring just over \$4 million in the coming fiscal year and in each of the next 4 years, according to the program managers at Argonne, to develop the substitute fuels and convert all overseas research reactors now using U.S.-supplied, bomb-grade uranium.

At this point, only 8 reactors—including 4 university reactors in the United States—of more than 100 eligible for conversion have switched to fuels that cannot be used in bombs. Another 11, including 2 in the United

States, are in the process of converting, but the completion of this process and the conversion of others for which fuel has been developed may hinge on whether the RERTR Program completes its work to develop substitute fuels for 3 high-performance reactors—2 in France and 1 in Belgium—for which low-enriched fuel is not now available. Restoration of full funding for RERTR will make it possible to complete this work.

DOE has taken the position that continuation of the RERTR fuel-development effort does not make sense and is a waste of money because even assuming Argonne successfully develops the remaining high-performance fuels, the reactor operators will refuse to accept them. However, only one such operator in France has communicated to Argonne such outright opposition, and it is based primarily on the conclusion that it will prove technically impossible to develop the substitute fuel for this reactor—a conclusion with which experts at Argonne disagree.

A deeper problem for future conversion of the European high-performance reactors is DOE's apparent reluctance to convert its own reactors to low-enriched fuel—a matter that may have to be addressed in the future but should not be allowed now to interfere with development of the remaining fuels that would make possible the conversion of all foreign reactors now using United States-supplied, bomb-grade uranium. What is becoming clear is that some foreign reactor operators may refuse to accept the substitute fuels unless all other foreign operators do so. Indeed, this sentiment has been expressed at international RERTR meetings and may be the reason that a German-Dutch reactor located in the Netherlands is now seeking an additional export of some 85 pounds of highly enriched uranium, the equivalent of two bombs, even though low-enriched uranium is now available for it. This reactor, and the other three high-performance reactors for which substitute fuel must still be developed, require exports of a total of about 300 pounds of bomb-grade uranium a year.

I ask support of this amendment to make it possible to eliminate these and all other transfers of U.S. bomb-grade uranium to foreign research reactors. Iraq has taught us that the world will be far better off when commerce in such dangerous material has been eliminated.

I ask unanimous consent that a recent article from the Washington Post and two recent studies prepared for the Nuclear Control Institute on the RERTR Program and the bomb potential of highly enriched uranium be inserted at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1991]  
POLITICIANS IN THE LAB \* \* \* AND SCUTTILING  
AN EASY WAY TO STOP NUCLEAR PROLIFERATION

(By Paul L. Leventhal and Deborah J. Holland)

President Bush's new arms control initiative for the Middle East calls for a ban on the production and acquisition of materials for nuclear weapons—highly enriched uranium and plutonium.

Motivating this proposal is deep concern over Iraq's possession of bomb-grade, highly enriched uranium, supplied by France and the Soviet Union for "peaceful" nuclear research. But the proliferation and terrorism risks associated with such fuel transcend the region. Almost 9,000 pounds of bomb-grade uranium is used in more than 100 research reactors in 35 countries—most of it supplied by the United States. The Iraqi example vividly illustrates the need to remove weapons-usable uranium from civil nuclear research programs.

A relatively simple and cheap solution is available—but the Bush administration seems interested only in scuttling this project as a budgetary economy. Such misguided economizing could have grim consequences for international security.

A key element of the nuclear proliferation problem is the difficulty of applying effective international safeguards to ensure that bomb-grade material is not diverted from peaceful research and converted quickly into weapons. Iraq's nearly 100 lbs. of safeguarded, highly enriched uranium is enough to build two bombs, each equal in yield to the U.S. bomb that destroyed Nagasaki.

Given ample warning of the start of the Gulf War, Iraq removed the contents of its two reactors and other nuclear plants to secret locations before the bombing began. Under the terms of the United Nations ceasefire resolution, Iraq must give up its bomb-grade uranium to the International Atomic Energy Agency (IAEA) and allow IAEA inspectors to enter and destroy all nuclear-weapons plants.

Iraq at first denied having any weapons-usable materials or any weapons plants. After the IAEA rejected this, Baghdad provided a detailed inventory of nuclear materials but withheld most of the storage locations and disclosed the location of just one weapons plant. The inventory revealed that Iraq possessed twice the amount of safeguarded bomb-grade uranium that U.S. and IAEA officials had previously described in public statements—enough for two bombs rather than one. The situation has been further complicated by the recent disclosure that an Iraqi defector has told U.S. officials that Iraq on its own produced almost 90 lbs. of bomb-grade uranium in a secret enrichment plant—an allegation U.S. officials have not confirmed.

These revelations exposed two serious inadequacies of IAEA inspections in Iraq prior to the war. First, the inspections were limited to declared facilities because the IAEA does not look for clandestine plants. Second, according to its own goals, the agency should have inspected the safeguarded, highly enriched uranium fuel as frequently as once a month to ensure "timely detection" of a diversion of the material that can be converted into weapons in as little as one to three weeks. Instead, the IAEA inspected the bomb-grade fuel only once or twice a year.

#### PEACEFUL SECRETS

The secrecy surrounding "peaceful" nuclear programs is a big part of the safeguards

problem. U.S. and IAEA officials now say they knew all along how much weapons-usable uranium was in Iraq. If the amounts of "peaceful" bomb-grade nuclear fuel and the particulars of inspecting it were a matter of public record, rather than being teated as a military secret, the French and Soviets might have been reluctant to export highly enriched uranium to Iraq in the first place.

The Iraqis agreed to cooperate with the IAEA only after being threatened with additional U.N. Security Council sanctions. According to the IAEA, its inspectors were recently shown and they accounted for all the known supplies of bomb-grade uranium in Iraq. The agency's plans for removing the bomb-grade fuel depend upon continued Iraqi cooperation.

Two sobering lessons emerge. The first makes starkly clear the limitation of the IAEA and the international nonproliferation regimen in coping with a nation that possesses bomb-grade materials and is determined to build and atomic bomb.

Iraq is a party in good standing to the Nuclear Non-Proliferation Treaty (NPT). As recently as last summer the IAEA's safeguards director called Iraq's behavior "exemplary" and said the thought of Iraq making a bomb out of its fuel did not "make sense." As an NPT member, Iraq qualified to import bomb-grade nuclear fuel and other equipment suited to manufacturing weapons even though the components were not needed for peaceful research programs.

That the international community now insists upon removing Saddam's stock of highly enriched uranium—rather than simply renewing regular IAEA inspections in Iraq—reveals the inadequacy of the safeguards regimen on bomb-grade nuclear materials. Inspections as now conducted by the IAEA cannot provide "timely warning" of a diversion to a clandestine bomb program.

The second lesson is the significant danger posed by weapons-usable, highly enriched uranium—material that is no longer essential to civil nuclear research programs. Before Iraq reported it had about 100 lbs. of highly enriched uranium, J. Carson Mark, retired head of weapons design at Los Alamos National Laboratory, concluded in a report to our institute that using the 50 lbs. of bomb-grade material then thought to be in Iraq's possess, "a fairly large and competent staff," working intensively for at least a year, could design, fabricate and assemble a single implosion device weighing about a ton and yielding up to the equivalent of 20,000 tons of TNT. The larger amount Iraq is now known to possess under safeguard is enough for two bombs, Mark reported. If Iraq has nearly 90 lbs more of bomb-grade uranium that it produced in a secret plant, as the defector claims, then Iraq would have enough for another two nuclear weapons.

The late Luis J. Alvarez, a leading figure in the Manhattan Project, wrote in his memoirs that "terrorist . . . would have a good chance of setting off a high-yield explosion simply by dropping one half of the material [highly enriched uranium] on the other half. (Even a high school kid could make a bomb in short order.)"

#### SAFER SUBSTITUTES

Fortunately, the technology is now at hand to replace bomb-grade, highly enriched uranium in research reactors with higher-density, lower-enriched fuel that cannot be used on nuclear weapons. Unfortunately, global commerce in bomb-grade uranium is likely to continue, despite the object lesson of Iraq, because of the refusal of the Bush administration to support completion of a U.S.

technical program that is developing the replacement fuels.

This little-known program, begun in 1978, has become an orphan. It is shunted between U.S. agencies, and each year at this time gets caught in a "Perils of Pauline" struggle to survive administration attempts to slash or kill its budget. In past years, a few stalwarts in Congress managed to scrape together a million or so dollars to keep it limping along. This year, the survival of the RERTR (Reduced Enrichment for Research and Test Reactors) program is again in doubt.

Compared with the hundreds of billions of dollars spent annually on defense, this program is a national security bargain—requiring little more than \$4 million a year for the next five years to develop the substitute fuels and convert all overseas research reactors now using U.S.-supplied, bomb-grade uranium. It already has developed the fuels to make it possible to convert 95 percent of these reactors. But only eight reactors of approximately 100 eligible for conversion have switched to fuels that cannot be used in bombs. The main reason is that the U.S. Government is no longer seen overseas as a strong supporter of its own program. The proof is in the administration's proposal to cut the program budget from \$1.3 million to \$800,000, and to leave no funds at all to finish the development of the substitute fuels.

Given the nuclear lessons of Iraq, it is time for the President and Congress to press ahead with removal of bomb-grade uranium, from all civil nuclear programs. This is a technically achievable goal, a non-proliferation approach that would work.

#### ELIMINATING BOMB-GRADE URANIUM FROM RESEARCH REACTORS

(By Milton M. Hoenig, Scientific Director, Nuclear Control Institute)

Over 100 nuclear research and test reactors throughout the world continue to be fueled on highly enriched uranium (HEU) supplied by the United States and other Western countries—despite the fact that this uranium is usable in nuclear bombs.<sup>1</sup> Most of the 4,000 kilograms of HEU in these reactors is 93-percent enriched, bomb-grade material from the United States. Thirty-six of the research reactors are in the U.S., and the remainder are in 34 other countries. Only eight research reactors that previously used HEU fuel have been converted to fuel fabricated from low-enriched uranium (LEU), which is not suitable for weapons use (see Table 1).

#### INTRODUCTION

The Carter Administration realized, more than a decade ago, that the HEU in research reactor fuel could be diverted and used directly by nations or terrorists in nuclear explosives. In 1978 it established the Reduced Enrichment for Research and Test Reactors (RERTR) program to develop "high-density," LEU fuels for replacing the HEU fuels and removing HEU from commerce. Argonne National Laboratory of the Department of Energy (DOE) directs the technical side of the RERTR program to oversee fuels development and ascertain that reactor conversions can be performed without significant penalties in performance, cost or safety.

Now, with only five years left to completion of the program, DOE has terminated

<sup>1</sup>Highly enriched uranium (HEU) is uranium enriched to 20% or more in the isotope uranium-235; uranium enriched to greater than 90% uranium-235 is bomb-grade; low-enriched uranium (LEU) is enriched to less than 20%. See appendix for discussion of research reactor fuel.

RERTR fuels development. By prematurely ending the fuels program at its present stage, DOE is signaling a halt to the development and testing of "advanced" LEU plate fuels needed to convert some 10 percent of foreign and domestic research reactors—high-power reactors that are among the world's principal nuclear research and test facilities (see Table 3). The result of early termination of the RERTR fuels program is to perpetuate the export of over 100-150 kilograms of HEU annually from the U.S. to foreign reactor operators.<sup>2</sup> Prompt action by the administration and Congress to reinstate and complete the RERTR fuels program would enable the conversion of all existing and planned research reactors.

#### WHY TERMINATE RERTR NOW?

U.S. Government funding for the RERTR program hovered at the \$4-5 million level in the mid-1980s. The money was used for development of LEU research reactor fuels, as well as assistance to foreign reactor operators preparing for conversion. By FY 1990, RERTR funding dropped to \$1.2 million, which the Bush administration designated as "final year funding" for the program.

Nevertheless, efforts in Congress, by Representatives Scheuer, Wolpe and Lloyd and by Senator Glenn, restored the funding to \$1.3 million in FY 1991, but for conversion assistance to foreign reactors only. Energy Secretary Watkins has stated that DOE will continue the RERTR program at the \$1.2 million level for another three years, through FY 1994, but will limit it to the conversion of reactors using high-density fuels already developed.

Thus, DOE no longer plans to fund the RERTR fuels development program, and, consequently, no further work is to be done to develop advanced LEU fuels of yet higher uranium density to finish the conversion task. This decision effectively exempts DOE's own research reactors from conversion to LEU fuels—a decision that could jeopardize the completion of the reactor conversion program worldwide. A number of foreign operators are reluctant to convert their reactors if DOE and other U.S. operators refuse to convert their reactors, as well.

#### HEU IS BOMB MATERIAL

A "first generation" nuclear implosion bomb of the type tested by the U.S. in 1942 would require no more than 15 to 25 kilograms of 93-percent enriched HEU metal—about one critical mass of material when it is surrounded by several inches of some neutron reflector. A more sophisticated implosion design may require even less HEU. A crude gun-type (Hiroshima-type) nuclear device would require the assembly of two or three reflected critical masses, or about 30 to 50 kilograms of 93-percent HEU, depending on the reflector, with nominal explosive yield equivalent to about fifteen thousand tons of TNT (15 kilotons).

As former Manhattan Project scientist Luis Alvarez said in his 1987 autobiography, *Adventures of a Physicist*, "With modern

<sup>2</sup>France and the United Kingdom are the only other Western suppliers of HEU for civil purposes, so far in limited quantities. France supplied about 5 kg 90% HEU for the first core of the 10 MW Lo Aguirre reactor in Chile in 1977 and 12.3 kg of 93% HEU for the 40 MW Osirak reactor in Iraq in late 1980 or early 1981. France also supplies an average of about 3 kg 93% HEU annually for targets irradiated in reactors in Belgium, the Netherlands and France to produce the isotope molybdenum-99. The United Kingdom supplied 5 kg of 80% HEU for the first core of the 5 MW La Reina reactor in Chile in 1974 and 10 to 20 kg of 45%-enriched HEU for the first reload of the reactor in the early 1980's.

weapons-grade uranium the background neutron rate is so low that terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one-half of the material on to the other half.<sup>3</sup> Even such a primitive mode of assembly likely would result in a nuclear explosive yield greater than 1 kiloton. Alvarez's statement calls attention to the unique risks associated with the civil use of HEU.

A nation or terrorist group would have little difficulty in recovering the HEU metal from fresh plate-type fuel that is seized in transit or from storage at the reactor site. Even if the fuel is lightly irradiated—for example, a few hours per week in a low-power (less than 100 kilowatt) university research reactor—the separation could be done despite the presence of some radioactive fission products, especially if the situation were urgent. Such an irradiated fuel assembly, whether taken from the reactor core or from storage, would not deliver a "self-protecting" external radiation dose because after a few days, or at most a few weeks, the dose would drop outside the fuel bundle below a level that would deter a dedicated group intent on acquiring bomb material.

For terrorists seeking to build a primitive nuclear weapon or rogue states preparing more sophisticated weapons, their only obstacle might be acquiring the HEU and fabricating weapon's nuclear components. Pakistan already has chosen the bomb-grade uranium route in its nuclear weapons program, and Iraq appears to be doing the same, through a concerted effort to initiate a gas centrifuge uranium enrichment program and to acquire electronic bomb components.

On hand in Iraq, but under International Atomic Energy Agency (IAEA) safeguards, are 12.3 kilograms of French-supplied 93-percent HEU, in fuel intended for the destroyed 40 MW Osirak reactor, and at least 10 kilograms of Soviet-supplied 80-percent HEU in fuel for the 5 MW IRT-5000 reactor. The French HEU fuel was lightly irradiated in the 800 kW Isis reactor as a condition of supply, but the current level of radiation likely would not be a barrier to recovering the uranium metal from the HEU-aluminum alloy fuel in the Italian-supplied hot cell.

Thus, HEU in commerce remains a tempting target for seizure, with possibly serious consequences. The same concern holds for the "lifetime" HEU cores in low-power research reactors that usually are irradiated so infrequently that removal of the fuel from the reactor core is possible without risk of serious exposure.

#### COSTS AND BENEFITS OF ADVANCED FUELS DEVELOPMENT

The feasibility of completing the advanced fuels design effort, given funding, is not in question. The major objections raised by opponents of the RERTR fuels program in DOE to continued work on advanced LEU fuels development go to the question of the costs involved relative to the small number of reactors overseas and in the U.S. for which the fuels are required. Also, DOE has no interest in converting its own research reactors and does not want to be placed in the uncomfortable position of developing fuels that it then might be forced to use in its own facilities.

In national security terms, the expenditure for the advanced fuels program is minuscule compared with other defense-related costs. Completing the RERTR fuels development program would take another five years at a

cost of \$3 million per year, according to Argonne estimates. The investment is minimal compared with the considerable payoff of completing the conversion of the world's premier, high-performance research and test reactors, ending HEU exports, and eliminating any justification for HEU fuel in future high-power, high-flux research facilities.

When available, the advanced fuels could become the standard for all research reactors. The use of advanced fuels in reactors presently convertible to high-density LEU fuels would offer several advantages to reactor operators in terms of lengthening refueling cycles and providing an opportunity for increasing power and flux. Wide use and commercial availability of the advanced fuels also would bring down fabrication costs.

#### STATUS OF FOREIGN REACTOR CONVERSIONS

Currently, 39 foreign research and test reactors having a power of 1 megawatt (MW) or more use plate fuel fabricated from HEU exported principally by the United States. Of these reactors, all but three are now convertible to high density LEU fuel that the RERTR program already had developed and tested and made available through commercial suppliers, such as CERCA in France and Babcock & Wilcox in the U.S.

Four other reactors have been fully converted to LEU—the OSIRIS reactor in France, the THOR reactor in Taiwan, the PRR-1 reactor in the Philippines and the RA-3 reactor in Argentina—and 32 of the 39 HEU-fueled reactors have developed conversion plans.

Nine foreign reactors are in the process of converting (see Table 2). For example, the 35 MW French SILOE plate-fuel reactor is scheduled to convert shortly, and the 125 MW rod-fuel Canadian NRU reactor is being fully converted to Canadian-fabricated fuel. After a decade of negotiations, the Canadian NRU reactor no longer is to receive HEU shipments for fuel from the U.S. Also, Japanese officials have announced a plan to operate the 50 MW JMTR research reactor with a full core of LEU plate fuel starting in 1993, breaking with a long-standing Japanese policy of not committing to less than 45-percent medium-enriched uranium (MEU) fuel.

In addition, General Atomics has available low-enriched Triga fuel to convert all 5 foreign and 6 domestic General Atomics Triga reactors that now use HEU fuel. Among them is the 14 MW SSR Triga in Romania, which nevertheless is still seeking export from the U.S. of a partial core of 93-percent enriched Triga fuel elements containing 17 kilograms of HEU that has been held in storage since the late 1970s at Oak Ridge.<sup>4</sup>

In the next few years as HEU fuel supplies on hand at reactor site run out, conversions made with Argonne assistance may be expected to multiply, unless foreign reactor operators manage to obtain approval from U.S. government agencies for additional exports of HEU.

At this time, the U.S. is not pressuring the operator of the convertible 45 MW HFR Petten test reactor in the Netherlands to make the changes to LEU fuel. Petten, which is a European Community facility, is scheduled to receive 38 kilograms of HEU from the U.S. in FY 1991. Even though the reactor is expected soon to complete a success-

ful test irradiation of several LEU fuel elements of the type that could be used for a full conversion, Petten's operator steadfastly refuses to agree to conversion. The grounds for the refusal are that using the available LEU high-density fuel would require Petten to accept a cut in neutron flux that would place it at a disadvantage relative to other high performance European reactors as a center for test irradiation activities. However, Argonne's analysts show the Petten reactor is convertible with no significant operational penalty.

Research reactors with power less than 1 MW generally have lifetime cores that do not have to be replaced after the initial loading. Consequently, while all of the 35 foreign reactors in this category with HEU cores could convert with available LEU fuels, few may do so unless they are provided an incentive or compelled by national law. In the U.S., the Nuclear Regulatory Commission set a precedent with its 1986 ruling requiring NRC-licensed research reactors to convert to LEU, whether or not they have lifetime cores.

#### LINKING FOREIGN AND U.S. REACTOR CONVERSIONS

In addition to the 38 kilograms of HEU in FY 1991 for the Petten reactor, the U.S. is scheduled to export 96 kilograms of HEU to the three European research reactors for which advanced LEU fuels needed for conversion have not yet been developed: the 57 MW RHF Grenoble test reactor in France, the 14 MW Orphee reactor also in France, and the 80 MW BR-2 test reactor in Belgium.<sup>5</sup> The BR-2 has offered to convert together with its 0.5 kW critical assembly, BR-02, when the appropriate fuels are available. Grenoble and Orphee like Petten, have not agreed to the conversion option, although there would be no technical justification for not converting to the advanced LEU fuels. A Congressional move in 1981 to cut off all HEU exports was deferred, pending the completion of the RERTR advanced fuels development program. Now that the program has been suspended, exports of HEU fuel for these reactors are likely to continue indefinitely unless Congress acts to halt future exports.

In expressing their reluctance to convert, European reactor operators often cite a linkage between the conversion of U.S. and foreign reactors. The four European high-performance reactors, above, are often matched against a group of U.S. counterparts that are not convertible at present (see Table 3) but would be once advanced fuels from the RERTR program were developed: two DOE-owned research reactors—the 85 MW HFIR at Oak Ridge and the 60 MW HFBR at Brookhaven—and three NRC-licensed research reactors that are exempted from the 1986 rule because needed LEU fuels are not yet available—the 20 MW NIST at the National Bureau of Standards (NBS), the 10 MW reactor at the University of Missouri, and the 5 MW reactor at the Massachusetts Institute of Technology (MIT).

Another DOE reactor, which is in a power class by itself, is the 250 MW Advanced Test Reactor (ATR) at the Idaho National Engineering Laboratory, DOE's principal materials test reactor. The ATR will be a prime conversion target if advanced LEU fuels become available. Until recently, DOE has argued that the ATR could not be converted

<sup>4</sup>Triga fuel was developed for the General Atomics Triga reactor to have definite safety advantages over other research reactor fuel. Namely, the fuel has a very large negative prompt temperature coefficient of reactivity so that a very rapid rise in temperature due to the reactor going "prompt critical" stops the chain reaction immediately before the fuel can melt.

<sup>5</sup>In addition, the U.S. is scheduled to export 15 kg 93% HEU to Canada for molybdenum-99 production targets. A program at Argonne to develop LEU "moly" targets was terminated by DOE at the end of FY 1989.

<sup>3</sup>Alvarez, Luis. *Adventures of a Physicist*. New York, NY: Basic Book Inc., 1987, p. 125.

without changing the geometry of the core, but now very-high density LEU fuel concepts that have been under development at Argonne by the RERTR program would make it possible to convert the present core.

Clearly, if the RERTR LEU fuels program were allowed to proceed to completion, foreign reactor operators would be more likely to convert voluntarily if their high-power U.S. counterparts do also. The U.S. decision to terminate the RERTR fuels program is seen in the research-reactor community as a political act to save DOE from having to convert its own research reactors to LEU and to let several NRC-licensed reactors "off the hook" of the 1986 NRC conversion rule. With the completed development of advanced LEU fuels, DOE likely would be unable to justify opposing the conversion of its research reactors.

Aside from the high-power DOE reactors already noted, DOE owns four reactors with power greater than 1 MW that are convertible now to LEU fuels. Four of the seven less-than-1 MW DOE reactors, with lifetime cores, also could convert using available fuels (see Table 4).

STATUS OF U.S. REACTOR CONVERSIONS

HEU-to-LEU reactor conversion activity is still quite limited in the U.S., taking place at university reactors, in compliance with the 1986 NRC rule that mandates conversion of NRC-licensed research reactors.<sup>6</sup> The NRC rule affects 18 university research reactors. The universities are required to submit conversion plans to the NRC. Funds to support the conversions are to come from the Federal government.

Only three university reactors have converted under the rule, and two more have an order to convert from the NRC (see Table 5). Two others have submitted safety analyses to the NRC, and five more have DOE funds for preparing safety reports. Four convertible university Triga reactors have received no DOE funding as yet. Two high-power, NRC-licensed reactors—the University of Missouri and the non-university National Bureau of Standards reactors—have requested a "unique purpose exemption" to the 1986 rule because the advanced fuels required for conversion from HEU to LEU fuel are not available, and the same reason for not converting at the present time applies to the compact-core MIT reactor, although the university has not applied for an exemption to the NRC rule.

Funding for university conversions comes from a separate DOE budget for fabrication of university reactor fuel that remains the property of DOE, and for support of reactor operations. Currently, about \$2 million is available annually for LEU conversion activities, which consist of preparation of reactor safety analysis reviews required for relicensing, and for LEU fuel fabrication and conversion. Argonne National Laboratory provides technical support to the universities.

Additional funding from Congress would accelerate the conversion to LEU fuel cores at universities and eliminate the potential for theft of bomb-grade uranium at some of these sites. At the present pace, it is not likely that conversions will be completed until well after 1995. The safety analyses,

<sup>6</sup>In addition, the University of Michigan research reactor was full converted in 1981 as part of an early RERTR demonstration. Contracting out to Argonne would speed them up, but the universities want to keep the conversion work for graduate students, with the result that the process may take much longer and cost more.

which cost from \$20,000 to \$200,000, are the principal lagging factor.

U.S. HEU EXPORTS LIKELY TO GROW

If the RERTR advanced fuels development program remains unfunded and inactive, domestic use of HEU and U.S. exports of HEU are likely to increase as new research facilities come into operation. Two examples of such reactors are the 300 MW Advanced Neutron Source (ANS) under design at the Oak Ridge National Laboratory and the FRM-II in Germany. The construction of the ANS, which would use several hundred kilograms of HEU annually, and other compact-core high-flux research facilities, such as the FRM-II, will cause a dangerous rise in HEU demand and circulation in the U.S. and abroad. Congress could choose to ban HEU exports and HEU supply for domestic use and deny funding for any new DOE research reactors until the appropriate LEU fuels are developed.

CONCLUSION AND RECOMMENDATIONS

U.S. exports of bomb-grade, highly-enriched uranium will continue indefinitely at 150 kilograms per year or higher unless the Bush Administration or Congress take action to support and fund the RERTR advanced fuels development program. Completion of the fuels program will make it possible for all existing foreign and domestic research reactors to convert to low-enriched fuel. This would be a big national security dividend for a relatively small investment.

Congress should set a deadline for a complete halt in the supply of HEU for civil purposes. It should ban HEU exports and HEU supply for domestic use if appropriate LEU fuels already are available, and it should deny funding for any new DOE research reactors until the appropriate LEU fuels are developed.

To overcome the opposition of foreign reactor operators to LEU conversion and to reduce risks at DOE facilities, Congress should require DOE to submit a plan for development of advanced LEU fuels and for the conversion of its research reactors. New research facilities like the Advanced Neutron Source can be designed with cores not requiring HEU, and Argonne already has performed calculations on the feasibility of such an approach.

As the threat of nuclear war between the superpowers recedes and the nuclear arsenals are cut back, the civil use of the weapons materials—highly-enriched uranium and plutonium—should be banned universally. Meeting the objectives of the RERTR program is the means for achieving elimination of HEU.

TABLE 1.—RESEARCH REACTORS CONVERTED TO LEU

Reactor	Country	Power	Year converted
OSIRIS	France	70MW	1979
THOR	Taiwan	1MW	1987
PRR-1	Philippines	3MW	1987
RA-3	Argentina	2.8MW	1990
UMI <sup>1</sup>	United States	2MW	1981
RP1 <sup>1</sup>	United States	-0	1987
WP1 <sup>1</sup>	United States	10KW	1988
OSU <sup>1</sup>	United States	10KW	1988

<sup>1</sup>UMI: University of Michigan; RPI: Rensselaer Polytechnic Institute; WP1: Worcester Polytechnic Institute; OSU: Ohio State University.

TABLE 2.—RESEARCH REACTORS IN PROCESS OF CONVERTING

Reactor	Country	Power
ASTRA	Austria	8MW
AE-R1	Brazil	2MW
KRU	Canada	125MW
DR-3	Denmark	10MW

TABLE 2.—RESEARCH REACTORS IN PROCESS OF CONVERTING—Continued

Reactor	Country	Power
SILDE	France	35MW
FRG-1	Germany	5MW
FRG-2	Germany	15MW
R-2	Sweden	65MW
SAPHIR	Switzerland	10MW
MAN <sup>1</sup>	United States	-0
IOWA <sup>1</sup>	United States	10KW

<sup>1</sup>MAN: Manhattan College; IOWA: Iowa State University.

TABLE 3.—KEY HIGH-PERFORMANCE RESEARCH REACTORS

Non-U.S. reactors	Country	Power	Convertible to LEU now
RHF Grenoble	France	57 MW	No.
Orphee	France	14 MW	No.
BR-2	Belgium	80 MW	No.
HFR Pettin	Netherlands	45 MW	Yes.
U.S. reactors	DOE-owned/NRC-licensed	Power	Convertible now
High flux isotope reactor (HFIR)	DOE	85 MW	No.
High flux beam reactor (HFBR)	DOE	60 MW	(?)
National Institute of Standards & Technology (NIST)	NRC	20 MW	No.
Massachusetts Institute of Technology (MITR-II)	NRC	5 MW	No.
University of Missouri (MURR)	NRC	10 MW	No.
Advanced test reactor (ATR)	DOE	250 MW	No.

TABLE 4.—OTHER DOE RESEARCH REACTORS

Reactor <sup>1</sup>	Power	Convertible now
High-power:		
Omega west reactor (LANL)	8 MW	Yes.
Brookhaven medical research reactor (BNL)	5 MW	Yes.
Bulk shielding reactor (ORNL)	2 MW	Yes.
Tower shielding reactor-2 (ORNL)	1 MW	Yes.
Low-power:		
Biological research reactor (ANL)	200 kW	Yes.
Neutron radiography reactor (ANL-W)	250 kW	Yes.
Argonne thermal source reactor (ANL)	-0	Yes.
Pool critical facility (ORNL)	-0	Yes.
Coupled fast reactivity measurement facility (INEL)	-0	No.
Advanced reactivity measurement facility (INEL)	-0	No.
Advanced test reactor critical facility (INEL)	-0	No.

<sup>1</sup>Acronyms—LANL: Los Alamos National Laboratory; BNL: Brookhaven National Laboratory; ORNL: Oak Ridge National Laboratory; ANL: Argonne National Laboratory; ANL-W: Argonne National Laboratory—West; INEL: Idaho National Engineering Laboratory.

TABLE 5.—U.S. UNIVERSITY RESEARCH REACTORS

Reactor	Power
Converted:	
University of Michigan	2MW
Rensselaer Polytechnic Institute	10KW
Worcester Polytechnic Institute	10KW
Ohio State University	10KW
Issued NRC order to convert:	
Manhattan College	-0
Iowa State University	10KW
Safety Documentation submitted to NRC:	
University of Missouri, Rolla	200KW
University of Virginia	2MW
DOE funded to prepare safety report:	
University of Rhode Island	2MW
University of Lowell	1MW
Purdue University	1KW
University of Florida	100KW
Georgia Institute of Technology	5MW
Convertible but no DOE funding:	
Washington State University	1MW
Texas A&M University	1MW
University of Wisconsin	1MW
Oregon State University	1MW
Request for unique purpose exemption:	
University of Missouri, Columbia	10MW

TABLE 5.—U.S. UNIVERSITY RESEARCH REACTORS—  
Continued

Reactor	Power
Massachusetts Institute of Technology <sup>1</sup>	SMW.

<sup>1</sup>MIT has not applied for a unique purpose exemption to the NRC rule, arguing that the exemption is unnecessary because required LEU fuels have not yet been developed.

APPENDIX: BASICS OF LEU FUEL DEVELOPMENT

The majority of research reactors use plate-type fuel. The fuel assemblies are made up of thin metal plates, 1 to 2 millimeters thick, with an inner layer containing a compound of uranium and two outer layers of aluminum clad. Other research reactors, specifically the General Atomics Triga, use assemblies made up of fuel rods rather than plates.

The technical goal of RERTR, simply stated, is to lower research reactor fuel enrichment from as high as 93-percent enriched HEU to less than 20-percent LEU, without decreasing the total amount of chain-reacting uranium-235 in the reactor core. This can be achieved safely, without obstructing the flow of coolant in the core, by fabricating fuel plates of the same dimensions and with the same amount of uranium-235 as before but with several times the amount of uranium-238 packed in, so as to reduce uranium enrichment but increase uranium density in the plate, several-fold.

When the RERTR program began, highly-enriched plate fuels made from uranium aluminate and uranium oxide compounds had uranium densities typically of less than 1.0g/cm<sup>3</sup> and up to 1.7 g/cm<sup>3</sup>. The RERTR program has developed several progressively higher-density, low-enriched plate fuels, starting with the original uranium compounds and eventually switching over to uranium silicide. Triga fuel consists of uranium dissolved in zirconium hydride.

Presently, high density, 4.8g/cm<sup>3</sup> uranium silicide LEU fuel, which had its first full-core test in 1987, is the standard plate fuel for reactor conversion. The NRC has issued a formal and generic approval for the use of silicide plate fuel with densities up to this value in research and test reactors. Also, in cooperation with the RERTR program, General Atomics has developed LEU Triga fuels with uranium densities up to 3.7g/cm<sup>3</sup> that can be used to convert all Triga reactors that are now using HEU fuel.

Work by the RERTR program on advanced LEU silicide fuels with densities as high 9.0 or 10.0g/cm<sup>3</sup> also has begun. Argonne has already fabricated and tested silicide fuel plates with uranium densities up to 7.1g/cm<sup>3</sup>. A new fuel concept using a composite of uranium silicide wires embedded in aluminum has an effective uranium density of 12.9g/cm<sup>3</sup>. Another concept uses a hot-isostatic press to fabricate silicide fuel plates with uranium density up to 10.2g/cm<sup>3</sup>. \* \* \* developed using one of these new concepts, the advance fuels could be used to convert all plate fuel research reactor.

EXCERPT

[Nuclear Control Institute, Washington, DC]  
SOME REMARKS ON IRAQ'S POSSIBLE NUCLEAR WEAPON CAPABILITY IN LIGHT OF SOME OF THE KNOWN FACTS CONCERNING NUCLEAR WEAPONS, MAY 16, 1991

(By J. Carson Mark)

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Reactor Safeguards of the U.S. Nuclear Regulatory Commission.

SUMMARY

Before the Gulf War it was known that Iraq had a modest amount of weapon-usable, highly enriched uranium in the form of fuel elements for two research reactors. This material could have been dispersed or buried beneath rubble as a consequence of the bombing of their nuclear facilities, or it could have been moved to safe storage before the bombing; but nothing is publicly known about that. Iraq could hold additional amounts of weapon-usable material, obtained clandestinely, and undisclosed; but nothing is known about that, either.

To avoid embarking on an unduly speculative discussion the question addressed here is that of what could be done to manufacture one or more nuclear weapons with the material the Iraqis were known to have had available prior to the war. Since nothing is known—at least, nothing is known to the author—about the capabilities of indigenous Iraq technology in the various specialties required, the important question of whether the Iraqis were or are currently in a position to carry through without aid all the steps necessary to realize "what could be done" is necessarily left aside. In view of their devious efforts—recently unmasked—to import items of possible use in contravention of existing export controls, there has been some considerable speculation on this point. It can be stated generally, however, that for a new project to have a device in hand, a fairly large and competent staff, with diverse experience and capabilities, would have to work intensively for at least a year on design, fabrication and assembly of the device.

As to "what could be done" by such a group the following discussion suggests that with only 12.3 kg of highly enriched uranium on hand (this being one of the two batches known to have been available to Iraq) no damaging nuclear explosion would be possible using the (simpler) gun-type assembly method. With a commendably effective use of the implosion method it should be possible to realize a yield of the order of 10 kilotons in a device in which the nuclear components and HE weighted only a ton, or so, provided beryllium metal technology were available; or weighing several times more if the use of beryllium as a reflector were not feasible. With 22.3 kg of enriched uranium (the combined total of the two batches held by Iraq)<sup>1</sup> an explosion of the order of a kiloton might just be managed from a gun-type assembly with free use of beryllium; but not otherwise. By effective use of the implosion approach (and without beryllium) it should be possible to realize a yield of the general order of 20 kilotons in a total weight or a ton, or so—excepting components, such as protective packaging and electrical items, outside the HE. By dividing the total uranium supply into two units, and using implosion, it would seem marginally possible to produce two explosions having yields of the order of 100 tons.

With the possible exception of this last option there would not be enough material to allow for a proof test of the model to be used as a weapon. There are, of course, modes and aspects of what is frequently referred to as "sophistication" by which more favorable performance might be realized. However, inasmuch as a full yield proof test (or tests) would be necessary before there could be any

<sup>1</sup>But, see appended end-note (Section III d) in which revised statements concerning the amount of enriched uranium held by Iraq are discussed.

assurance that a proper exercise of such approaches were in hand, such possibilities fall outside the range of the present discussion.

Excerpt from the appended endnote numbered 1 above:

We shall assume, then, that the total reserve is 11.6 kg at 93% plus 30.9 kg at 80%, for a total "worth" of 11.6+24.7=36.3 kg of 93% equivalent material. This most probably rather high worth estimate may be compared with the ~ 20 kg assumed in the detailed discussion already given. It changes the conclusions, though not quite by a factor of two. In particular, the prospects for a gun-assembled weapon would be considerably improved, though not to the extent of allowing for two such devices. Similarly, with respect to metal implosion systems, of which two objects in the kiloton range would probably be possible.

SUPPORT THE AMENDMENT TO RESTORE FULL FUNDING FOR THE RERTR PROGRAM

June 25, 1991.

DEAR COLLEAGUE: As you know, President Bush recently outlined an ambitious new arms control initiative for the Middle East highlighted by a proposed ban on the production and acquisition of materials usable in nuclear weapons, including highly enriched uranium. Yet the President is undercutting his own program—Reduced Enrichment in Research and Test Reactors (RERTR)—for eliminating bomb-grade uranium worldwide.

Concern about Iraq's possession of weapon-usable, highly enriched uranium, which was supplied by France and the Soviet Union for "peaceful" nuclear research, was a key factor behind the arms control proposal. But the proliferation and terrorism risks associated with such fuel transcend the region. Bomb-grade uranium—most of it supplied by the United States—is used in more than 100 other research reactors in 35 countries. The Iraqi example vividly illustrates the need to remove weapons-usable uranium from civil nuclear research programs.

We support restoration of full funding for the RERTR program to help make this objective possible. We should support the President's initiative by completing the RERTR program and thereby facilitate the replacement of bomb-grade uranium in foreign research reactors with lower-enriched fuels that cannot be used in bombs.

We urge your support of a floor amendment to the Energy and Water Appropriations bill to provide \$4.3 million for RERTR (\$3 million for fuel development and \$1.3 million for reactor conversion). The proposed level of funding, \$800,000, is barely enough to support conversion of foreign reactors for which RERTR already has developed substitute fuels; it provides no funding whatever to complete development of the remaining fuels that would permit all foreign reactors now using U.S.-supplied, bomb-grade fuel to convert to non-weapons-usable fuels within five years.

Sincerely,

Mr. JOHNSTON. Mr. President, this \$1.3 million figure is an increase of \$500,000 over what we had in the bill. It is the amount that Betty Smedley, who is the comptroller of the Department of Energy, says can be used in this area. This is a nonproliferation proposal and there are certain obstacles to getting it, certain impediments to getting all of the research reactors in the world on the project.

I believe it would serve a useful purpose for us to write a joint letter to the

Secretary of Energy and the Secretary of State, having them outline what those obstacles are and what steps need to be taken in order to have low-enriched uranium substituted for highly enriched uranium around the world in research reactors.

I will certainly join with the Senator from Colorado in drafting and sending that letter.

Mr. WIRTH. If the Senator will yield, particularly for dealing with the French and Belgian Governments, which are the three remaining major reactors.

Mr. JOHNSTON. That is correct, particularly with the French and Belgian reactors—and regarding what other obstacles there are in other countries around the world I think it would be useful to have that information—but especially the French, the Belgians, as far as the fuel work is concerned.

So with that statement, I will be glad to join with the Senator from Colorado in sending that letter. We are glad to accept this amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would not take a back seat to anybody, as far as my abhorrence of nuclear weaponry is concerned, and my lack of enthusiasm for anything nuclear. I consider the greatest single threat to our environment today is nuclear waste that is scattered all across the globe.

In the effort to amend this bill at this time by the Senator from Colorado, I recognize the reality that we are not going to dismantle those nuclear weapons tomorrow, or those reactors tomorrow. But I do think that this is a safety matter that we must at all times elevate the safety standards and the safety levels until we can abolish all these nuclear weapons.

I subscribe to the amendment from this side of the aisle, accepting this amendment on the basis that it is not only a nonproliferation action but it is a safety factor in the areas that it will address until the day that will come, hopefully sooner than later, that we can totally abolish globally all of this type of weaponry.

The PRESIDING OFFICER. Is there further debate? The Senator from Ohio.

#### SUPPORT THE RERTR PROGRAM

Mr. GLENN. Mr. President, last January 16, the President announced that the United States had commenced military action to force Iraq to withdraw from Kuwait. In his announcement, the President stated that United States forces would “knock out” Iraq’s “nuclear bomb potential”—soon thereafter, the French- and Soviet-supplied research reactors were bombed along with the highly enriched uranium [HEU] fuel that was presumably present at the reactor sites.

This extraordinary action was taken to prevent Saddam Hussein from converting that research reactor fuel into components of a nuclear weapon; the presence of weapon-grade uranium in Iraq dramatically reduced the time needed to fabricate a nuclear explosive device. As Secretary of Defense Dick Cheney stated on CBS “Face the Nation” on November 25, 1990, “If he were to take that material, he could produce a crude device with it.”

Yet if the French and Soviets had followed the logic of America’s Reduced Enrichment for Research and Test Reactor [RERTR] Program—which until recently included both the conversion of HEU reactors to adopt low-enriched uranium [LEU] fuels and the development of new higher density fuels—we would never have had to face this particular diversion threat.

As our recent experience in Iraq indicates, it is difficult enough keeping track of clandestine production of enriched uranium around the world—it is clearly in our national interest to pursue what ever means are available to get this bomb-grade uranium out of the streams of international commerce, especially when this can be accomplished without jeopardizing legitimate scientific research.

Unfortunately, the budget process has a rationality of its own, one that does not always coincide with sound policy nor necessarily serve longer term national security interests. Last month’s fiscal year 1992 budget request from the Energy Department shows a 38-percent cut in this already undernourished program—from a \$1.3 million base figure to only \$800,000, a level that would limit America’s contribution to the international reactor conversion process to the labors of 4 full-time workers. This would leave only one person to perform each of the four program missions identified in the President’s last annual report to Congress on nuclear nonproliferation, including: development of LEU fuels which can replace current HEU fuels; assistance in developing qualified LEU fuel suppliers; encouraging suppliers to design and market only LEU-fueled reactors; and encourage HEU reactor operators to use LEU fuels.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my statement an extract on RERTR from the President’s last annual report to Congress on nuclear nonproliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Last year, RERTR’s work in developing advanced LEU fuels was terminated outright, virtually guaranteeing that the United States will continue to export over 100 kilograms of HEU fuel each year. The administration claims we do not have to worry, since this material is going to

“safe” countries. Well, in my opinion that argument just does not fly. It hardly serves our interest to promote the use of bomb-grade research reactor fuels in some selected nations while attempting to deny them elsewhere; also, everyone recognizes that the problem of international terrorism knows no borders—if a terrorist group hijacks a shipment of fresh bomb-grade nuclear fuel, the consequences could be catastrophic. This would be doubly tragic, given that we have the solution to this problem in our hands today.

In its “Budget Highlights” for fiscal year 1990, however, the Energy Department slated RERTR for final year funding, a prospect that was avoided thanks to some last-minute support from Energy Secretary Watkins. Indeed, on February 27, 1990, Secretary Watkins wrote me a letter discussing RERTR’s 1990 funding. Mr. President, I ask unanimous consent to have Admiral Watkins’ letter printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. The letter stated that:

The fiscal year 1990 funding of \$1.2 million is focused on this technology transfer and reactor conversion assistance component of the program. We feel it would be appropriate to continue this type of assistance for the period fiscal year 1991-94, and welcome your support for this effort.

Although the letter supported cancellation of funding for advanced fuel development work—a policy that today’s amendment would correct—it established a base-line funding level of \$1.2 million to support our international efforts to encourage other nations to convert to the low-enriched fuels. Now the Department wants to cut the program further, to a shoe-string level of \$800,000.

It is noteworthy that the Department’s own fiscal year 1991 budget request stated that:

A recent evaluation of the RERTR program recommends that the program be funded at a level between \$1.1 million and \$1.4 million per year through fiscal year 1993.

Indeed, the President himself praised the accomplishments of RERTR in his latest annual nuclear nonproliferation report to Congress—achievements that came about “despite,” in his words, “a substantial reduction in funding.”

Last month, the National Academy of Sciences completed a report on export controls called Finding Common Ground. With respect to the issue of U.S. exports of bomb-grade nuclear materials, here is what the study concluded: “\* \* \* embargo is probably the correct solution for certain specific items, such as plutonium or highly enriched uranium.” I agree with this finding, but would only add that an embargo is not enough—we have got to offer the world safe and efficient substitutes for this potentially deadly bomb-grade fuel we continue to export.

Our goal must not be to halt legitimate scientific research; our goal must be to ensure that such research can take place without contributing to the global risks of nuclear terrorism and proliferation. That is precisely the job of the fuel development funds that are being sought in today's amendment proposed by Senator WIRTH.

The recent war in the Middle East has rekindled international interest in finding new ways to combat both nuclear weapon proliferation and terrorism. I urge my colleagues to support this amendment and to join us in pressing not just for a restoration of a respectable funding level for RERTR, but also in substantially raising the priority now being given to this valuable program. The world is turning once again to America for leadership in halting the global spread of nuclear weapons and terrorism.

When it comes to developing safe, bomb-proof fuels for research reactors, the RERTR Program is the only show in town. Let us ensure that RERTR has the resources it needs to complete its vital agenda.

#### EXHIBIT 1

##### To the Congress of the United States:

I have reviewed the activities of the United States Government departments and agencies during calendar year 1989 related to preventing nuclear proliferation, and I am pleased to submit my annual report pursuant to section 601(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 22 U.S.C. 3281(a)).

As the report demonstrates, the United States continued its efforts during 1989 to prevent the spread of nuclear explosives to additional countries. This is an important element of our overall national security policy, which seeks to reduce the risk of war and increase international stability. I want to build on the positive achievements cited in this report and to work with the Congress toward our common goal: a safer and more secure future for all mankind.

GEORGE BUSH.

THE WHITE HOUSE, July 13, 1990.

#### REDUCED ENRICHMENT FOR RESEARCH AND TEST REACTORS

The Reduced Enrichment for Research and Test Reactors (RERTR) program began in 1978 as a result of concern about the possibility of diversion of highly enriched uranium (HEU) to nuclear weapons by nations or terrorists. The objective of the program is the reduction of the need for HEU in international commerce through: (1) development of low enriched uranium (LEU) fuels for research reactors which can replace existing HEU fuels; (2) assistance in developing qualified LEU fuel suppliers; (3) encouraging suppliers of research and test reactors to design and market only LEU-fueled reactors; and, (4) encouraging research and test reactor operators to convert existing reactors to LEU fuel use. The RERTR program continued to produce successful results during 1989 despite a substantial reduction in funding. Analyses have continued of the feasibility of converting the many research reactors which are the subject of joint study agreements between the reactor operators and Argonne National Laboratory (ANL). Further research was performed which could lead to develop-

ment of higher density LEU fuels needed for conversion of the higher-powered research and test reactors from HEU to LEU. Experimental studies have continued on the substitution of LEU for HEU in irradiation targets for the production of medical molybdenum-99.

#### EXHIBIT 2

THE SECRETARY OF ENERGY,  
Washington, DC, February 27, 1990.

Hon. JOHN GLENN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GLENN: Thank you for the letter of November 17, 1989, signed by you and Representative Lloyd regarding funding requirements for the Reduced Enrichment for Research and Test Reactors (RERTR) program.

The RERTR program, now in its eleventh year, has been very successful. The fuels and methods developed in the program will allow conversion of almost all of the foreign research and test reactors that used to depend on the U.S. for their supplies of highly enriched uranium. Congressional support for the program has been important to its success.

Regarding future supply, there are some reactors abroad that in order to convert would require higher density low-enriched uranium fuels than those developed and demonstrated under the RERTR program. There are currently three such reactors and possibly a fourth that is being designed. While the combined annual requirements of highly enriched uranium for these reactors is significant (approximately 100 kilograms of uranium-235 per year), their number is small, and the countries in which they are located have excellent safeguards and security credentials. The low-enriched uranium fuel that has been developed by the RERTR program will allow conversion of the remaining research and test reactors, resulting in substantial reduction in the use of highly enriched uranium. The next major effort will be to see if the fuels will be widely accepted so that potential nonproliferation benefits can in fact be realized.

The fuels needed to convert the last three, or perhaps four, foreign test reactors to low-enriched uranium are highly developmental concepts. In our judgment, the funds actually required to develop and fully qualify these concepts are significantly in excess of the preliminary estimates by the Argonne National Laboratory. The task is made even more costly and difficult as a result of the permanent shutdown of the Oak Ridge Research Reactor in mid-1987 and the resultant requirement from a practical standpoint, to conduct irradiations and subsequent examinations in foreign facilities.

Further, there is no assurance these reactors would convert to the new fuels even if the concepts were successfully developed. The operators could claim that conversion could not be accomplished without unacceptable impact on test capability or safety performance of the reactor that are the key criteria built into the RERTR program conversion "ground rules."

For the above reasons, we believe that our future efforts to limit the use of high-enriched uranium do not require additional fuels development but, rather, should focus on the conversion of research reactors using low-enriched fuels technology already developed. The FY 1990 funding of \$1.2 million is focused on this technology transfer and reactor conversion assistance component of the program. We feel it would be appropriate to

continue this type of assistance for the period FY 1991-1994, and welcome your support for this effort.

Thank you for the opportunity to explain the Administration's position on concluding the research and development phase of the RERTR program and on future budget needs.

Sincerely,

JAMES D. WATKINS,  
Admiral, U.S. Navy (Retired).

Mr. WIRTH. Mr. President, I will note we will be submitting to the committee, report language which we hope will be included in the final report of the conference after the House and Senate conferees get together—full report language on the report coming back from the Secretary.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 710) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### GLYNN COUNTY/GOLDEN ISLES

Mr. FOWLER. Mr. President, I would like to bring to the chairman's attention a matter of great importance to the people of coastal Georgia.

The beaches of Glynn County/Golden Isles region of my State are eroding at an alarming rate. These beaches support tourism and related industries, which are the mainstay of the local economy, and serve as a protective barrier against the fury of coastal storms.

Since fiscal year 1990, the U.S. Army Corps of Engineers has been studying this critical situation. The Savannah district of the corps is now engaged in a full assessment of the problem and will be developing a comprehensive plan for protecting the coastal communities from further erosion and economic harm.

Last year, in the fiscal year 1991 energy and water development appropriations bill, \$4 million was provided to the corps, in addition to funding for the feasibility study, to carry out an interim beach renourishment project on St. Simons Island. These funds were provided through the corps' operations and maintenance account.

In response to this action by Congress, the Savannah district of the corps and the Glynn County Commission worked diligently to develop the necessary cost-sharing arrangement for moving ahead with the St. Simons Island project. Corps headquarters in Washington has approved the final local cooperation agreement.

However, just recently, new concerns about the project have been raised by members of the local community. According to Glynn County officials, the resolution of these issues may delay

launching of the renourishment effort until fiscal year 1992.

I would like to thank the distinguished chairman of the Subcommittee on Energy and Water Development for his support in securing the necessary funds for the corps' efforts on behalf of the Glynn County/Golden Isles community. I would at this time like to pose a question about the special appropriation for the St. Simons Island project.

Mr. President, am I correct in understanding that should work on this renourishment effort not commence before the end of fiscal year 1991 that the operations and maintenance fund will be available until expended for this purpose?

Mr. JOHNSTON. Yes. If situations arise on the local level which delay the commencement of a corps project such as the one the Senator has highlighted, once matters are resolved, we expect the corps to carry out the work as originally directed by Congress.

Mr. FOWLER. Mr. President, I thank the chairman for this confirmation. I am committed to helping the people of Glynn County protect their priceless natural resources, and I greatly appreciate the chairman's assistance in ensuring the corps' proper participation in this important endeavor.

#### RENEWABLE ENERGY PROGRAMS

Mr. HATFIELD. Mr. President, as the Senate debates the energy and water appropriations bill, I would like to draw my colleagues' attention to fiscal year 1992 funding for the renewable energy programs of the Department of Energy. Under recently passed legislation, Public Law 101-218, the Department of Energy would be required to solicit proposals for joint ventures with the private sector to commercialize renewable energy technologies. The joint venture provisions under the aforementioned statute would have three important goals: improving the coordination of technology development among firms within the renewable energy industry; facilitating technology transfer to the private sector; and enhancing the ability of domestic renewable energy firms to compete with foreign enterprises.

Is it the Senator's intention that funding vital for the continuation of these programs would be available under the energy and water appropriations bill?

Mr. JOHNSTON. I wish to reassure the distinguished senior Senator from Oregon that it is my intention that money in the energy and water appropriations bill could indeed be used for joint ventures under Public Law 101-218.

Furthermore, the Senator is absolutely correct in his assessment of the importance of joint ventures for financing renewable energy and energy efficiency technologies. Under the leveraging provisions in the statute, even a relatively small share of Fed-

eral funds will leverage at least twice as much in investment from other sources. For example, \$2 million in Federal funds will leverage \$4 million in matching funds from other sources.

Mr. HATFIELD. I would like to concur with my colleagues' comments as well as point out that program and administrative support from the Department of Energy as well as changes in the regulatory structure of the utility sector have already had a profound effect on the ability of the renewable energy and energy efficiency industries to commercialize their products and technologies. I believe that joint ventures provide a unique opportunity for the Federal Government to further accelerate the commercialization of renewable energy and energy efficiency technologies in this country.

Mr. JOHNSTON. I would like to add to the remarks of my distinguished colleague by stating that joint ventures, as established under Public Law 100-218, differ markedly from previous renewable energy demonstration programs because project success is greatly enhanced when the investment is split between industry and the Federal Government. It is for this reason, that I have included an expansion of this program in S. 1220, the National Energy Security Act, currently awaiting consideration on the floor.

Mr. HATFIELD. I thank the Senator for his support and reiterate my belief that these joint venture programs continue to receive full congressional backing.

Mr. JOHNSTON. Mr. President, I believe that concludes all the amendments on this bill. I have an amendment reserved which I will not offer. I believe that is all that is in order. I think all the rest have been disposed of.

I think there is a request for a roll-call vote on the minority side.

Mr. HATFIELD. There is.

Mr. JOHNSTON. I think we are, therefore, ready for third reading.

Mr. LAUTENBERG. Mr. President, I rise in support of continued investment in the Department of Energy's Magnetic Fusion Program. I am pleased that the bill includes \$337 million for this critical program. As a member of the Appropriations Committee, I worked hard in support of this important program.

These funds will include funding for critical projects at the Princeton Plasma Physics Laboratory, a world leader in fusion research and is the only national laboratory devoted exclusively to fusion development. The bill will fund three vital elements for the future of fusion energy research: continued funding for design and engineering work on the burning plasma experiment [BPX], which is planned for construction at Princeton; funding for international collaboration on the engineering design phase of the inter-

national thermonuclear experiment reactor [ITER]; and funding for the deuterium-tritium [D-T] experiments on the Tokamak fusion test reactor [TFTR] at Princeton. This funding will enable our Nation to sustain the scientific progress achieved in recent years and to move ahead with the three major program advancements.

The magnetic fusion energy program is a critical part of America's energy security strategy. Fusion energy holds the promise of safe, abundant, and environmentally benign source of energy. It is clear that we must find alternatives to the dwindling sources of fossil fuels, and to the environmentally harmful sources of energy.

The development of fusion energy, however, is not a simple task. Fusion involves complex technology. It requires a time, money, and a long-term commitment. This bill makes an important investment toward the realization of fusion power.

The National Fusion Program is on track and the \$337 million in this appropriations bill will help our scientists move the program ahead. The program, however, will require further investments in the future. I am pleased that the distinguished chairman of the Energy and Water Subcommittee has provided full funding for this program and has the vision to address today the energy problems of tomorrow.

Mr. President, I also note that the report accompanying this bill also contains language that will allow the Center for Molecular Medicine and Immunology to proceed with the development of its new, state-of-the-art cancer research center. This new facility will be located in Essex County, NJ, and will house a first-class research team dedicated to research and clinical testing of cancer therapies. I appreciate the cooperation of the chairman of the subcommittee in including this language and enabling this important project to proceed.

#### NEW JERSEY WATER RESOURCES PROJECTS

Mr. LAUTENBERG. Mr. President, I want to note the inclusion in this bill of a number of important water resources projects of benefit to the State of New Jersey.

New Jersey's shoreline is one of its most precious resources. It plays a vital role in our economy because of tourism, and because of the tremendous business conducted at our port facilities. A number of the projects that would be funded in this bill would directly and positively impact the ability to move goods through our ports. That's good news for New Jersey's economy, its businesses, and its workers.

Among the port projects designated for funding under this bill are: \$28.5 million for the Kill van Kull and Newark Bay Channel; \$1.279 million for deepening of the Delaware River at the Beckett Street terminal, in Camden;

\$300,000 for the Arthur Kill channel extension, in the area of Carteret; \$500,000 in planning funds for improvements to the New York Harbor and adjacent channels, in the area of the Claremont terminal.

Another important area of work by the Army Corps in my State is flood control. Among the flood control projects designated for funding in this bill are: \$1.1 million for the Lower Saddle River; \$177,000 for the Ramapo River at Oakland; \$10 million for the Great Egg Harbor Inlet and Peck Beach; and \$2.6 million for the Green Brook sub-basin. The bill includes \$5.4 million for the Passaic River Mainstem project, which would control flooding throughout the northeastern portion of New Jersey. This flooding, has, over the years, taken a major toll on the region. The Army Corps estimates that each year, floods cause almost \$100 million in damages. In 1984, the area suffered a 25-year flood. That flood killed 3 people. It forced the evacuation of 9,400 residents. And it resulted in \$390 million in damages. It is estimated that a 100-year flood, like one that occurred in 1903, would cause \$1.9 billion in damages.

The \$5.4 million includes \$400,000 to begin work on a streambank stabilization and beautification project in the City of Newark. This will complement efforts to develop an arts center in the city along the Passaic River.

Last year, I worked to have the construction of this project authorized. Now, we are awaiting a decision by the State of New Jersey on meeting the non-Federal match requirements. This funding will allow design and engineering work, necessary to commence construction, to proceed.

There are a number of other important projects included in this bill. They include \$27 million for construction of a beach erosion control project from Sandy Hook to Barnegat Inlet, \$3.8 million to improve navigation in Barnegat Inlet, and \$300,000 for shore protection from Townsend's Inlet to Cape May Inlet.

An item of particular concern to the northern New Jersey/New York metropolitan area is the New York Harbor collection and removal of drift project. There are an estimated 2,320 sunken vessels and 149 rotting shore structures in the harbor. According to the corps, nearly 18,000 vessels collide with these obstructions each year, resulting in economic damages of about \$53 million.

Unfortunately, the administration did not request funding for this important project this year. I am pleased to note that, at my request, the bill we are considering contains \$2.5 million for this important project.

Mr. President, as a member of the Appropriations Committee, I worked with the distinguished chairman of the Energy and Water Development Subcommittee, Senator JOHNSTON, to see

that funding for these and other important New Jersey projects were included in the fiscal year 1992 bill. I appreciate his efforts and look forward to his continued cooperation in addressing water resources needs in my State.

THE BUMPERS AMENDMENT ON THE SUPERCONDUCTING SUPER COLLIDER

Mr. WALLOP. Mr. President, today the Senate voted on the issue of whether to continue funding the superconducting super collider, the Nation's leading high energy physics project. I agree that the collider, a high energy subatomic particle accelerator that will be used in basic research to learn more about the fundamental nature of matter and energy, is a fascinating project that has the potential for the United States to remain on the frontier of high energy physics research well into the next century. I enthusiastically support efforts to advance our scientific and economic prowess. The vote to table the Bumpers amendment was a strong endorsement of the SSC. However, there are still some dark clouds which could eventually dampen our enthusiasm for the collider.

In brief, I have identified three areas of concern over the program. First is the issue of the ever-escalating cost of building the facility. Second is the matter of a lack of foreign contributions to the SSC. Last, we must keep in mind the impact this program may have on other worthy areas of scientific endeavor.

Let me take these areas one at a time. First, there is a continuing concern in the congress that the \$8.2 billion price tag for the SSC is not a final figure. This budget estimate has changed five times since 1986. It was first estimated at \$4.4 billion which did not account for detectors or technical contingencies. It changed to \$5.3 billion after Congress gave its original approval to proceed with the construction of the SSC. It has changed once again to \$5.9 billion when President Bush moved into the White House. This price tag supposedly included detectors and technical contingencies. The next increase to \$7.8 billion occurred after the redesign of the magnets and injectors. The latest figure of \$8.2 billion is a composition of four separate estimates ranging from \$7.8 billion to \$11.8 billion. The differences in the estimates are caused by contingencies, uncertainties, and questions over the costs of digging the 54 mile tunnel and the housing for the detectors. The Department of Energy has concluded that the \$8.2 billion is the correct and final cost of the SSC. But, there are many members of Congress who are concerned that this final figure may turn out to be too low—subject to change once again over the life of this massive, complex, unique project.

A second concern lies with the fact that Congress has decided that Federal

money should pay for no more than two thirds of the SSC, which would amount to \$5.5 billion under the latest cost figure. The State of Texas has pledged about \$1 billion leaving a shortfall of about \$1.7 billion to be made up by foreign investments. To date, the Energy Department has failed to obtain any guarantees of contributions from foreign countries, except for a \$50.0 million in-kind contribution from India. This arouses the fear in Congress that foreign funding may not materialize, resulting in the Congress having to ultimately appropriate even further moneys for the project. Further compounding this is the fact that Mr. Fred Buch, head of the Texas commission in charge of raising funds for the SSC, recently resigned. He indicated that the project may have serious funding problems because of the lack of firm foreign commitments.

While I supported the funding request in this year's appropriations, it will be much more difficult to support this project next year if there are no firm foreign commitments. Next year is decisive, because all funding commitments must be settled according to the project's schedule. It would be prudent for the Department of Energy to present Congress with a plan on how to proceed without foreign contributions.

My last concern, Mr. President, is that this large project can dilute other scientific endeavors. It is important that the SSC not be built at the expense of other scientific programs. The Federal research budget is quite limited because of the budget situation. We must be careful not to crowd out other worthwhile projects at the expense of the SSC. Indeed, even the scientific leaders supporting the SSC do not believe it should be built unless it can be done with funding that will not wither away "small science" projects. We must be careful that high energy physics research does not overwhelm the Department of Energy's other research program.

In conclusion, I intend to closely monitor this program, to review the management and financing of the project. I will request more detailed information from the Department of Energy regarding foreign participation. I will carefully evaluate the progress of the SSC and how it fits into a balanced Federal program in support of basic science research.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. Is there any further debate?

Mr. JOHNSTON. No further debate, just to thank staff on our side, Proctor

Jones and David Gwaltney, and to thank the distinguished Senator from Oregon, Mr. HATFIELD. It is a terrific relationship and a joy to work with him. I have said it before and I will say it again, I hope many times over. But this year is especially good.

Mr. HATFIELD. I thank the Senator from Louisiana, Mr. President. I reciprocate by indicating that some of our colleagues on this side have suggested perhaps, that my colleague would like to take over some of the other controversial legislation and we might manage that out. I would defer that decision to my colleague.

Mr. President I want to thank also the staff who have so effectively expedited the handling of the amendments on this bill and once again comment on the important role that Senator BYRD, our full committee chairman, has played as well in expediting the appropriations process.

We expect to mark up four more appropriations bills tomorrow afternoon, the full committee. This is still July. We have three: one acted upon, now completed; two more ready to be acted upon, waiting on the calendar; and four more to be marked up tomorrow. I would think that would certainly establish some kind of a record.

It has been a great pleasure to work with Senator JOHNSTON and our respective staffers on this bill.

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. JOHNSTON. Mr. President, I neglected to say and should not have neglected to praise Mark Walker. Also Gloria Buttland, staff member on our side, who has almost as much seniority as Proctor Jones does and is really a lot more important to this committee than he is. I certainly should have mentioned her. In any event I thank her, as well as the majority and minority staff. It has been a very good working relationship. We are ready for the vote.

The PRESIDING OFFICER. There being no further debate, the bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The result was announced, yeas 96, nays 3, as follows:

[Rollcall Vote No. 122 Leg.]  
YEAS—96

Adams	Bingaman	Bryan
Akaka	Bond	Bumpers
Baucus	Boren	Burdick
Bentsen	Bradley	Burns
Biden	Breaux	Byrd

Chafee	Hatch	Nickles
Coats	Hatfield	Nunn
Cochran	Hefflin	Packwood
Cohen	Hollings	Pell
Conrad	Inouye	Pressler
Craig	Jeffords	Reid
Cranston	Johnston	Riegle
D'Amato	Kassebaum	Robb
Danforth	Kasten	Rockefeller
Daschle	Kennedy	Roth
DeConcini	Kerry	Rudman
Dixon	Kerry	Sanford
Dodd	Kohl	Sarbanes
Dole	Lautenberg	Sasser
Domenici	Leahy	Seymour
Durenberger	Levin	Shelby
Ezron	Lieberman	Simcn
Ford	Lott	Simpson
Fowler	Lugar	Specter
Garn	Mack	Stevens
Glenn	McCaIn	Symms
Gore	McConnell	Thurmond
Gorton	Metzenbaum	Wallop
Graham	Mikulski	Warner
Gramm	Mitchell	Wellstone
Grassley	Moynihan	Wirth
Harkin	Murkowski	Wofford

NAYS—3

Brown	Helms	Smith
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NOT VOTING—1

Pryor

So the bill (H.R. 2427), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives on the disagreeing votes thereon, and that the chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. CONRAD] appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES conferees on the part of the Senate.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 5 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

OPPOSING THE LIFTING OF SANCTIONS AGAINST SOUTH AFRICA

Mr. KENNEDY. Mr. President, the administration's premature lifting of sanctions is a setback to the cause of progress in South Africa and an unfortunate blow to the opponents of apartheid. President Bush has acted irres-

sponsibly in moving the goalpost and disobeying the law.

In a tilt toward the apartheid regime, the administration has concocted an erroneous and self-serving interpretation of the five conditions of the Comprehensive Anti-Apartheid Act of 1986.

As Nelson Mandela pointed out only a few days ago at the conference of the African National Congress, sanctions have been indispensable in the progress that has been made toward ending apartheid in South Africa. It is wrong for the Bush administration to undermine that progress by lifting the sanctions too quickly, in violation of both the letter and the spirit of the law.

In fact, four of the five conditions have not been fairly met. Political prisoners have not been released. Political freedom has not been achieved. Basic apartheid statutes have not been fully repealed. And good faith negotiations have not begun.

According to the South African Human Rights Commission, 900 political prisoners remain in jail. The South African Government itself admits that over 200 are political prisoners.

The South African Government is also making the preposterous claim that it has no responsibility for the 164 additional political prisoners in the homelands. By accepting this claim, the Bush administration is endorsing one of the worst aspects of apartheid—the banishment of black South Africans to so-called independent homelands.

The condition calling for political freedom in South Africa will also not be met until the 40,000 exiles are permitted to return without fear of imprisonment, and the security laws are amended to deny the South African Government the legal right to detain people incommunicado and intimidate political opponents. Particularly disturbing is the South African Government's continuing refusal to accept a standard agreement with the United Nations High Commissioner for Refugees to assist in the repatriation of the exiles.

Last summer, the South African Government agreed with the African National Congress that these issues must be resolved before negotiations can begin. It is wrong for the Bush administration to maintain that the South African Government has agreed to negotiations, when these recognized obstacles have obviously not been fairly resolved. In fact, the failure of the de Klerk government to live up to the commitments it made last year on these critical issues raises serious questions on whether it will move forward on good faith negotiations—particularly now that the pressure of U.S. sanctions is gone.

While the Population Registration Act and the Group Areas Act have been repealed, other measures have been instituted in their place to perpetuate

the racial barriers in South Africa and can be used to bar blacks from certain areas. In addition, the population register, which classifies South Africans by race, will remain in place until at least 1994. So much for this condition.

By jumping the gun before these issues have been resolved, the Bush administration risks undermining the delicate process of negotiations between the ANC and the South African Government. Only time will tell whether the efforts to create a new South Africa will be set back without that engine of progress.

I do welcome one small aspect of today's action by the White House—the proposal to double the current level of \$40 million in United States aid being channeled directly to South African blacks for assistance of victims of apartheid in areas such as housing and education. I proposed such an increase on June 18 to be directed through private voluntary agencies, and I am pleased that the administration recognizes the merit of this current program.

Finally, although the administration has acted too quickly to terminate the economic sanctions in the 1986 act, several other important sanctions will continue in effect under other laws barring assistance to the apartheid regime. The prohibition on U.S. support for IMF loans and the ban on Export-Import Bank support to the apartheid regime are still essential parts of our policy. I urge the Bush administration to hold the line on these measures. The United States must not return to business as usual with apartheid. We also must ensure that we maintain the ban on all exports to the South African military and on all arms trade or intelligence sharing with South Africa.

We all know what is going on here. American firms are eager to resume business as usual with the apartheid regime. Once again in the councils of the administration, private business profits have collided with basic human rights, and human rights have lost.

By its actions today, the administration is bestowing an undeserved benefit on the South African regime. Tilting toward apartheid is wrong. The United States should not be so easily giving up our most potent weapon in the long battle to end that brutal system of government.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Is leader time reserved?

The PRESIDING OFFICER. The Senator's leader time was reserved.

#### SOUTH AFRICAN SANCTIONS

Mr. DOLE. Mr. President, several hours ago, President Bush announced that he has issued an Executive order ending economic sanctions against South Africa.

The President has made the right decision—right legally; right morally; right in concrete, practical terms.

There has never been any debate in this country about the goals of our South Africa policy—ending apartheid, once and for all; establishing a true democracy; expanding economic opportunities for all South Africans. The only debate we have had is, how best to accomplish those goals.

In my view, historians will argue for a long time about whether sanctions were really a key factor in sparking the kind of fundamental change we have seen over the past months in South Africa; whether, on balance, they were a positive, or a negative force; whether, over time, they have harmed black South Africans, more than they have helped them.

But I think a fair look at the situation today yields a clearcut conclusion that, whatever their past effectiveness or results, sanctions no longer make any sense.

The South African Government has clearly undertaken a firm commitment to fundamental reform. They have demonstrated that commitment, over time, in word and—far more important—in one concrete act after another: ending the state of emergency; the release of Mandela and other political prisoners; the dismantling of the apartheid laws; the legalization of political parties; the beginning of sincere and serious talks with the black community, including the ANC, with the specific goal of establishing a new and democratic constitutional system.

Every condition laid down in our law for the end of sanctions has been accomplished.

And it has become increasingly clear that blacks continue to bear the brunt of the impact of the sanctions; and, even more important, that—whatever their new political structure—the people of South Africa, black and white, will never achieve a stable and vibrant democracy, unless democratization is accompanied by economic development which reaches all South Africans: That requires an end to the sanctions.

The European Economic Community, and others in the international community, had already reached the conclusion that sanctions had outlived their utility. Black African nations, the rhetoric of many of them to the contrary notwithstanding, had long engaged in extensive economic relations with South Africa. They had all concluded that the time has come to engage with South Africa, not disengage. And they were all right.

Mr. President, I am pleased that President Bush has accompanied his decision to end sanctions with a doubling of aid aimed at black South Africans. It underscores what our policy does, and ought to, aim at: Helping South Africa and its people find the future of democracy, stability, and prosperity that now seems possible.

I hope the Congress will not try to undo the sensible thing that President Bush has done—and I doubly hope that we can all avoid the temptation to turn this profoundly important political and moral issue into a partisan political issue.

South Africa and its people are, at long last, on the right road. Let us tear down the road blocks we have erected, and instead begin to help them find their way.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. What is the parliamentary situation on the floor?

The PRESIDING OFFICER. The Senate is in morning business until 5 p.m., and Senators are permitted to speak therein for up to 10 minutes.

Mr. SYMMS. Mr. President, I seek recognition for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOLE. Will the Senator yield for 30 seconds?

Mr. SYMMS. Yes.

#### AUTHORIZING THE USE OF THE CAPITOL ROTUNDA FOR A CEREMONY HONORING POW/MIA FAMILIES

Mr. DOLE. Mr. President, I have cleared this with the majority leader. I send a concurrent resolution to the desk for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislation clerk read as follows:

A concurrent resolution (S. Con. Res. 51) authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, in effect, the concurrent resolution provides for the use of the rotunda Saturday morning for a special ceremony honoring POW's and MIA's.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 51) was agreed to.

The concurrent resolution reads as follows:

#### S. CON. RES. 51

*Resolved by the Senate (The House of Representatives concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridan until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and ci-*

vilians missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### SOUTH AFRICAN SANCTIONS

Mr. SYMMS. Mr. President, I rise to praise President Bush for his action today in lifting the sanctions from South Africa.

With President De Klerk's recent repeal of statutory apartheid laws, four out of five conditions laid down by Congress in the Comprehensive Anti-Apartheid Act of 1986 were reached. Although the President was given the authority to lift sanctions after four or five conditions were satisfied, at question in some quarters is the remaining issue of the release of political prisoners—the fifth condition.

The De Klerk government says that it has released 1,000 political prisoners, but there are said to be several hundred remaining in prison who have committed violent crimes, such as rape, arson, and murder. I would question whether anyone in this Chamber believes that rape is a political crime.

I would also ask whether any members believe that someone who has committed rape, murder or arson, for whatever motivation, should be released onto the streets to commit additional violent crimes. Any government which would release criminals likely to commit more crimes against innocent people would not be fulfilling its most solemn obligation, to maintain law and order, and to protect the lives of its citizenry.

The African National Congress, or ANC, maintains the South African Government has some 1,000 political prisoners in their jails. Chief Minister Buthelezi, who just visited the United States last week as the head of the 2 million strong Inkatha Freedom Party, states that there are common criminals now claiming to be political prisoners, trying to capitalize on the provision of the "C Triple A" to spring themselves out of jail. Is the ANC advocating the release of every offender from jail? Would that suit its professed policy of making the country ungovernable, when crime is already rampant due to massive unemployment fueled by economic sanctions?

Frankly, I am far more inclined to believe the De Klerk government and Chief Minister Buthelezi are providing the truth, than the African National Congress, which has been unable to produce the names of the 1,000 prisoners it claims are still under detention. Some proponents of sanctions cite

the South African Human Rights Commission on political prisoners, but this is hardly an impartial body and, in fact, reported to be an ANC front.

I have also heard complaints the De Klerk government is not permitting the return of exiles. But in this instance, there has been the problem of exiles simply not wishing to return to an unstable environment, without job prospects, and the refusal of members of the Pan African Congress, which because it is fundamentally antiwhite, to sign the indemnity form to permit their legal return to South Africa. Apparently, signing the form constitutes a form of recognition of the government that they reject. Proponents of continued sanctions lay every problem at the feet of the South African Government, which is simply not justified.

Sanctions should never have been passed. I voted against sanctions in 1986, because I believed strongly that they would deprive black South Africans of badly needed employment opportunities, especially those with American firms that offered them management training, educational benefits and other perquisites. The sanctions did adversely impact the South African economy, and escalated the political unrest. Sanctions played a role in the black-on-black violence which is now raging in South Africa and which inhibits an atmosphere conducive to peaceful political negotiations.

We have heard much in the news about the violence in the workers hostels. I am informed that ANC members are told that migrant workers from the Zulu tribe living in the hostels have taken their jobs. They are informed by ANC members whose intentions are to incite violence, that if they drive those migrant workers from the hostels, their jobs will then be given to ANC supporters. It is easy to see how sanctions and joblessness played into the strategy of the ANC to seize power in a country overcome by internal unrest and political chaos.

I am thankful that Chief Buthelezi addressed the issue of the causes of violence. There are also some who say sanctions should not be lifted because of continuing violence. Buthelezi knows that his members have been sucked into the violence, but frequently are reacting to ANC provocations. Chief Buthelezi successfully rebutted the canard of cultural weapons being carried by Zulus, which the ANC has demanded be banned. Buthelezi responded that the South African Institute of Race Relations, an impartial body, proved that most black deaths have been by AK-47's, not by so-called cultural weapons, and that the ANC is trying to camouflage the fact that it maintains hidden arms caches in the country, has not renounced violence, and is still training its private army.

The sanctions issue will shortly be a sad, but closed chapter of American history. Sanctions will be lifted in the near future, as President Bush assured Chief Buthelezi recently. It is simply a matter of time before the proper assurances will be given on the status of political prisoners.

The most fundamental issue facing the United States on South Africa is its transition from a country where whites, Indians and coloreds can vote, but not the black majority. What can the United States do to ensure that postapartheid South Africa does not become an ANC dictatorship, where elections serve only to empower tyranny?

The ANC has succeeded to a degree in its campaign of terror and intimidation. The armed struggle is being replaced by what it calls mass action. According to a recent survey, black intimidation is rampant in South Africa. Four out of five blacks surveyed said that they had been forced into work stay-aways and boycotts. Another third said they were too terrified to vote.

The ANC now advocates a constituent assembly; they are preparing to host a large conference in Capetown in August to demand a constituent assembly.

What do they want to do?

The ANC wants to create a mechanism for the seizure of power, using the leverage of terror and intimidation to force their radical agenda on the people of South Africa.

It is interesting to me to note that nearly a year and a half since their unbanning, the ANC has only signed, by their accounts, 500,000 members, only one-quarter the claimed membership of the Inkatha Freedom Party at 2 million. The IFP has signed 100,000 whites, which indicates its support has crossed racial lines, and that its political platform—of real democracy, non-violence, antisandals, and profree market—has massive popular appeal, and I hope the membership continues to expand.

I am pleased with the House amendment adopted recently which shows a new realization among Members of the other body in Congress in general about the nature of the ANC. I commend my House colleagues, Congressmen BOB WALKER and DAN BURTON, for disallowing any United States funding to the South African Communist Party or any affiliated or associated organizations. Their amendment passed overwhelmingly 279-134. The South African Communist Party alliance to the ANC is well known by anyone who is interested to read about it and find out about it.

Curiously, the South African Communist Party has refused to divulge its membership, despite its unbanning. It could be that the South African Communist Party overlap with the ANC

would shock those who prefer to indulge the fantasy that the ANC is not dominated by Communists. For those in the world who believe the ANC's closet moderates dominate the organization, moderates would like to rid themselves of the taint of the South African Communist Party here is their opportunity. Let them reject the South African Communist Party members of the ANC, which dominated the ANC's national executive committee, and become eligible for United States support.

That is all they have to do. I do not think that is asking too much, and I again commend my two fine colleagues in the House for their efforts that got that vote in the House and I would urge those in South Africa, those moderates in ANC, if they are in power, to do this, to purge themselves from the Communists.

I would pose this question to my colleagues: what on Earth was the Congress thinking when it authorized money to "previously banned organizations" in South Africa? Did they realize that that would include the South African Communist Party, an unrepentant, Stalinist party? This vote on the House floor, thankfully, has clarified the United States position on this matter. The House has spoken loudly against funding any party with links to the South Africa's Communists.

It would be foolish to spend a fortune trying to rebuild Eastern Europe, devastated by 40 years of communism, and then give money to the ANC or its fronts, who want to impose a Stalinist-style regime on the poor people of South Africa. Even FRELIMO in Mozambique, the Marxist elite which has been fighting rebels for 16 years, has warned the ANC not to make the mistakes it made by pursuing rigid Socialist economic ideology, which has been proven a failure.

Chris Hani, the head of the military wing of the ANC, was just in the United States, a proud guest of the Communist Party USA. Hani was questioned about what Socialist model he would aspire to. He merely dismissed the failures of every present or past Socialist State in the world suggesting that the ANC somehow would apply Socialism correctly. Romania, Poland, East Germany, Czechoslovakia, Bulgaria, the Soviet Union—all these were simply, according to Hani, examples of bad economic management, poor planning; they could do a better job, be more efficient.

To the ANC, the Socialist utopia is still alive—and they intend to create it in South Africa. Hani suggested the remedy for South Africa was redistributing the white wealth. Chief Buthelezi knows better. He is enough of a statesman and economist to know that if the wealth of South Africa's great magnates, Anton Rupert and Harry Oppenheimer, were seized, there would

only be 5 rands for each black—about enough to buy one day's meals. Buthelezi knows that confiscation of wealth and nationalization, which the ANC endorses, is not the answer—that expanding the productive capacity of the economy is the only solution to South Africa's growing population needs.

Chief Buthelezi deserves American support, as does President De Klerk for having the political courage and tenacity to implement politically costly reforms. These courageous and visionary leaders offer the best hope for a future democratic government in South Africa. The Inkatha Freedom Party offers a platform for prosperity, and has broad appeal to those of moderate political persuasion. Similarly, the National Party, with its reformist image and commitment to negotiations to achieve Democracy, is drawing in new nonwhite members and finding surprising new political allies.

The ANC embraces political extremes, intolerance and the failed socialist ideology of the past. The ANC wants the maintenance of sanctions to drag the country further into decline, exploiting joblessness, hunger, and violence in its ambition to seize power. I think today all people in the world who love liberty should thank President Bush for his courageous move to lift those sanctions. It is past time that the United States bolstered those in South Africa who share our values of inclusive, not exclusive politics, and who endorse nonviolent solutions not violent solutions. Lifting sanctions as was done today will serve that purpose.

I appreciate the fact that the President has done this, and I wish those people in South Africa of a moderate persuasion who understand that the mainspring of human progress is liberty will prevail and that that country shall have a better future and a better fortune than it has endured these last 5 years.

Mr. President, I thank the Chair for his indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am going to use in addition to whatever time remains in the morning hour the remainder of the leader time on this side.

The PRESIDING OFFICER. The Chair will advise the Senator that the time for morning business is set to expire at 5 p.m.

Mr. HELMS. If there is insistence that we abide by that I will of course yield the floor at that time, but I do not think the majority leader will move it.

#### UNITED STATES POLICY TOWARD SOUTH AFRICA

Mr. HELMS. Mr. President, President Bush today has exercised his legal au-

thority to terminate sanctions against the people of the Republic of South Africa. Among the provisions that will vanish are the Comprehensive Anti-Apartheid Act of 1986 and provisions of the so-called Rangel amendment, which imposed double taxation on United States companies doing business in South Africa.

President Bush has exercised extraordinary caution to determine that provisions of the 1986 sanctions act have in fact been met by the South African Government. He was right to be careful, but the law is the law. Once conditions have been met, the President has no flexibility to do less than ending sanctions.

It is rather widely known, Mr. President, that I have never supported sanctions against the people of South Africa. Now is not the time to replay the debate regarding the folly of sanctions.

Most Senators now realize that sanctions have had two unintended and negative consequences: First, sanctions have helped shrink the South African economy, thereby depriving the employed of their jobs as well as preventing the creation of new opportunities; and second, sanctions have encouraged South African radical movements and revolutionaries to press their hard-line demands for a transfer of power, rather than negotiating a new, nondiscriminatory constitution.

Mr. President, as one era in United States policy toward South Africa ends, new opportunities are possible. Lifting sanctions gives the United States an opportunity to play a more positive role than it has since 1985, after Congress demanded that President Reagan impose the first in the most recent generation of sanctions on South Africans.

These new opportunities are essentially political and economic. American institutions which are not funded by taxpayer funds may be able to play a limited, proper role in South Africa. I realize, however, that most of the speculation about future United States policy in South Africa is based on the notion that Federal funds are the first, best way for Americans to assist that country to promote a growing economy and a more representative political system.

Mr. President, I oppose "foreign aid," a position widely shared by the American people, particularly the American taxpayers. Except for providing relief after natural disasters, United States foreign aid—like aid from other countries—tends to make problems worse at an excessive cost. Mr. President, some Senators favor an increased foreign aid authorization for Africa to a total of \$1 billion. If approved, it appears that the administration may request a doubling of United States foreign aid efforts in South Africa from \$40 to \$80 million. In his statement today, President Bush

verified his intention to double South Africa funding.

Moreover, I have been reliably informed that the United States Ambassador to South Africa, William Swing, along with officials of the Agency for International Development and the State Department, are planning to remold American foreign efforts in the post-sanctions era.

The logic behind these possible policy changes is that America has moved from using foreign assistance to confront the government of South Africa to force it to drop apartheid laws and engage in good faith negotiations with political opponents.

South Africans—regardless of the outcome of negotiations—inheriting an economic climate poisoned by sanctions. Any new United States policy should aim to encourage economic growth—in other words, more jobs and a representative political system emphasizing individual rights and responsibilities.

Private American investment must be encouraged. The Foreign Commercial Service of the Department of Commerce and private investment-oriented organizations should make the latest information on opportunities in the South African economy available to potential investors. In this area, a very limited role for AID or the State Department may be helpful.

Mr. President, I serve on the Africa subcommittee of the Foreign Relations Committee, and I urge administration officials to begin early, frequent consultations with subcommittee members and committee staff. I want to avoid surprises regarding the size of focus of United States foreign aid in South Africa.

Regarding South Africa's political future, my position is also well-known. A richly endowed, taxpayer-funded bonanza for Washington area consultants and experts would be a serious misuse of funds, and abuse, programmed for South African democracy-building.

I also believe that direct or indirect taxpayer assistance to build political parties, or to fund party infrastructure activities at a national level in South Africa, would be a tragic mistake. South Africans do not need the United States to teach them how to build a pluralistic, free enterprise, fully representative political system.

If it becomes United States policy directly to assist political parties, the African National Congress, or ANC, absolutely does not qualify. Preliminary results from a week-long meeting of the ANC in Durban last week indicate that the ANC prefers to call itself a "liberation movement," not a political party. That designation, Mr. President, permits this group to excuse the existence of its private army and thereby claim a right to return to military action against constituted authority if the ANC does not get its way in nego-

tiations with the government and other opponents of apartheid.

In that regard, Senators should bear in mind that, during the Durban conference, the ANC received accolades from the Chinese Communist Party, Fidel Castro, Mu'ammarr Qadhafi and, of course, Saddam Hussein—who received ANC support in the recent gulf war. These allies of the organization expose the bankruptcy of the ANC's self-proclaimed "devotion to democratic principles."

As the saying goes, bosh and nausea. For years, the unhealthy relationship between the African National Congress and the South African Communist Party [SACP] has been clear. Judged from afar, the two organizations appear to be little more than Siamese twins. The South African Communist Party is especially hardline, and its overwhelming influence on the ANC also undermines the ANC's glowing descriptions of itself.

In a recent article, "The Next South Africa" in National Interest magazine, Francis Fukuyama notes, "the SACP constitutes what one observer called the 'competent half' of the ANC, with the organizational ability and manpower to staff and control the ANC's central bureaucracy and executive."

He continued, "The main problem with the ANC as a governing party, however, is its own strong commitment to socialism," and "There is a strong current of Leninist thinking within the ANC, manifest in the desire to subordinate all aspects of civil society to ANC leadership. Much of the township violence in the past year has been due to the ANC's aggressive recruiting efforts."

Mr. President, the record of the South African Communist Party is well known to honest observers, as is its controlling directorship of the African National Congress. The House of Representatives adopted an amendment recently to restrict assistance to organizations with affiliations to the South African Communist Party. In a typical move, veteran Communist Mac Maharaj replied to this congressional action in an interview given on July 4, during the Durban conference. "He also conceded, as a possible option, that the SACP may consider its own dissolution at its December conference," the interviewer summarized.

Several administrations and a host of reporters have told of an apparent split in the ANC between militants and moderates. To this Senator's knowledge, no anti-Communist has ever been identified on the ANC's membership or leadership rolls. If it is the desire of this or future administrations to fund ANC institutions, great care should be taken to avoid funding Communist-controlled elements.

Providing United States taxpayer funds for political purposes in South Africa is, at best, a high political risk.

Moderate political parties, truly committed to negotiation and power-sharing seem to this Senator to be a better investment than groups looking backward into Leninist political models and insisting on socialist schemes in economics. Many such parties exist, and as real consultations begin with Congress about the shape and size of an American presence in South Africa, members of those organizations should receive first priority.

This Senator encourages a leadership role for the United States Information Agency, following consultation with Congress, if American institutions and constitutional history are to be a future focus of United States policy in South Africa. This is in contrast to two other government agencies or government-funded organizations which presume to be expert on teaching democracy to South Africa.

Mr. President, the decision by President Bush allows the United States to resume a positive role in South Africa. These remarks are an initial effort to engage the administration in a discussion of future policy toward that vital country. South Africa can still become the economic engine and political model for Africa. America needs to do what it can, cautiously and without grand schemes, to help positive developments occur.

#### EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that morning business be extended under the same terms and conditions until 5:30 p.m.

The PRESIDING OFFICER (Mr. ADAMS). Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 6 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 6:45 p.m. this evening with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UAE SALES LINKED TO INTERNATIONAL DRUG MONEY LAUNDERING?

Mr. CRANSTON. Mr. President, I rise once again to express my opposition to the administration's plan to sell \$682 million in military hardware to the United Arab Emirates regime, a government ruled by a man who is the chief shareholder in an international drug money operation.

The New York Times this morning reported that UAE President Sheikh Zayed bin Sultan al-Nahayan is the principal shareholder of the Bank of Credit and Commerce International and that BCCI "is suspected of laundering drug money and engaging in widespread fraud."

Actually, the story is overly cautious. There is a growing body of evidence, collected by investigators from the Senate Foreign Relations Committee and elsewhere, that this bank—BCCI—is one of the world's most notorious launderers of narcotics money in the world. According to one report, the BCCI has 35 branch offices in Medellin, Colombia, alone.

The trail does not end there, however. It has already been established in the courts that this bank managed the transfer of millions of dollars for Panamanian narco-dictator Manuel Noriega through its global financial network.

Earlier this year, BCCI was also tied by a Peruvian parliamentary investigative commission to millions of dollars spirited out of the country by former President Alan Garcia, a fortune rumored to come from payoffs by drug traffickers.

And in Argentina, investigators are currently looking at the role played by

the bank in the laundering of drug money through that country.

According to several investigative sources, the bank is also heavily involved in international arms trafficking, some of which involved Communist countries and supporters of terrorism, like North Korea.

This makes the administration's proposed sale of highly sophisticated attack helicopters and Hellfire missiles all the more dangerous.

Last week I rose to point out that, beyond the very solid arms control grounds for opposing this sale, there were also important human rights and potential war crimes issues that need to be addressed.

Now we find that the ruler of Abu Dhabi, the principal portion of the United Arab Emirates, is sitting upon a financial empire of sleaze, violence, and death.

Mr. President, I also would like to make a few other points about the man who is about to receive—unless we stop it—some of the most sophisticated and lethal weapons of their type in our arsenal.

It is true that the United Arab Emirates closed ranks with our other Persian Gulf allies in the wake of Saddam Hussein's brutal invasion of Kuwait. It is to be assumed that anyone sitting on that much oil wealth that close to Iraq would do so out of self-defense, if nothing else.

Let us remember that when Arab oil-producing nations cut off oil to the United States in 1973—in retribution for American support for Israel—Abu Dhabi was the first country to declare an embargo.

Sheik Zayed, the President of the United Arab Emirates, was, until last year, a major contributor—to the tune of hundreds of millions of dollars—to the PLO.

He is also a business partner of Libyan leader Mu'ammarr Qadhafi.

Mr. President, last week the British Government froze \$20 billion in BCCI assets. Banking regulators in Britain and the United States are trying to assess the wreckage left behind by the collapse of the bank.

Before we go ahead with this lunacy, this sale, I think it is only fair to ask whether any money for this sale is coming from BCCI depositors who have been bankrupted by the bank's shady practices. Laundered drug profits may be used to pay us—pay the United States—for this \$682 million arms sale to the United Arab Emirates. I want no part in such a deal. I want my country to have no part of such a deal.

Before the Bush administration presses ahead with the proposed sale, adding more muscle to still another nasty regime in the Middle East, it should demand an accounting from BCCI of whether drug profits are being used to finance this sale.

The administration also owes Congress an answer to questions about

Sheik Zayed's personal culpability in this sordid tale of financial misdeed.

Shades of Noriega; shades of Saddam Hussein—and shame on us if we let this pass without a fight.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EQUAL OPPORTUNITY

Mr. KERREY. Mr. President, I have now been in the Senate a little over 2½ years. I really and sincerely felt lucky to be here. This morning, I happened to be presiding over the Senate and had the good fortune to listen to the distinguished Senator from New Jersey deliver a 30-minute speech on the issue of race relations in the United States. During that speech I found myself feeling lucky to be in the Senate. It was not just a speech, Mr. President, directed at some doubt that the Senator from New Jersey—and I must say myself—feel about President Bush's commitment trying to make this a Nation of equal opportunity for all, in particular, Mr. President, trying to open the door for black Americans. It was not just a speech expressing doubt about the President's commitment, it was a speech that described what we as a Nation must do if we are going to be a land of equal opportunity for all.

I have, as I said, a considerable amount of doubt about the President's commitment. I heard the press conference today wherein he announced he was going to stop the economic sanctions against South Africa, again words that increased my doubt. Those sanctions worked, Mr. President. I was not here when the vote occurred. I was asked my opinion when I campaigned, and I said I supported sanctions, but I never had the chance to vote. Indeed, I must confess I did not feel strongly one way or the other. But when I, as most Members of the Senate and the House did, sat and listened to Nelson Mandela say to us he was grateful for our willingness to sacrifice on behalf of his freedom, I had no doubt any longer.

Those sanctions worked, Mr. President. They moved the Government of South Africa in a direction where they are going to dismantle apartheid. But I fear the message that the President is sending to the Government of South Africa and the people of South Africa is that you have done enough. It may be that the President's timing is correct. My own internal fear is that the timing is not good, particularly since the President has made no secret of the fact that he opposed the sanctions

being instituted in the first place. I find in fact the defense that, "Well, I am just doing what Congress tells me I should do," to be a bit weak and difficult to defend, Mr. President. The President has never been terribly respectful of what Congress thinks he should do in the area of foreign policy and has usually taken a strong and, I think, correct position that he is the one charged with the foreign policy of the United States, with guidance from Congress, advice of Congress, with at times, legislation directing him what to do.

We have the context of 1991 where it seems to me the President had at least the room to make a strong statement which said that the Government of South Africa and President de Klerk need to be congratulated for the progress that has been made, but they have not made a sufficient amount of progress where one can look at South Africa and say we are proud to have them as an ally. This is a nation where blacks still cannot vote; this is a nation where blacks still struggle to own property, where they have been deprived of educational opportunity. Clearly apartheid is being dismantled but it is still in effect.

I heard the Senator from New Jersey say that part of his doubt is as a consequence of the President's unwillingness to follow his words with action. As a member of the Appropriations Committee for NASA and VA and independent agencies, I am very much aware that the President is committed to the space station and watched him, I must say, with a great deal of respect, move quickly to the House of Representatives and get them to reverse a committee decision and reinstitute full funding for the space station. I have heard that he has threatened to veto that appropriations bill unless full funding for the space station is included.

That is the kind of commitment we need, Mr. President, if we are going to fully fund Head Start and the Women, Infant and Children Program and the Maternal and Health Care Block Grant Program, all of which would send a strong signal to Americans that we are willing to follow our words with action, so as to be able to provide all of our children the opportunity they deserve, if not for humanitarian reasons, as I believe they should be, for economic reasons, for good dollars and cents reasons.

So there is cause for us to doubt the President's commitment. We saw what he could do with the space station when he is committed, when he believes. He found \$2 billion to make that expenditure. And this money, I must say, I believe could do the same thing for WIC and for Head Start if only the President believes strongly enough to come to us and say set aside some other things that are not quite as ur-

gent, as the lives of young children in America.

If the President came to the American people and said I am appalled by the disparity in infant mortality and low birth weight babies of blacks and whites, I am disturbed by the dropout rates and the teenage pregnancy rates between blacks and whites, we must do something, it says we must follow our expressions of concern with action.

So I believe the concern of the distinguished Senator from New Jersey about the President's commitment is a legitimate concern.

There is another example, Mr. President. We fought a long and hard battle last year on an ABC bill, establishing a child care bill and much needed assistance to mothers and fathers as they try to find quality child care for their children while they work.

The President in the beginning was not very friendly to the notion that government should get involved in trying to assist families in taking care of their children and, in fact, he opposed it. After the bill was passed, he took credit for it and has talked about this bill as something that empowers parents and gives them choices and gives States flexibility.

Mr. President, the regulations that are being drafted by Health and Human Services do precisely the opposite. This is not a program of increasing flexibility to the States. The detail of this regulation takes away all flexibility and directs the States as to how they are to conduct the programs and leaves almost no room for States and parents to evaluate what needs to be done so as to establish good quality child care, which is a pressing issue, not just making sure that there is some place to take your child but that the child has a quality environment.

It is exceedingly difficult today; a child care center is faced with a rather difficult task of needing to pay enough to get good people to work but not being able to pay so much so as to drive up the cost of the child care for the mother and father. This child care bill is desperately needed. Mothers and fathers are hungry for it, Mr. President. My State will get no more than enough money to take care of 1,000 families and the demand is at least 50 times that.

There is an urgency to act, Mr. President. I believe the regulations being drafted by the administration in regard to child care reflect an ideological commitment, a desire to win a political argument, not a desire to say to Americans we have an urgent problem and we are going to solve it right here at home.

So I believe again the distinguished Senator from New Jersey is correct in saying that it appears the administration, the President of the United States will talk about racial justice but is not willing to follow it with action.

We recently saw a very impressive Rose Garden ceremony where the President of the United States announced a new initiative to bring immunization to more Americans since we now see an increasing number of Americans dying from common diseases like measles. But within a few days after he made the announcement, safely beyond the time the press had already called attention to it, the President announced that he was not going to do it after all, that he was going to check into it a little more and see exactly what needed to be done.

Again, Mr. President, there is no urgency there. There is no feeling that we must act. Otherwise, people are dying. They are not developing like they should.

There is something that we can collectively do other than to just talk. I call to all my colleagues' attention the words of the distinguished Senator from New Jersey.

They were eloquent not just about what the President must do but what we must do if we are going to be able to leave here and say we have done all we can for those who are least fortunate and who need health care.

I am not standing here and saying that I believe that the President's ideology and conservative approach is hostile to mine at all. Indeed, as I examine and look at the detail of aid to families with dependent children, and food stamps, and other welfare programs that we have established, I see many barriers to people getting back to work. I see many instances in fact where we tend to have institutionalized poverty by the very institutions that we create to try to help those who are poor.

There is much room for us to examine both from the left hand and from the right to try to decide what needs to be done, but there should be no disagreement. Look at the statistics and look at what is going around in our streets today. There should be no disagreement that action is needed, and that we will pay a heavy price if we do not act—a heavy economic price, Mr. President. I believe we will pay a heavy moral price as well.

The words of the distinguished Senator from New Jersey need to be heard by all of us, and we need to follow his words of action. I am grateful and fortunate that he delivered those words in my presence, and I hope that all of us have the courage to act upon them.

Mr. President, I yield the floor.

#### EXTENSION OF MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent that the period for morning business be extended for not beyond 7:15 p.m. under the same conditions and limitations as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ANTI-CORRUPTION ACT OF 1991

Mr. MCCONNELL. Mr. President, I want to take a few moments here to discuss an amendment which will be approved later tonight en bloc with other amendments that has been essentially agreed to by both sides.

Mr. President, I have been interested for quite some time in the problem of public corruption, and in particular that component part of the public corruption problem typically referred to as election fraud.

Last year the amendment that I am going to discuss in a few moments which was cosponsored by the chairman of the Judiciary Committee, Senator BIDEN, was approved. It will be offered on my behalf later tonight. I would like to take a few moments of the Senate's time to explain what it is about.

This amendment, the Anti-Corruption Act of 1991, as I indicated, passed the Senate last year as a provision in S. 1970, last year's crime bill. It had the support of the Attorney General, the Criminal Division of the Justice Department, and the Senate Judiciary Committee.

I have worked to develop a comprehensive law enforcement response to the problems of election fraud and public corruption, especially in the wake of the Supreme Court decision in McNally against the United States.

Three years ago we passed an amendment to the Anti-Drug Abuse Act of 1988 sponsored by Senator BIDEN and myself which restored much of what was lost in the McNally decision in terms of the jurisdictional authority needed to go after corrupt officials. But, Mr. President, a great deal more is needed to be done, and still needs to be done through this amendment.

When I initially focused on the public corruption issue I was primarily concerned with election fraud. The only way to clean up election fraud is to bring the Federal Government in, and give it the authority to prosecute offenders under Federal law in Federal court.

That is what Congress did in 1965 in enacting the Voting Rights Act. It used the Federal Government's power to protect people's voting rights from entrenched local discrimination.

I soon found that the efforts of Federal law enforcement officials against

public corruption are not limited to election fraud. Moreover, I learned that the Federal Government's entire anticorruption enforcement effort had been placed at risk by the McNally decision.

At that point I joined forces with the Justice Department to develop a comprehensive answer to the McNally problem. When we had put together such a bill, I forged a coalition with members of the Senate Judiciary Committee who shared my view that Federal prosecutors ought to have every available resource to stop public corruption. We accomplished a great deal with the passage of legislation to reverse the McNally decision. That is already law.

When Senator BIDEN and I returned after the end of the 100th Congress, we felt there still was further to go. Despite our work in Congress, there still were reports of election fraud. And those who abuse the public trust and seek to defraud the Government are getting cleverer in evading the law.

Even in this day and age, and with all our past work, it still is not clear in the law whether the Federal Government can investigate and prosecute all acts of election fraud. This legislation will make every act of election fraud—at every level of government—a Federal offense. It raises the maximum penalty for both election fraud and public corruption to 10 years in the Federal Penitentiary and a \$10,000 fine. This amendment also will greatly expand the jurisdictional basis for Federal prosecutors to investigate all forms of public corruption and punish the wrongdoers.

I cannot stress enough the importance of this legislation. In some parts of the country, if you are caught buying or selling votes, you go see your friend the judge and he gives you a slap on the wrist.

This amendment assures that anyone caught in election-day shenanigans will be facing a Federal grand jury and a ticket to Federal prison.

If we are going to make this Nation a better place to live, it is imperative that we take care of the basics. Two of these basics are a clean election process and a government free of corruption. This amendment goes a long way toward realizing these goals.

I want to particularly thank the chairman of the Judiciary Committee for his work on this legislation and his years of interest in these issues. As I indicated earlier, this is an amendment that will be approved en bloc later this evening on the crime bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business has concluded.

#### EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

#### THE CRIME BILL

Mr. METZENBAUM. Mr. President, 3 weeks ago I spoke about this body's ritual of passing crime bills that have little to do with fighting crime and much to do with political gamesmanship. For the last four Congresses these crime debates have become forums for Senators to come forward and show how tough they can be on criminals. Because these debates have not focused on the causes of crime, each of these crime bills has been a failure. Crime rates have continued to rise. Murder rates have continued to rise. Our jails are filled, but crime continues unabated.

I also said 3 weeks ago that I would oppose any crime bill which was the product of such political gamesmanship. This is such a bill, and yet, I find myself in a difficult position.

My position is difficult because this bill now includes the Brady bill—a provision that will do something to stop crime in America. I have fought for over 4 years to see this Senate pass a waiting period for handgun purchases, and I am glad it was adopted overwhelmingly by the Senate as part of this crime bill.

The compromise Brady bill will make it harder for criminals to get guns. It requires a potential purchaser of a gun to wait 5 business days, in effect 1 week, before buying a handgun. It requires local police to conduct a background check during that time, to ensure that felons and other prohibited persons are not able just to walk into a gun store and walk out with a handgun. And within several years, it will require the implementation of an instant check system to replace the waiting period. Any State failing to meet the timetable for implementation must maintain the 5-business-day waiting period.

The provisions of the Brady bill—first, the waiting period, and later the instant check—will do more to fight crime than all the rest of this crime bill put together.

There are also some other useful provisions in this bill, such as assistance to police departments and other grant programs. I totally support these efforts to give added support to the law enforcement community. We in Congress need to give all the help we can to these officers who do a great job on the streets of America day in, day out.

But weighed against these useful provisions, and even weighed against the Brady bill, the rest of the bill is so misguided, or so dangerous, that I cannot in good conscience vote for it.

Unfortunately, this bill is the product of the same tough talk which has typified previous crime bills, only with far worse results. Unlike previous crime bills, I believe this crime bill virtually assures that we will execute innocent people; people whose only crime was to be caught in the crossfire of this legislative duel of who can be tougher on crime.

As a result of the scores of new death penalties and the evisceration of habeas corpus protections embodied in this bill, I predict that not long from now I or some other Senator will be standing in this well listing the names of innocent people accused and convicted of crimes they did not commit. These will be people, mostly black men, who have been sent to their death at the hands of our own Government. Years ago, I stood here and read the names of over 50 people who were erroneously convicted of crimes for which the penalty was death. We have sent 23 innocent people to their death in error, only to learn after the fact that they were innocent. I do not want this list of tragic mistakes to grow.

As much as I want to vote for the Brady bill, which I have so long fought to have enacted into law, I cannot support a bill which would wreak such harm.

Two Congresses ago, I supported the death penalty for drug kingpins who commit murder. The overwhelming evidence of involvement in extensive criminal activity in the case of drug kingpins provides greater certainty of the guilt of the defendant. For example, under the definition in the law, to be a drug kingpin, the murderer would have had to have been guilty of selling large amounts of illegal drugs and to have been the leader of a criminal enterprise of five or more individuals. Under these carefully circumscribed provisions, it is unlikely that an innocent person could be convicted of the crime.

In contrast to precautions inherent in the death penalty for drug kingpins law, this bill represents an unprecedented expansion of the death penalty and creates over 50 capital punishment

offenses with little protection against executing innocent people.

We have tried so hard to appear tougher on crime that we have filled this bill with capital punishment provisions that are empty gestures and meaningless in the fight against crime.

For example, the bill provides for capital punishment for killing a poultry inspector, killing a horse inspector and killing a meat inspector. While any murder is a heinous and awful act which deserves to be dealt with severely, these crimes occur rarely and are hardly the cause of the crime epidemic we face today. The American public wants relief from crime run rampant, but they are not going to obtain that relief knowing that we have made the murder of Government inspectors a death penalty offense.

Now let me address another example that shows the absurdity of what the Senate has done in this crime bill. The Senate was so determined to look tough, it even created Federal death penalties for crimes with no relationship to a Federal interest. This bill would take over much of the State control over their own criminal laws.

What has happened to States' rights? Many Members of this body have spent their political careers on the floor, talking to constituents, and even running for President, defending the rights of States to enact their own laws free from interference from the Federal Government. Now, when faced with an unprecedented incursion of a fundamental State prerogative—the right to determine criminal penalties for crimes committed in the State—the defenders of States' rights have fallen silent.

Under this bill, all gun killings, even those involving domestic disputes or street robberies, would now be subject to a Federal death penalty. Fourteen States that have chosen not to adopt the death penalty, now face a Federal death penalty for over half of the homicides committed in their State.

In addition, this bill would impose Federal mandatory minimums on States for all crimes of violence or drug trafficking where someone involved in the crime uses or possesses a firearm. Mr. President, I do not believe that the Senate is aware of what is in this bill. If you get into a fistfight in a bar, and you have a gun in your pocket which you never even take out, you could go to jail for 10 years as a result of this new mandatory minimum. No matter what the State law, Congress is telling the States that for 60 percent of their murders; for 33 percent of their robberies; and for over 20 percent of their assaults, the Federal Government will be able to dictate what penalties will be assessed. That is what is in this bill.

This unprecedented incursion upon State sovereignty in the critical area of criminal law is all the more absurd

because it is being done with the consent of ardent States' rights defenders. The Senator from South Carolina has stated in the past that the Congress needs "to reduce the intrusive interference by Federal courts in the State criminal justice system." Earlier this week, he railed against a proposal to implement literacy programs in State prisons as another example of the Federal Government "mandating that the States do things. Let the States choose," said Senator THURMOND.

The people in the States have just as much sense down there as we have here in Congress, and sometimes I think much more. \* \* \* They understand the situation.

But when it comes to deciding whether or not to impose the ultimate criminal punishment—death—the Senator from South Carolina does not want to let the States choose. When it comes to capital punishment, he has no trouble encroaching upon the sovereignty of those States that do not have a death penalty. And when it came to the question of imposing a Federal mandatory minimum sentence in every single State in the Union for any crime involving a gun, concerns about States' rights melted away.

The Senator from Utah, my friend, another strong defender of federalism, invoked States' rights when he opposed a provision in the Biden bill that would outlaw racial discrimination in the application of the death penalty. He stated that the Racial Justice Act "is clearly not desired by the State legislators who, in 39 different States, have adopted death penalty statutes since 1976." But when it came to deciding whether or not the death penalty should be imposed in States which forbid capital punishment, the Senator from Utah [Mr. HATCH] was silent about the desires and wishes of those States.

The Senator from Iowa, my good friend Senator GRASSLEY, is another great defender of States rights. He opposed the Biden habeas corpus proposal in part because he believed it abandoned "well-settled law regarding deference to State procedural rules." But what about the deference that should be accorded those States which oppose capital punishment? What about the deference that should be accorded those States which want to set their own penalties for crimes involving a gun?

Do we trust the States so little that we want the Federal authorities and the Federal courts to take over the function of fighting local crime? Will the American people be comforted to know that the Federal Government will be policing their streets? Or will they begin to see how absurd Congress' posturing on the crime issue has become?

This crime bill also purports to fight crime by undercutting habeas corpus protections, but I fail to see how a sin-

gle criminal act will be deterred by these changes.

While I did not agree with everything in the Powell commission report, which had addressed itself to the subject of habeas corpus, I support the goal of streamlining habeas corpus in order to prevent unnecessary delay and needlessly repetitive litigation. But what we have done in this bill goes too far, far beyond the Powell recommendations and far beyond what makes good sense. We have not reformed habeas corpus; we have, for all practical purposes, eliminated habeas corpus.

In fact, these provisions only make it more likely that we will mistakenly execute innocent people: A crime we think too little about as we prepare to pass this bill.

We are so concerned with haste, that we apparently no longer care if the courts are making correct determinations.

For example, this bill would prevent Federal courts from ruling on any constitutional issues which were fully and fairly adjudicated in State court, even if the State court's resolution of the issue was wrong.

In other words, this bill allows defendants to be put to death even when constitutional errors are made at their trial. It effectively bars defendants from ever having a chance at getting a new trial, free of constitutional error. How can we claim to be a nation which respects the Constitution and reveres due process, if we deny those sentenced to death the right to a trial which comports with the Constitution?

I am mindful of the tragic consequences of murder, but throwing away the Constitution and executing innocent people will not deter murders. Heaping wrong upon wrong is not a solution.

I am frank to say that as much as I want the Brady bill signed into law, I cannot support a bill which does so little to deter violent crime and which in the name of being tough on crime puts at risk the lives of innocent people. There is too much death penalty with too few protections. I am therefore compelled to vote against this crime bill.

#### EXTENSIONS OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

Mr. PRESSLER. Mr. President, I today voted for the fiscal year 1992 energy and water development appropria-

tions bill, H.R. 2427. While it does not contain all that I had wanted for water projects in my State, it does appropriate \$33,805,000 for the development of South Dakota's water resources. Therefore, I supported passage of this bill.

Due to the construction of the Missouri River mainstem dams, South Dakota possesses an abundance of water. However, that water is concentrated in the center of the State. We lack adequate distribution facilities to get the water to where it is needed.

The Federal Government has a long-standing obligation to the State of South Dakota to help develop the State's water resources. When construction of the mainstem dams flooded vast areas, my State lost more than a half million acres of its richest farmland. South Dakota has reaped some benefits from the presence of the dams, particularly in recreational areas, but these recreational benefits pale in comparison to the benefits reaped by downstream States from the taming of the Missouri River's historic propensity for ruinous flooding. The dams that now permanently flood land in South Dakota prevent the disastrous flooding of the downstream States.

Based on this set of facts, I always have supported the funding of vital and necessary water projects in South Dakota. I never have considered these appropriations porkbarrel spending, as water projects are derisively referred to by some political pundits and ivory tower academicians. Rather, these appropriations represent only a partial repayment on an obligation the Federal Government owes the State of South Dakota—a good faith effort to compensate the State for the sacrifices it made for the benefit of downstream States.

I voted for passage of this bill today. I will continue to work on behalf of my State to obtain additional future funding for the development of South Dakota's water resources.

#### CORRECTION

Mr. CRANSTON. Mr. President, last year I submitted for the RECORD an important study on rising antisemitism in Eastern Europe. The study was drafted by the London-based Institute of Jewish Affairs in coordination with the Anti-Defamation League.

Since that time, it has come to my attention that a mistaken translation of an excerpt from a book by Dr. Franjo Tudjman, leader of the nationalist Croatia Democratic Union and now the President of the Yugoslavian Republic of Croatia, gave a misleading and inaccurate picture.

In discussing antisemitic incidents in Yugoslavia, the report stated that a 1989 book by Dr. Tudjman entitled "Wanderings of Historical Truth" included a blatantly antisemitic ref-

erence. The report described the antisemitic reference as a "particularly worrying incident."

It seems, however, that the antisemitic comment was not made by Dr. Tudjman. The statement was a quotation by a former Serbian prisoner in one of the Nazi death camps. Dr. Tudjman was quoting the prisoner, specifically identifying his statement as antisemitic.

Dr. Howard Spier, the author of this report, has apologized for the error. He was quoting from an article which appeared in the London Jewish Chronicle by Srdjan Matic, a leading official of the Zagreb Jewish community. Mr. Matic has since indicated that he was misinterpreted.

I am pleased to correct the RECORD at this time.

#### SOUTH AFRICA SANCTIONS

Mr. DURENBERGER. Mr. President, I rise today to support President Bush's decision to lift United States sanctions against South Africa. The President is acting in full accordance with the law passed by the Congress in 1986, and I believe his decision will help further our shared objectives of promoting continued and positive change in South Africa.

Although South Africa still has a long way to go before it can claim a fully functioning, majority-based democracy with equal rights for all its citizens, it is quite clear to this Senator that South Africa has made major progress toward eliminating the evils of apartheid. In fact, the progress now appears to be irreversible.

It is very important that this country recognize and acknowledge this progress and adapt our policies to new circumstances.

Furthermore, the United States sanctions law does not require South Africa to achieve a perfect democracy before sanctions can be lifted. The reality of the situation is such that the conditions of the 1986 law have been met, and the President is correct in lifting the sanctions.

In 1986, this country opted for the carrot and stick approach: imposing sanctions was the stick; the promise to remove them if reforms were made was the carrot. We have used the stick now for 5 years. It is time to use the carrot.

Historians will debate for all time the question of just how much influence the sanctions—the stick—had on South Africa. But it is clear that, whatever the impetus, South Africa has already made remarkable progress in abolishing the foundations of apartheid and that they have met the conditions in the United States law.

At this time, Mr. President, I believe we can better advance our shared objectives by reengaging with South Africa. The 1986 sanctions law has served its purposes, and now it is time to

move forward, to adapt to new circumstances.

Let us move forward in our policy toward South Africa to encourage continued progress. Lifting the sanctions is the first step in a different and positive direction, and I look forward to this new era in United States-South Africa relations.

Thank you, Mr. President. I yield the floor.

#### THE CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, since the nomination of my good friend and longtime associate, Clarence Thomas, to the U.S. Supreme Court, some Senators have asked me my intention with respect to civil rights legislation, which of course has been the subject of intense discussion and negotiation not only for the last month or so, but for about the last 2 years.

And, therefore, I would like to take the floor briefly this evening to state for whomever happens to be listening what my views are on the course of civil rights legislation.

Obviously, a great deal of my own time is going to be spent voluntarily attempting to persuade my colleagues to support the nomination of Clarence Thomas to the U.S. Supreme Court. He is a person I have known for 17 years. I first hired him when he was a third-year law student out of Yale Law School, and he worked for me in the attorney general's office in Jefferson City, and again came to work for me here in Washington. I know him to be a first-rate person and as a person who is eminently well qualified to serve on the Supreme Court. I am going to be spending a lot of time working on that.

But I also want to make it clear that in no way is my determination to try to help pass the civil rights bill lessened by my commitment to spend a lot of time on the Thomas nomination. I believe that it is very important, Mr. President, for our country to resolve the issues that were created by the Supreme Court's various decisions on civil rights and to reestablish what I believe is the national consensus on civil rights in this country. And, therefore, in my view, the sooner we pass the legislation, the better off we are.

Mr. President, I have continued to have a variety of discussions since we returned from the recess with a variety of parties on the question of civil rights legislation. I think that the good that has been accomplished over the last few months is that we have succeeded in narrowing the issues so that a lot of the legalistic nature of the discussions that has gone on for the past couple of years is now, in my opinion, behind us.

We have succeeded in clearing away a lot of the underbrush and exposing the one issue which now has become the paramount issue on civil rights, and

that issue is a policy issue; it is not a legalism. It is a policy issue which is pretty easy to explain and which now, in my opinion, is ripe for consideration both by the President of the United States and by Members of Congress.

In a nutshell, the policy issue that remains for consideration is this: Should it be lawful for an employer to create qualifications for employment which do not have anything to do with the ability of a person to do the job, and which qualifications serve to screen out women or to screen out minorities from employment? Should the employer be able to do that?

And that precise issue is the one that I think has now been presented because of the winnowing effect of what we have been doing over the last month in working on this legislation. We have exposed that precise policy issue.

Ways in which this policy issue could crop up might include, for example, whether an employer could establish a high school diploma as a requirement for employment for, say, a janitorial job, if the high school diploma, as a matter of fact, screened out a minority group from employment; or whether an employer could say that, as a matter of job qualification, single parents would no longer be employed by that particular business, even though that would obviously screen out women and would have no relationship to the ability of the employee to do the job.

Now, that is what we are down to. That is the most significant remaining issue in all of this debate on civil rights. And I think it is a fairly easy issue for people to come to grips with. Should an employer be able to say that janitors must have a high school diploma; yes or no? If the answer is yes, then the employer could use that qualification, unrelated to ability to do the job, as a way of keeping out perhaps some minorities from being able to have access to the workplace.

It is a very direct issue, a very fundamental issue, and an issue which was resolved by the U.S. Supreme Court back in 1971 in a case called Griggs versus Duke Power Co. In that case, the U.S. Supreme Court said that the employer could not use a high school diploma as a condition of employment for a job that did not require educational ability or educational background.

So the Supreme Court decided that in 1971. It remained the law until 1989, until the Supreme Court decided the Wards Cove case. And throughout all of these discussions over the last 2 years, most people have said that we should get back to the Griggs case. The administration has said repeatedly we should get back to the Griggs case. We should get back to the exact language that was used in the Griggs case.

Well, the holding of the Griggs case was that artificial qualifications unrelated to ability to perform the job

could not be used as a screening device to screen out women or to screen out minorities. That was the holding of the case. That is the issue that is now before the policymakers.

Clearly, Mr. President, it would be a much better and easier and cleaner result for our country if we could decide that issue before it comes to the floor of the Senate. If the President of the United States would decide that the Griggs case should be the law, that these qualifications that have no relationship to job performance should not be used to screen minorities or women, if the President could decide that, then I believe we are very close to coming to an agreement which would be adequate in the eyes of the administration and the President, and which could become law.

I think we are very close to that. The President is going to be leaving for Europe. He is obviously going to be preoccupied by foreign policy matters for the next week and a half or so. But it is my hope that when he returns he could address this very fundamental policy question, hopefully to decide it in a way which would allow us to pass this bill very quickly.

In the event the President does not believe that the Griggs case is the last word on job qualifications, then it is my thought that the only available way to resolve the issue is the way that policy matters are normally resolved in our system, and that is that the legislation proceeds through the Senate and we see what happens to it in the normal course of affairs.

I think, again, just to wind up, that the best interests of the country would be served by reaching an agreement on this matter. I think that an agreement is very close. I think that we are down to one policy issue, and I think that policy issue is exactly the same one that the Supreme Court decided in the Griggs case in 1971.

I yield the floor.

#### CLOTURE VOTE ON S. 1241

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting to limit debate on S. 1241, the Violent Crime Control Act of 1991.

On March 6, President Bush challenged the Congress to pass a highway bill and a crime bill within 100 days. The Senate missed that deadline with the highway bill by 5 days; 126 days have now passed since the President's challenge, and this body has still not completed action on a crime bill that we have been considering 3 weeks.

We have debated and settled several controversial issues on this bill. On the issue of gun control, we struggled to come up with a compromise on the Brady bill that will facilitate the development of a national criminal identification system that should make it

more difficult for convicted felons and other dangerous individuals to obtain handguns through licensed gun dealers.

After days of debate, we adopted a bipartisan compromise that will create a 5-day waiting period before a handgun can be purchased. Although there was wide disagreement in this body on the usefulness of waiting periods, this Dole-Metzenbaum proposal was the best compromise we were able to reach that would move us toward the common goal of a national computerized instant background check. Further debate on this bill will not result in a better compromise on this controversial issue.

Mr. President, there will come a time when we will all be called on to cast our votes on passing this bill. I will vote no on final passage because I cannot support any measure that would allow for the imposition of the death penalty. I and many of my colleagues who also oppose the death penalty have had an opportunity on several occasions to make our views known on amendments expanding the death penalty.

We had our day on the Senate floor, and when it came to a vote, we lost. Further debate on S. 1241 will not change that outcome. Dragging out the debate on this bill will not make S. 1241 a better bill, nor will it serve our constituents.

Mr. President, we have all had an opportunity to debate the important issues related to crime. These issues have been argued and concluded. I ask now that we be able to vote on the merits of this bill. I have hopes that this bill will be improved in conference committee with the House of Representatives.

Mr. President, we owe it to President Bush and the American people not to stall on this legislation any longer. I intend to vote to invoke cloture on this bill so that this body can proceed with our Nation's pressing business, and I encourage my colleagues to do the same.

#### LIFTING SANCTIONS ON SOUTH AFRICA

Mr. MOYNIHAN. Mr. President, we learned today that President Bush has decided to lift economic sanctions imposed on South Africa under the Comprehensive Anti-Apartheid Act. By so doing, the President is certifying that the five conditions set forth in the act have been met, including the release of all political prisoners.

Mr. President, the developments in South Africa since President F.W. de Klerk delivered his February 2, 1990, speech have been dramatic. The legal framework of the apartheid system has been repealed. Nelson Mandela has been released and has responded to the Government's initiatives with a grace

that has been simply extraordinary. At long last there is hope.

But we must remember that for all of these positive steps, little has changed in the lives of South Africa's black citizens. They still live, for the most part, in wretched poverty which is largely the product of more than three decades of obscene, legally-enforced racist policies.

I am troubled by the administration's assertion that all political prisoners have been released. The fate of political prisoners in South Africa has long been a matter of concern to me. In 1975, at the time that I had the honor to serve as the U.S. Permanent Representative to the United Nations, President Ford directed that the United States support a General Assembly resolution entitled "Solidarity with the South African Political Prisoners." This resolution condemned "the ruthless repression by the racist South African regime," expressed "solidarity with all South Africans struggling against apartheid," and called upon the South African regime to grant an unconditional amnesty to all persons imprisoned or restricted for their opposition to apartheid or acts arising from such opposition. The United States delegation strongly supported the resolution in the Special Political Committee, presenting a lawyer-like case—in the tradition of a Brandeis brief—against apartheid and documenting by name the prisoners being held in South Africa for their beliefs, including, of course, Nelson Mandela.

Mr. Mandela and the others that we mentioned during that debate more than a decade and a half ago have finally been released, but two categories of prisoners still merit close scrutiny. First, there are those who are held by the nominally independent homelands created by the South African Government for the purpose of disenfranchising South Africa's black citizens. The United States has quite rightly never accepted the fiction that these "homelands" were beyond the control of the South African Government. It is troubling, therefore, that the administration now seems to have accepted the proposition that the South African Government has no responsibility for these prisoners.

Second, there are those prisoners who are held for so-called unrest-related offenses which occurred during the recent period of emergency. Mr. President, this emergency was brought about by the struggle of the black majority in South Africa against apartheid. The means adopted by the Government to stop these protests were brutal and some 4,000 persons still languish in prison as a result. While I can well imagine that some of these persons do not meet the definition of a political prisoner, I am surprised that the administration is willing to vouch that none do. I note that the African Na-

tional Congress, at its recently completed National Conference, requested that the international community maintain sanctions and argued that many political prisoners are still being held by the Government. Amnesty International has stated that "it may be too early for President Bush to contend that all political prisoners in South Africa have been freed" and notes that 1,500 people were detained incommunicado without charge or trial in South Africa as recently as last year.

Mr. President, the reality of apartheid remains and we must not permit the South African Government to believe that it has done enough, that the international community is satisfied. The truth is very different. The South African Government has only just begun to correct the injustice of apartheid and the United States Congress will be monitoring its continued progress closely.

#### TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,307th day that Terry Anderson has been held captive in Lebanon.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. The majority leader is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments which are at the desk be the only amendments in order to the crime bill prior to the next cloture vote; that they be considered and agreed to en bloc; that the motions to reconsider be tabled en bloc; that no motions to recommit be in order prior to the next cloture vote. The amendments are as follows:

An amendment by Senator RUDMAN on prisons/drug czar; an amendment by Senator D'AMATO technical; an amendment by Senator DOLE, technical on guns; an amendment by Senator SEYMOUR on alien exploitation; and amend-

ment by Senator MCCONNELL on public corruption; an amendment by Senators THURMOND and BIDEN that is technical; an amendment by Senator BINGAMAN that is technical; an amendment by Senator RIEGLE on violent crime; an amendment by Senator DeCONCINI, commission on law enforcement; and an amendment by Senator GRAMM of Texas on prisons.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes amendments en bloc numbered 722, 723, 724, 725, 726, 727, 728, 729, 730, and 731.

The amendments agreed to en bloc are as follows:

AMENDMENT No. 722

(Purpose: To provide that the Director of the Bureau of Prisons shall select locations for regional prisons and boot camps)

On page 160, line 5, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 160, line 6, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

On page 162, line 20 and 21, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 162, line 22, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

AMENDMENT No. 723

(Purpose: Technical amendment to previous D'Amato amendment)

Strike amendment No. 387 and insert in lieu thereof:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"(4)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this paragraph, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sen-

tenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this paragraph, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this paragraph shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime)."

"(D) For purpose of this paragraph, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this paragraph the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this paragraph shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subparagraph shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

AMENDMENT No. 724

(Purpose: To make a technical change)

Section 922(u) of title 18, United States Code, as added by section 2701 of the amendment, is amended—

(1) in paragraph (1) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) adding after subparagraph (C) the following:

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of the Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

(2) in paragraph (7)(B)(1) by striking "destroy and record" and inserting "destroy the statement and any record";

Section 922(v)(1)(A) of title 18, United States Code, as added by section 2701 of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" and inserting "Violent Crime Control Act of 1991" and section 922(v)(5) of such title is amended by inserting "or a political subdivision of a state of employee thereof" after the word "employee".

Section 2702(d)(1)(B) of the amendment is amended by striking "(C)" and inserting "(c)".

Section 509(b)(4) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2703(a)(1) of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" both places it appears and inserting "Violent Crime Control Act of 1991".

AMENDMENT No. 725

(Purpose: To impose civil fines in cases of inducement of illegal aliens to commit aggravated felonies)

At the end of the bill, insert the following:

TITLE —EXPLOITATION OF ALIENS

SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than \$100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than \$100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

**SEC. 63. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.**

(a) **ESTABLISHMENT.**—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02 shall be covered into the Fund and shall be used for the purposes of this section.

§ 03(b)(1) to read as follows:

"(b) **DISTRIBUTION OF MONIES IN THE FUND.**—(1) Ninety percent of the monies covered into the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded."

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) **TECHNICAL AMENDMENT.**—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

**Mr. SEYMOUR.** Mr. President, the amendment I offer is the latest chapter in our efforts to address the growing burden that criminal aliens place on our Federal, and State prisons, as well as local jails.

We have spent a week now on legislation that represents our commitment to stopping violent crime. Most importantly, this legislation symbolizes that we can't fight this war alone. We need the full cooperation, the best effort of the men and women who represent our State and local law enforcement agencies.

Their participation, Mr. President, is crucial, because they are the ones on the front lines in the war against violent crime.

But our participation is equally crucial, especially in those areas of the law that are clearly Federal responsibilities.

For most Californians and other citizens of the Southwest United States, the primary Federal law enforcement responsibility lies at the border: To stop the importation of illegal drugs, illegal weapons, and the illegal criminal aliens that come with them. People who cross the border to prey upon an innocent society, to become involved in gang activity, violence, and other serious crimes.

State and local law enforcement is doing the job. State prisons and local jails are overflowing with alien felons, their very crimes making them deportable, and deporting them once they've done their time in jail or prison is our—the Federal Government's—responsibility.

Now, I admit, Mr. President, this is a tough and difficult responsibility. But the degree of difficulty should not be an excuse for not fully upholding that responsibility.

As my colleagues know, just last year, Congress passed and the President signed into law the Immigration Act of 1990. Under this law, we reaffirmed our commitment that our first priority must be to deport alien felons the very minute they're released from prison.

We must not retreat from this goal. The very first step that a criminal alien takes out of prison must be into a waiting vehicle, its destination beyond the borders of the United States.

Mr. President, this important goal is not new to me. In fact, as a State senator, I introduced legislation to create a statewide program that attempts to speed up the process of identifying these alien felons. Once identified, the process of deportation can begin.

That program was based on a system instituted by Orange County Superior Court Judge David Carter. Under this system, 35 percent of the defendants brought before his court were found to be undocumented aliens, allowing the INS to begin deportation proceedings.

But despite efforts at the State level, meeting our goal depends on what we do here in Washington.

Last year's immigration act moves us a step closer: It call for the creation of 20 new immigration judges, and calls on the Attorney General to report to the Congress this December with a plan that will move us to that goal.

I look forward to reading the Attorney General's recommendations. But in the meantime, we can do more to speed up the process and get these alien felons out of our communities and our country.

That's what this amendment is about. My proposal calls for fines of up to \$100,000 for those using an alien to commit an aggravated felony. Those in violation of my amendment will literally have to pay dearly for using aliens as their criminal foot soldiers.

But more importantly, my amendment proposes we use the money col-

lected under this new penalty to meet our ultimate goal, that day when released alien convicts will breathe their first breath of freedom—outside of America.

All fines collected will be deposited into a criminal alien identification and removal fund, where the attorney general will have the discretion to use 90 percent of these funds to assist the INS to identify and deport alien felons and fund any of the 20 additional immigration judge positions created last year.

The remaining funds can be used by the States to implement systems like the one so effectively used by Judge Carter.

Mr. President, this amendment is a modest attempt to meet the goal I've described, but it won't be my last. I intend to revisit this issue, Mr. President, because these alien thugs are the responsibility of the Federal Government, regardless of where they are being housed, whether in a State prison or a local jail. Once they crossed that border, and once they committed a crime, they have violated Federal law, and therefore, it is up to us to deal with them.

Finally, I would like to express my thanks to my good friend from Wyoming and the Senior Senator from Massachusetts for their expertise and counsel in the development of this amendment.

**AMENDMENT No. 726**

(Purpose: To amend title 18 of the United States Code to add criminal offenses for public corruption and narcotics related public corruption)

At the end of the bill, add the following:

**TITLE —PUBLIC CORRUPTION**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Anti-Corruption Act of 1991".

**SEC. 02. OFFENSE.**

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 226. Public corruption**

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulator of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State or the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling \$10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharged, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against

because of lawful acts done by the employee as a result of a violation of subsection (e) or because of any actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity establishing and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce."

#### SEC. 63. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption."

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption),"

after "section 224 (relating to sports bribery)."

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests)."

#### SEC. 64. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

"(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interests or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

"(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce."

#### SEC. 65. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

##### "§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

“(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

“(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be nominated or appointed;

“(2) the term ‘official act’ means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit; and

“(3) the terms ‘controlled substance’ and ‘controlled substance analogue’ have the meaning set forth in section 102 of the Controlled Substances Act.”

(b) **CONFORMING AMENDMENTS.**—(1). Section 1961(1) of title 18, United States Code, is amended by inserting “section 220 (relating to narcotics and public corruption),” after “section 201 (relating to bribery).”

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting “section 220 (relating to narcotics and public corruption),” after “section 201 (bribery of public officials and witnesses).”

(c) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

“220. Narcotics and public corruption.”

**AMENDMENT No. 272**

(Purpose: To make minor and technical corrections)

At the appropriate place insert the following:

*“Be it enacted by the Senate and House of Representatives in Congress assembled, that this Act may be cited as the ‘Miscellaneous Criminal Law Improvements Act of 1991’.”*

Subtitle A—Sentencing and Magistrates Amendments

**SEC. 101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OR PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.**

Section 3565(a) of title 18, United States Code, is amended by striking “sentence the defendant to not less than one-third of the original sentence” and inserting in lieu thereof “resentence the defendant under subchapter A to a sentence that includes a term of imprisonment”.

**SEC. 102. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.**

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: “However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.”

**SEC. 103. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.**

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding “other than a petty offense” after “misdemeanor”; and

(2) in subsection (g) by amending the first sentence to read as follows: “The magistrate judge may, in a petty offense case involving

a juvenile, exercise all powers granted to the district court under chapter 403 of this title.”

**SEC. 104. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.**

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: “A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.”

**SEC. 105. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.**

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking “place him on probation or commit him to official detention” and inserting in lieu thereof “place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)” and by striking “subsection (d)” and inserting in lieu thereof “subsection (e);” and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not be ordered—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) if any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.”

**SEC. 201. RECEIVING THE PROCEEDS OF A POST-AL ROBBERY.**

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

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

“(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.”

**SEC. 202. RECEIVING THE PROCEEDS OF EXTORTION ON KIDNAPPING.**

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

**“§ 880. Receiving the proceeds of extortion**

“Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both.”; and

(2) in the table of sections, by adding at the end thereof the following item: “880. Receiving the proceeds of extortion.”

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection “(a)”; and

(2) by adding the following new subsections:

“(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a state or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.”

“(c) For purposes of this section, the term ‘State’ has the meaning set forth in section 245(d) of this title.

**SEC. 203. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.**

Section 1505 of title 18, United States Code, is amended by inserting “section 1968 of this title, section 3733 of title 31, United States Code or” before “Antitrust Civil Process Act.”

**SEC. 205. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.**

Section 3059A of title 18, United States Code is amended—

(1) by inserting “225,” after “215”; and

(2) by inserting “or” before “1344”; and

(3) by inserting “, or 1517” after “1344”.

**SEC. 206. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.**

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

“(h) As used in this section, in term ‘savings and loan association’ means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.”

**SEC. 207. CONFORMING DEFINITION OF “1 YEAR PERIOD” IN 18 U.S.C. 1516.**

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting “(i)” before “the term”; and

(2) by inserting before the period the following: “, and (ii) the term ‘in any 1 year period’ has the meaning given to the term ‘in any one-year period’ in section 666 of this title.

**Subtitle C—Miscellaneous Amendments**

**SEC. 301. SEXUAL ABUSE AMENDMENTS.**

**SEC. 302. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.**

(a) **IN GENERAL.**—Chapter 211 of title 18, United States Code, is amended by inserting: “§ 3239. Optional venue for espionage and related offenses

“The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

“(1) section 793, 794, 798, or section 1030(a)(1) of this title;

“(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

“(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)); may be in the District of Co-

lumbia or in any other district authorized by law.”

“(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows: “3239. Optional venue for espionage and related offense.”

**SEC. 308. DEFINITION OF LIVESTOCK.**

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of “cattle” the following:

“Livestock means any domestic animals raised for home use, consumptions, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof.”

**SEC. 309. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.**

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: “In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.”

**Subtitle D—Technical Amendments**

**SEC. 401. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.**

(1) Section 1791(b) of title 18, United States Code, is amended by striking “(c)” wherever it appears and inserting in lieu thereof “(d)”;

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking “section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)” and inserting in lieu thereof “section 422 of the Controlled Substances Act (21 U.S.C. 863)”;

(3) Section 2703(d) of title 18, United States Code, is amended by striking “section 3126(2)(A)” and inserting in lieu thereof “section 3127(2)(A)”;

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term “State” as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking “subsection (e) of section 4241, 4243, 4244, 4245, or 4246,” and inserting in lieu thereof “subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,”;

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking “subsection (d)(1)” and inserting in lieu thereof “subsection (c)(1)”;

(7)(a) Section 994(h) of title 28, United States Code, is amended by striking “section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)” each place it appears and inserting in lieu thereof “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”; (b) section 924(e) of title 18, United States Code, is amended by striking “the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et. seq.)” and inserting in lieu thereof “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”;

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking “951(c)(1)” and inserting in lieu thereof “951(c)(2)”;

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101-123 as subsection (h).

**SEC. 402. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.**

Title 18, United States Code, is amended— (1) in section 212, by striking “or of any National Agricultural Credit Corporation,” and by striking “or National Agricultural Credit Corporations”;

(2) in section 213, by striking “or examiner of National Agricultural Credit Corporations”;

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking “Reconstruction Finance Corporation,” and by striking “Farmers’ Home Corporation,”;

(7) in section 658, by striking “Farmers’ Home Corporation,”;

(8) in section 1013, by striking “, or by any National Agricultural Credit Corporation”;

(9) in section 1014, by striking “Reconstruction Finance Corporation,” by striking “Farmers’ Home Corporation,” and by striking the second comma following the words “Federal Reserve Act”;

(10) in section 1160, by striking “white person” and inserting in lieu thereof “non-Indian”;

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting “or” before “farm credit examiner” and by striking “or an examiner of National Agricultural Credit Corporations,”;

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing the subsections (f) and (g) that were enacted by Public Law 100-690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking “except for offenses barred by the provisions of law existing on August 4, 1939”.

**SEC. 404. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.**

Section 1116(a) of title 18, United States Code, is amended by striking “, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years”.

**SEC. 405. ELIMINATION OF REDUNDANT PENALTY.**

Section 1864(c) of title 18, United States Code, is amended by striking “(b) (3), (4), or (5)” and inserting in lieu thereof “(b)(5)”.

**SEC. 406. CORRECTIONS OF MISPELLINGS AND GRAMMATICAL ERRORS.**

Title 18, United States Code, is amended:

(1) in section 151, by striking “mean” and inserting in lieu thereof “means”;

(2) in section 513(c)(4), by striking “association or persons” and inserting in lieu thereof “association of persons”;

(3) in section 1014, by striking the comma following a comma after “Act”;

(4) in section 1956(e), by striking “Environmental” and inserting in lieu thereof “Environmental”;

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking “provider for” and inserting in lieu thereof “provider of” in subsection (d); and

(6) in section 3731, by striking “order of a district courts” and inserting in lieu thereof “order of a district court” in the second undesignated paragraph.

**SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.**

(a) Section 241 of title 18, United States Code, is amended by deleting “inhabitant of” and inserting in lieu thereof “person in”.

(b) Section 242 of title 18, United States Code, is amended by deleting “inhabitant of” and inserting in lieu thereof “person in” and by deleting “such inhabitant” and inserting in lieu thereof “such person”.

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

**Sec. 1(a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.**—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

**“§21. Stolen or counterfeit nature of property for certain crimes defined**

Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term “official representation” means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following: “21. Stolen or counterfeit nature of property for certain crimes defined.”

**SEC. 232. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.**

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before “Any” the following new sentence: “Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.”;

(2) in subsection (d)(1)(A), by inserting after “a firearm or destructive device” the words “or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection”;

(3) in subsection (d)(1)(B), by inserting before “ammunition,” the following: “marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (c) of this subsection,”;

(4) in subsection (d)(1)(C), by inserting “methamphetamine, its salts, isomers, and salts of its isomers,” after “a narcotic drug,”;

(5) in subsection (d)(1)(D), by inserting “(A), (B), or” before “(C)”;

(6) in subsection (b), by striking “(c)” each place it appears and inserting in lieu thereof “(d)”.

**SEC. 233. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.**

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(1) by amending the title of such section to read as follows:

**"SEC. 1703. Seizure and forfeiture of vessels, vehicles and other conveyances";**

(2) by amending the title of subsection (a) to read as follows:

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture";

(3) by amending the title of subsection (b) to read as follows:

"(b) Vessels, vehicles and other conveyances; defined";

(4) by inserting " , vehicle, or other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling

"For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel falls, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling."

(b) The table of sections for Chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.

"(b) Vessels, vehicles and other conveyances, defined.

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling."

**SEC. 234. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.**

Section 497(a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or \$500, whichever is greater" after "value of the article".

**SEC. 235. UNDERCOVER OPERATIONS—CEURNING.**

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994."

**SEC. 236. DRUG PARAPHERNALIA AMENDMENT.**

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) Civil Enforcement.

"The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or

has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to \$100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law."

**SEC. 237. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.**

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

**SEC. 238. CONFORMING AMENDMENTS CONCERNING MARIHUANA.**

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

**SEC. 241. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.**

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3))."

**SEC. 242. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.**

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

**SEC. 243. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more

prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final"

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State of foreign country that prohibits or restricts conduct relating to narcotic drugs, marijuana, or depressant or stimulant substances."; and

**SEC. 244. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.**

(a) Sections 401(b)(1) (A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.";

(b) Sections 1010(b) (1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.";

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking " ; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.";

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking " ; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section."

**SEC. 245. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.**

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

**SENATE AMENDMENT NO. 728**

(Purpose: To establish a discretionary grant program for life skills training in State and local prisons, jails, and detention centers)

At the appropriate place, insert the following:

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, inter-personal and family relationships, and stress and anger management.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following amendment, which I now send to the desk, be in order notwithstanding the Senate's adoption of the Thurmond amendment, No. 518, and that this amendment be placed in the bill at the end of the language that was added by the Bingaman amendment, No. 517.

I am pleased that the Senate has agreed to accept this amendment, which will restore to S. 1241 an important provision of an amendment I offered Tuesday on State prison literacy training programs. As my colleagues may recall, my earlier amendment was modified by a second-degree amendment offered by the Senator from South Carolina [Mr. THURMOND]. He has graciously, and wisely, I believe, agreed that this provision is worthy of reintroduction.

This amendment establishes a new discretionary grant program, to be administered by the Department of Justice in conjunction with the now-discretionary literacy training grant program. It will assist State and local prisons in their efforts to reduce crime and recidivism. Under this provision, State and local correctional agencies will be eligible to apply for Federal assistance to help them establish and operate programs aimed at developing and improving the life skills incarcerated individuals will need to successfully reintegrate into society. Important life skills include self-development, communication skills, job and financial skills development, education, interpersonal and family relationship skills, and stress and anger management.

My amendment authorizes the Attorney General to award life skill development grants to correctional agencies that show the most promise for establishing low-cost, innovative, and effective programs capable of being rep-

licated in other systems, prisons, jails, and detention centers. In exchange for accepting the grants, the chief officer of the prison, jail, or detention center will report annually to the Attorney General on the institution's life skill training program and its cost.

I believe an excellent example of the type of program this amendment envisions is the Comienzos Program at the Bernalillo County Detention Center in Albuquerque, NM. I had the pleasure of touring this facility and sitting in on a session of Comienzos last month. This program is a novel and innovative approach to jail education, conceived and developed by Sisters Mary Jo Boland and Natalie Rossi in Albuquerque. Comienzos, which operates in conjunction with the center's nationally and internationally renown literacy program, focuses on issues important to inmates who will one day return to society. The issues—or life skills—include self-development, communication, job and financial skills development, enhancement of educational skills, interpersonal and family relationship development, behavior modification, and stress and anger management. Over an 8-week period, Comienzos helps inmates develop these skills through lectures by staff, special guest speakers, and residents; group interactions and discussions; interactive videos and tapes and written material; and artistic expression.

This program is not only a humane approach to incarceration; it is also a positive strategy for combating the rising rate of recidivism in our Nation's jails. Its goal is simple and profound: To provide individuals with the basic tools needed to cope in a complex society. This is exactly the type of program we should encourage if we are serious about our commitment to reducing crime in the United States; and this amendment is a real step toward that encouragement.

Mr. President, through this amendment, more New Mexicans and individuals across the country will benefit from the devotion and hard work of the dedicated people at the Bernalillo County Detention Center. I wish to personally acknowledge and thank Sisters Mary Jo Boland and Natalie Rossi, Mr. Ralph Ruiz, director of corrections at the Bernalillo Center, Mr. Gordon Bernell, the center's education director, and the center's many volunteers, who have given countless hours to helping people in need gain self-esteem and achieve more than they ever thought possible. I am offering this amendment on behalf of these individuals and the people they serve. I am grateful that my colleagues are willing to support it.

#### AMENDMENT No. 729

(Purpose: To provide additional Federal assistance to States for the purposes of enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or face particular violent crime problems that warrant Federal assistance and developing and implementing multijurisdictional strategies to respond to and prevent violent crime)

At the appropriate place in the bill, insert the following:

#### SEC. REGIONAL VIOLENT CRIME ASSISTANCE.

(a) AUTHORIZATION OF GRANTS.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) AMOUNT OF GRANTS.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed \$10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize 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 law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for

Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than \$100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

**AMENDMENT NO. 730**

(Purpose: To establish the National Commission to Support Law Enforcement, and for other purposes)

On page 245, add after line 15 the following:  
**TITLE XXVIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT**

**SEC. 2801. SHORT TITLE.**

This title may be cited as the "National Commission to Support Law Enforcement Act".

**SEC. 2802. CONGRESSIONAL FINDINGS.**

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

**SEC. 2803. ESTABLISHMENT**

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

**SEC. 2804. DUTIES.**

(a) **IN GENERAL.**—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) **FUNDING.**—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) **EMPLOYMENT.**—The conditions of law enforcement employment.

(3) **INFORMATION.**—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) **RESEARCH AND TRAINING.**—The status of law enforcement research and education and training.

(5) **EQUIPMENT AND RESOURCES.**—The adequacy of equipment, physical resources, and human resources.

(6) **COOPERATION.**—The cooperation among Federal, State, and local law enforcement agencies.

(7) **RESPONSIBILITY.**—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) **IMPACT.**—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) **CONSULTATION.**—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

**SEC. 2805. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House;

(D) 1 shall be appointed by the Minority Leader of the Senate; and

(E) 1 shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House;

(D) 1 shall be appointed by the Minority Leader of the Senate; and

(E) 1 shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the Senate Majority Leader; and

(B) 1 shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) **COMPENSATION.**—

(1) **IN GENERAL.**—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) **TRAVEL EXPENSES.**—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) **APPOINTMENT DATES.**—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

**SEC. 2806. EXPERTS AND CONSULTANTS.**

(a) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) **ADMINISTRATIVE SUPPORT.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

**SEC. 2807. POWERS OF COMMISSION.**

(a) **HEARINGS.**—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) **DELEGATION OF AUTHORITY.**—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) **INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

**SEC. 2808. REPORT.**

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

**SEC. 2809. TERMINATION.**

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2808.

**SEC. 2810. REPEALS.**

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and Title II, Section 211B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) is repealed.

**AMENDMENT NO. 731**

(Purpose: To reduce the distribution and use of illegal drugs in Federal prisons by imposing minimum, mandatory sentences for offenses and to withhold prisoners' Federal benefits to offset costs of incarceration)

On page 226, between lines 11 and 12, insert the following:

**SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.**

(a) **DECLARATION OF POLICY.**—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) **AMENDMENT.**—Section 401(b) of the Controlled Substances Act 21 (21 U.S.C. 841(b)) is

amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph."

Mr. MITCHELL. I further ask unanimous consent that the cloture vote now scheduled to occur tomorrow instead occur tonight at 8:30 p.m., with the mandatory live quorum being waived, and that in the 30 minutes between now and the cloture vote Senator HELMS be recognized to address the Senate for 20 minutes, and then Senator BIDEN be recognized to address the Senate for 5 minutes, and Senator THURMOND be recognized to address the Senate for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 20 minutes.

Mr. HELMS. I thank the Chair.

Let me review quickly. There are certain amendments on which certain Members of the Senate do not want to vote. We experienced that the other day when I offered an amendment relating to quotas. The press said that Helms tied up the Senate. Helms did not tie up the Senate. Helms was ready to vote after he offered the amendment. But they put in a quorum call and 10 hours elapsed and the Senate did not do another thing.

So let us have an understanding of one thing, that there are certain amendments on which certain Senators do not want to have a vote.

Now, I have two amendments which I offered to the negotiators that I would accept a 30-minute time limitation on each of them equally divided so that we could have a vote. Oh, no. Helms is not going to have a chance on that. Well, Helms is going to have a chance to get a vote one way or another. It will be a vote to indicate how Senators feel.

Now, let me read you the first amendment and see if anybody who

may be watching on C-SPAN could possibly disagree with it, let alone Senators.

At the end of the amendment, add the following: "Title 18, United States Code, is amended by adding at the appropriate place the following new section:

**"SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS**

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than \$10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—  
(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure."

Mr. HELMS. Mr. President, I have in my hand a series of articles taken from the Raleigh News and Observer, the Washington Times, and Newsweek. Each article describes, sometimes in graphic detail, the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors, dentists, and health care workers, who are carriers of this deadly virus.

I have become aware of the case of Kimberly Bergalis a 23-year-old Florida woman who is now in the last stages of AIDS-related tuberculosis, a condition which is slowly destroying her brain and body. As the July 1 edition of Newsweek states, "sometime in the next few days, Bergalis will probably become the first American to die of AIDS, after being infected by her dentist \* \* \*"

For the last few months, Kimberly has taken her struggle to the American people, demanding that HIV-infected doctors, dentists, and health care workers be required to disclose their condition to their patients. You see, Kimberly's dentist had AIDS. He knew he had AIDS, but he refused to notify his patients of his condition. Now Kimberly Bergalis is about to die, and four others who were treated by this man have tested positive for the virus.

On Tuesday, our former colleague and the current Governor of Florida, Lawton Chiles, visited Kimberly. Governor Chiles put it very plainly:

It's a lot like being in the presence of a saint. I told her how much I admired her, I told her I thought she'd already protected many lives that wouldn't have been protected before.

Mr. President, a June 20, 1991 Gallup poll found that 95 percent of the American people believe that surgeons who know that they have AIDS should be required to tell patients if they are infected with the AIDS virus. The same

poll found that 94 percent of Americans believe that all physicians and dentists should be required to tell their patients that they have AIDS if they know they are infected.

The American people, as always, are ahead of the politicians and professional activists in this country who have, for too long, treated AIDS as a civil rights issue rather than the public health threat it really is.

The story of the brave woman in Florida is not isolated. In the State of Minnesota, a pediatric surgeon continued to perform deliveries, and rectal, and vaginal examinations months after he found out he had AIDS. In the most shocking part of this story, a Minnesota television station broadcast pictures of this doctor delivering a baby while his bare arm was covered with sores.

When asked about the sores by the mother of the child he was about to deliver, the doctor said that the sores were just an allergic reaction. This man knew he had the AIDS virus well before he delivered that baby. As one of his patients told Newsweek, "he takes an oath to save lives not give a death sentence."

In my own State of North Carolina, a health care trainee at a major hospital in eastern North Carolina worked with patients for more than a year after finding out he had the AIDS virus. Residents of the Fayetteville and Raleigh areas have begun receiving letters from military and county health officials saying that they might have been exposed to AIDS because their dentists had the disease.

Mr. President I have read the newspapers recently and discovered that the AMA and the American Dental Association have rejected calls for mandatory AIDS testing. The AMA says it is up to the doctors to determine if they should be tested. Responding to the position of the professional medical establishment, former Surgeon General C. Everett Koop told doctors that they face a loss of credibility if they refuse to be tested. He warned, "be certain that the public knows that you are just as concerned about them as you are about yourselves."

As usual the medical establishment and the AIDS lobby have been silent.

The Helms amendment does not require that health care professionals undergo mandatory AIDS testing. We will visit that issue at another time.

The Helms amendment does say that if the doctor, dentist, nurse, or health care worker, performs or is involved with invasive medical techniques—that is a surgeon, obstetrician, or surgical nurse—and knows he has AIDS and fails to notify his patients of that fact he is subject to a fine and jail term of not less than 10 years. This Senator feels that is an adequate response to the rogues in the medical community who have knowingly and callously ex-

posed hundreds of innocent people to the AIDS virus.

Let me say it again, for the record. The Helms amendment does not require mandatory testing. It does not require that the psychiatrist or the podiatrist undergo any testing nor does it compel them to disclose to their patients that they have AIDS. Using language provided by the distinguished Republican leader, the Helms amendment says that if you perform invasive medical procedures you must notify your patients if you know you have AIDS.

We are not talking about hundreds of medical professionals with this amendment. The vast majority have honorably abided by the opening sentence of the Hippocratic Oath: "I shall first do no harm." However, there are a few people in the medical establishment who have thrown away their oath and duty to others. The doctor in Minnesota, and the dentist in Florida should be treated no better than the criminal who guns down a helpless victim on the street, the effect is the same.

Before I conclude, Mr. President, I want to read to the Senate, a letter Kimberly Bergalis wrote to the Florida Board of Health. Let me warn those listening that parts of this letter are graphic. But remember that this is the cry of a young woman whose life was ruined by a so-called healer who did not have the decency to tell this beautiful young lady that he was putting her life at risk.

I ask unanimous consent that Kimberly's letter published in the July 1 edition of Newsweek and an article from the July 13 edition of Human Events be printed in the RECORD at this point.

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

[From Newsweek, July 1, 1991]

**I BLAME EVERY ONE OF YOU BASTARDS**

Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.

When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103-104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat,

my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

"Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that *knew* Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

"Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

"Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your *fingers* and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

"Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

"P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

"I'm dying guys. Goodbye."

[From Human Events, July 13, 1991]  
INNOCENT GIRL'S BLOOD ON POLITICIANS'  
HANDS

(By Ray Kerrison)

In what may have been her last public communication before she dies, Kimberly Bergalis indicted the American public health service in terms that haunt her soul. Her blood, she said, was on their hands.

You bet it is, Kimberly Bergalis was a beautiful, healthy University of Florida student, as innocent as the sun in the sky, when she contracted AIDS from her dentist, Dr. David Acer. Now at 23, she's a 70-pound skeleton, bedridden, wracked by pain, burning with fever, begging God to release her from her agony.

She is dying because the political and public-health systems are more interested in protecting the wayward, the deviant and the promiscuous than the upright.

She understands it so clearly that she wrote a letter to a health investigator that should sear the conscience of every politician, doctor and health worker in the country.

"Whom do I blame?" Kimberly wrote. "Do I blame myself?" I sure don't. I never used drugs, never slept with anyone and never had a blood transfusion.

"I blame Dr. Acer and every single one of you bastards. Anyone who knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You're all just as guilty as he was. You've ruined my life and my family's."

The unforgivable fact of Kimberly's impending death is that it is so unnecessary. She was infected when she had two teeth extracted in December 1987—three months after Dr. Acer, a bisexual, was diagnosed as having AIDS.

She was like a lamb led to the slaughter. The whole political, medical and public-health system of Florida, as they do in so many states, including New York, joined in a conspiracy of silence to shield Dr. Acer's deadly disease and allow hundreds of patients to be exposed to his infection. If this is not cold-blooded, deliberate dereliction of duty on a massive scale, I don't know what is.

After contracting AIDS, Dr. Acer treated 1,700 unsuspecting patients before he died last September. He is believed to have infected four others in addition to Kimberly.

Kimberly concluded her letter, "If laws are not formed to provide protection, then my suffering and death was in vain. I'm dying, guys. Goodbye."

You'd think Kimberly's plight would trigger universal dismay and anguish. Not in New York. Our state officials studied her tragedy and shrugged it off.

A hundred Kimberly Bergalises could be sacrificed and New York's so-called public-health officials would not be moved. Why? Because they are political and medical cowards.

The nation's leading health groups—the American Medical Association and the American Dental Association—have both taken the unequivocal position that doctors and dentists infected with the AIDS virus should warn their patients or give up surgery.

That's just common sense, but the New York State Health Department trashes it. Its policy is that health-care workers infected with the AIDS virus need not tell patients and certainly they may continue to operate or perform other invasive procedures. The department holds that patients don't have a legal right to know the health status of doctors or dentists giving them care.

Dr. David Axelrod, as the state commissioner of health, made this policy in the winter, shortly before he was stricken with a stroke. He claimed the chance of being infected by a doctor or dentists was one in 100,000 or one in a million. He apparently liked those odds. They are so great if your name is Kimberly Bergalis.

Dr. Axelrod was not alone. Gov. Cuomo, Mayor Dinkins, the city's health commissioners and most politicians have consistently opposed mandatory reporting of the AIDS virus, even though it is the law for all other sexually transmitted diseases such as herpes and syphilis.

Why is AIDS, the deadliest of all such disease, the lone exception? Because New York's politicians, especially Cuomo and Dinkins and their government departments, are prisoners of the radical homosexual lobby. They place the public's health at risk rather than offend the militants in ACT-UP.

The day may come when New York will have its own Kimberly Bergalis. If it does, watch out. That's when the politicians and health authorities will be held accountable.

Mr. HELMS. Mr. President, I tell you one thing. If they could vote, they would vote unanimously with JESSE HELMS on this.

That is the first amendment that some Senators did not want HELMS to present.

Let me go to the second amendment. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator has 13 minutes 30 seconds.

Mr. HELMS. Let me read you the second amendment which I tried to offer on numerous occasions. And again some Senators said, "No, HELMS can't offer his amendment. We will not do this amendment, we will do that amendment, but Helms is not going to get a vote." We will see about that.

I do not want to appear to be belligerent about this thing but I am sick and tired of reasonable amendments being foreclosed.

Let me read you the second amendment.

At the appropriate place in the bill, add the following new section:

**SEC.**

(1) Pursuant to its authority under section 994 of title 28, United States code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limit to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazines, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supersede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

Mr. President, here is why this amendment is necessary. It involves a crime. If this is not a crime, please tell me what is a crime. If we are not going to do something to protect the children from the bums who distribute pornography, what has this Senate come to? I tried in every way I knew how to say just let me have a vote. Some Senators said, "No, HELMS won't get a vote."

For some absurd reason the Sentencing Commission has decided to reduce

the sentences for the receipt and transportation of child pornography. Can you believe that? That is why Senator THURMOND and I prepared this amendment.

Oh, they want to get cloture so it will not be germane, and they may succeed. But we are going to have a vote on this amendment: I will show you how in just a little while.

The sentences have been reduced so low that most convicted smut peddlers and pedophiles will receive at most probation. Is this what this Senate wants to tolerate? I do not think so. This was not the intent of Congress when it passed child pornography bills in 1988 and 1990.

So, in effect, Mr. President, the Sentencing Commission has emasculated Congress' attempt to assure severe punishment for dealing in child pornography. The Helms-Thurmond amendment ensures that criminals will receive serious punishment for child pornography offenses, not a mere slap on the wrist.

What does this amendment do? It instructs the Sentencing Commission to increase the penalty for child pornography offenses so that offenders will serve some time in jail.

How can the Senate be against this amendment? How can the Senate say we will not even vote on it? Well, we are going to vote on it.

Mr. President, this amendment has the support of all manner of antipornography groups, including the National Coalition Against Pornography, the National Women's Leadership Task Force, the Religious Alliance Against Pornography, the Children's Legal Foundation, and Morality in Media, among others.

I can already hear the outcry from liberals at the ACLU. They will say, "What is the big deal with pornography? It does not hurt anybody." The hell it does not. It hurts the children, and it strikes at the fundamental base of the family in this country, Mr. President. That is the reason I am on this floor.

I wanted to get this amendment voted on. We could have already gone into cloture and finished this up. "No," they said. "HELMS is not going to get a vote on his amendments"

I am here at 8:12 p.m. on this Senate floor, because pornography—and especially child pornography—causes enormous damage. It destroys young lives and eats away at the very moral foundation of this country. But, no, the Senate does not want to vote.

Mr. President, in 1986, the Senate Subcommittee on Investigations found that child pornography was directly connected to child molestation. The experts testified that users of child pornography are very often pedophiles. For example, a Los Angeles police detective estimated that among the 700 child molesters he helped arrest, more

than half of them possessed child pornography.

Is this the kind of thing the Senate wants to tolerate? Is this not a crime? Do we want to let the Sentencing Commission get by with reducing the penalty? This Senator says "no."

Child molesters testified, Mr. President, that they used child pornography to convince children to engage in sexual acts, or to pose for photographs; and the Senate report—this is a report of our own Senate—concluded that:

Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct and assist them in seducing their victims.

Not only that, there have been dozens of studies by respected experts that have come to the same conclusion: Child pornography is indeed a cause of child molestation.

Mr. President, I ask unanimous consent that a compilation of the research on child pornography, a 1986 Senate report, along with a number of letters, be included 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, the question is this: Why would the Sentencing Commission lower the penalty for child pornography? Why? To be honest, I am at a loss to explain their reasoning, but here is what happened.

The 1990 crime bill created a new offense for possession of child pornography. There is an existing offense for receipt, transportation, or trafficking in child porn, which has a base level of 13. Well, the Commission decided to put receipt down with possession and give it a base level of 10, which means these criminals can get off with a sentence of mere probation. My amendment ensures that these criminals will at least do some time in jail.

Here is what I am going to do. When I can get the floor after cloture is voted on, I am going to offer each of these amendments. Over on the other side, they can get up and say: "We have been trying to get the President's crime bill through, and the Republicans will not do it."

Well, they are the ones who have held up this crime bill. They held it up for 10 hours because of one amendment I offered that they did not want to vote on. They went in a huddle and said, "We have to beat HELMS somehow. Do not give him a vote."

I got one Democrat—FRITZ HOLLINGS of South Carolina—to vote with me. But do you know something, I have had six or eight Democrats come to me privately and say, "They twisted my arm, and I just could not support you. You are going to lose anyhow." Et cetera, et cetera, et cetera.

What are we doing here, Mr. President, when we engage in antics like this? This is not only with my amend-

ment; it has happened to others as well.

What I am going to do is offer the amendments. Then the point of order is going to be raised that it is not germane. Of course, it will not be germane under the technical rules of germaneness, postcloture. And then, Mr. President, I am going to appeal the ruling of the Chair. We will have an automatic vote on it. No debate. That is the reason I am talking now. We will have a vote on my appeal of the ruling of the Chair, and people who vote to uphold the Chair will be voting against my amendment. And I am going to do my best to make certain that the American people know how each Senator voted on each of these amendments. This is the only way I can get a vote. But I am going to get a vote.

It will not be like an up-or-down vote, but Senators will demonstrate how they feel about the amendment when they vote on the question of upholding the Chair.

I do not like to appeal a ruling of the Chair, particularly when I know the Chair is correct. But this is the only alternative I have, because the old game of PMF has been played in this Senate for several weeks now. PMF means "protect my fanny." They do not want to vote on this amendment, so I am following the only alternative available to me.

I am saying to you that if you have any sympathy for Kimberly Bergalis, or for the children who are molested every day in this country, by the worst burns imaginable, then think about it when the roll is called up yonder.

The Chair is going to be ruling correctly, no question about that. But I say again that I tried and tried and tried to persuade some Senators to let me have a vote on these two amendments. They said, "No, we cannot do that. We do not want to vote on it."

Mr. President, that is about the size of it.

#### EXHIBIT 1

##### RESEARCH ON PORNOGRAPHY: THE EVIDENCE OF HARM

(From the National Coalition Against Pornography, M. Douglas Reed, Vice President)

#### THE PROBLEM

The National Coalition for Children's Justice (Ken Wooden).—

Between 1981 and 1985, child sexual abuse (including having pictures taken pornographically) rose by 175%.

The National Obscenity Enforcement Unit (Testimony before the Senate Judiciary Committee, June 1988).—

Review of recent law enforcement statistics and studies, as well as scientific research, reveals the devastating effect obscenity and child pornography are having on our nation.

Ann Burgess, Professor at the University of Pennsylvania (Federal grant to study child pornography).—

Pornography depicting children is used by child molesters to convince children that deviant sex acts (which all child sex abuse is)

are normal—thereby breaking down their resistance. Her later study (1987) found that victims of child sexual abuse have symptoms of chronic or delayed posttraumatic stress. It causes multiple psychological problems which may take years to resolve.

Pierce (1984).—  
Sexually exploited children involved in the pornography industry are usually recruited among runaways, although some may use neighborhood children or their own children.

THE NATURE AND THE EXTENT OF THE PROBLEM  
Report of the U.S. Congress Permanent Subcommittee on Investigations on Child Pornography and Pedophilia (1986).—

"No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child abuse has been documented in many studies and has been established by hundreds of sexually explicit materials involving children.

"Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80% owned either child or adult pornography.

"Each convicted child molester interviewed by the Subcommittee either collected or produced child pornography, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

"It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities.

"The maintenance and growth of [the pedophile's] collection [of items related to children] becomes one of the most important things in their life. Child pornography exists primarily for the consumption of pedophiles—adults whose sexual preference and attraction is to prepubescent children. If there were no pedophiles, there would be little child pornography other than that involving adolescent children." (Special Agent Kenneth Lanning, FBI)

"Based on the information obtained during its investigation, the Subcommittee has reached the following general conclusions:

Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct, assist them in seducing their victims, and provide a means to blackmail the children they have molested in order to prevent exposure.

The vast majority of child pornography in the United States constitutes a small portion of the overall pornography market and is deeply underground. Unlike the adult pornography industry, it is not significantly influenced by organized crime.

It is extremely difficult, if not impossible in some cities, to purchase true child pornography at adult bookstores. The overwhelming majority of child pornography seized in arrests made in the U.S. has not been produced or distributed for profit.

The seizure by the U.S. Customs Service of imported child pornography, especially from Denmark and the Netherlands, has declined dramatically since late 1984 due to increased diplomatic and law enforcement pressure, American news media reports and increased caution shown by American child pornography customers.

The membership of known pedophile-support groups in the United States is probably less than 2,000. While many of the groups' members have been convicted for child sex

crimes, the groups themselves are not involved actively in large-scale criminal conspiracies, such as commercial child pornography rings.

The Child Protection Act of 1984, which made illegal all distribution of sexually explicit material involving children, has been highly successful, leading to a substantial increase in federal prosecutions and the placing of higher priorities on such investigations. Since passage of the law two years ago, the Department of Justice has won 164 convictions on child pornography violations; in the previous six and one-half years, there were only 64.

While the awareness of many police agencies about child sexual exploitation has improved greatly, many still do not have the training, staff or inclination to recognize promptly and investigate potential leads to crimes involving child pornography or child sexual abuse."

Southern California Child Exploitation Task Force.—

It is "dangerously inaccurate" to presume that "because there is not widespread commercial distribution of child pornography in the U.S.," that therefore "significant law-enforcement effort in the area of child exploitation is not warranted. The threat imposed on our children has little to do with [that] aspect of the child pornography business."

Burgess (1984) (A study in Jefferson County, Kentucky).—

"37% of the prostitute group admitted to having been involved in pornography; only 18% of the non prostitute group reported involvement in pornography. 38% of the runaways were involved in prostitution, and 15% of the runaways were involved in pornography.

"Identifying and tracking missing children is vital to curbing the victimization of children. Over 86% of Jefferson County children involved in child prostitution and pornography were, at the time of those activities, runaways or missing.

John Rabun, Exploited and Missing Children Unit, Louisville, Kentucky.—

"The Police/Social work team of the Exploited and Missing Child Unit (EMCU) of Louisville, KY investigated 1,400 cases of children suspected of being victims of sexual exploitation. Over 40 major cases involved the successful prosecution of adults involved with over 12 children each. One case involved 320 children. At the time of the arrest and/or service of search warrants, all 40 of these adult predators were found with various forms of adult pornography, and in most cases child nudes and/or child pornography were also found.

The National Obscenity Enforcement Unit.—

"It has been most successful in its efforts. Prosecutions for child pornography are up by 80% in the last fiscal year (1987) and obscenity prosecutions are up by 800%."

David Duncan (1988) Southern Illinois University.—

"He did a content analysis of twenty-five years of homosexual pornographic magazines sold in adult bookstores of two major US cities. Dr. Duncan found the frequency with which clearly underage models appeared in such legally available magazines has declined to zero, due to the recent legislation prohibiting child pornography. Suggestions of child pornography remained, however, in the frequent use in porno magazine titles of such words as 'boy,' 'young' and 'teen' although the models were no longer adolescents. Youthful appearing models achieved star billing in what the Attorney General's

Commission on Pornography has named "pseudo-child pornography".

"The final decline (of child pornography) in the late seventies may have been in response to the pressures building against child pornography which led eventually to that legislation. To a large extent it probably reflects the impact of child abuse programs emerging in the seventies, since most of the child models appearing in such pornography are likely to be incest victims being exploited by their parents or other adults."

But the fact that there is a demand for such material is clearly indicated by the continued presence of the new pseudo-child pornography.

#### PSEUDO-CHILD PORNOGRAPHY

Judith Reisman (1987).—

"A content analysis of Playboy, Penthouse, and Hustler magazines, December 1953 to December 1984, yielded 6,004 child images. Newsstand available child imagery in the context of erotica/pornography increased nearly 2,600% from 1954-1984. 80% of the children were actively involved in all scenes; and each magazine portrayed children as unharmed and/or benefited by adult-child sex."

David A. Scott (In Pornography; A Human Tragedy, 1987).—

"Judith Reisman (1985) found that from the first issue of Playboy in 1954, children in cartoons (or photographs of adults dressed to suggest children) have appeared in sexual contact with adults, and the frequency and intensity of these contacts has increased through the years. The dominant impression was that child/adult sex is glamorous, thereby enhancing the impression that these activities are harmless. Magazines can escape the letter of child pornography laws while still implying that sex with children is desirable and readily available. And these magazines, of course, are sold in the open."

Don Feder (Boston Herald, 10/27/88).—

"The October issue of Playboy contains a five-page rebuttal to the so-called Reisman report. Odd that a publication with a circulation of 3.5 million would devote so much space to answering what it assures us is preposterous stuff. Some experts believe [pseudo-child pornography] encourages sexual abuse, both by exciting perverted passions and fostering the belief that the child actually is an eager participant in the act."

"Pornographers protest their innocence, while facilitating the victimization of our children."

#### DOES PORNOGRAPHY PROMOTE ABUSE?

The National Obscenity Enforcement Unit.—

They now teach their investigators at all of their seminars "to look for pornography at the scene of sexual crimes involving children."

"It is beyond debate that molestation of children is, in part, caused by consumption of pornography."

John Rabun, Exploited and Missing Children Unit.—

"Over 4 years, the EMCU team learned to expect to always find adult pornography since it was used for

the offender's own arousal;  
self-validation of their own sex deviations;  
extortion of child victims or other adults;  
and

deliberate and planned lowering of inhibitions of child victims."

The Badgley Report (1984).—

The report found that almost 60% of both male and female juvenile prostitutes had

been asked to be the subject of sexually explicit films or photographs; 12% of the girls and 20% of the boys had actually been used in making pornography; juvenile prostitutes are a high-risk group in regard to being exploited by pornographers.

Two smaller American studies emphatically confirm this finding (Burgess: 75% of youth hustlers had participated in pornography; John Rabun: 37% had participated).

The 1982 URSA Study: concluded that there exists a "slight" relationship between juvenile prostitution and pornography. There, 27% of the young male prostitutes had been photographed by a "john"; of the 54 young male hustlers for whom information was available, 9 had been photographed for commercial pornographic magazines. In the face of that evidence it seems impossible to deny the existence of a significant link between the exploitation of minors in prostitution and in pornography.

Extant studies of juvenile prostitutes showed less incidence of participation in pornography than is the real case because by its very nature one item of pornography can be viewed contemporaneously by many patrons and for repeated sittings. The demand for pornographic performers will always be a tiny fraction of the demand for prostitutes.

Surgeon General's Workshop on Pornography (June 24, 1986).—

Nineteen nationally and internationally recognized clinicians and researchers achieved consensus on the statement that "children and adolescents who participate in the production of pornography experience adverse enduring effects."

Southern California Child Exploitation Task Force (1988).—

It is the longest existing task force in the U.S. and has prosecuted all the child pornography and Federal child abuse cases in the Central District of California during the past 10 years.

"According to the U.S. Customs Service, a conservative estimate of the number of pedophiles in the U.S. is 15,000. It is impossible to determine accurately the number, because pedophiles do everything possible to avoid detection."

"We have frequently gone into homes with search warrants for child pornography and discovered children living in the home who have been molested by the person who is the target of our child-pornography investigation."

"We have discovered photographs of the pedophiles molesting children."

"We have found convicted child molesters as well as individuals who were providing children to molesters."

"One of the men we prosecuted had 50,000 photographs of noncommercial child pornography in a storage locker. He admitted molesting several hundred children following his release from a state hospital for a child molestation conviction. He even maintained a ledger listing those molestations. He taught swimming and tennis to youngsters, some of whom became his victims."

"A convicted child molester who was the subject of one of our investigations was found, after he had ordered materials, to have homemade child pornography in his house—including a video tape depicting him molesting a child who was clearly under the influence of drugs or alcohol."

Some articles written in pornographic magazines call attention to a few cases in which individuals (who claimed neither to be sexually active with children nor to possess child pornography) were the subjects of search warrants after they ordered child por-

nography from undercover Government agents. While Government operations occasionally identify individuals who are not suitable for prosecution, those cases are the exception, not the rule.

SENATE REPORT 99-537 ON CHILD PORNOGRAPHY AND PEDOPHILIA, OCTOBER 9, 1986

#### I. INTRODUCTION

A decade ago, the sexual abuse of children was a subject that came to the attention of most Americans infrequently, if at all. Assault cases often were quietly kept out of the courts, and many police departments viewed such cases as little more than time-consuming social work. Child molesters were more often the target of jokes than investigations. For millions of Americans, child sexual abuse was a problem that was out of sight and out of mind.

During the late 1970s, however, reports of child sexual abuse slowly began to increase, and so did public awareness of the problem. The American Association for Protecting Children, a subsidiary of the American Humane Association, noted a ten-fold increase in the number of children reported to be sexual abuse victims from 1976 to 1983,<sup>1</sup> but it was not until the following year that the problem was presented to the general public as a "crisis." Beginning in 1984 and throughout 1985, child sexual abuse was almost constantly in the national focus. Networks and local TV stations devoted scores of prime-time hours to its exposure; hundreds of newspapers and magazines ran lengthy accounts of child sexual assaults and pornography rings; grocery bags and milk cartons began to carry the faces of missing children; citizen awareness groups sprang up around the country; police agencies that once paid scant attention to the problem began establishing special training programs for their officers and setting up child sex crime units; the National Center for Missing and Exploited Children was established in Washington, D.C.; in Congress, from 1983 to mid-1986 a total of 194 bills and 13 hearings focused specifically on some aspect of child abuse or child sexual exploitation.<sup>2</sup>

With this unprecedented attention came an exponential increase in the reporting of child sexual abuse, believed by some to be the most underreported major crime in America.

Reports increased dramatically throughout the United States—in Farm Belt states and in the nation's largest cities, in West Coast beach towns and East Coast industrial centers, in the neighborhoods of the affluent, the middle class and the poor. "A 1985 report by the New York-based Child Welfare League of America said child sexual abuse reports rose 59 percent from 1983 to 1984.<sup>3</sup> In Delaware and Idaho reports nearly doubled from 1983 to 1984; in Oregon they rose 129 percent; and in Wisconsin, they went up by 132 percent.<sup>4</sup> In Houston, police received 1,600 reports of child sexual assaults in 1985, more than double the total in 1983.<sup>5</sup> In virtually all cases the extraordinary rise in sexual abuse statistics reflected a state's or city's increased efforts to discover and investigate such crimes, rather than a sudden increase in molested children over years past. And yet there is wide agreement that even these are conservative figures.<sup>6</sup>"

The following are just a few of the many cases that attracted national attention during 1984 and 1985:

In Manhattan Beach, California, in the Spring of 1984, seven employees of a day care center were charged with 207 counts of rape,

<sup>1</sup>Footnotes at end of article.

sodomy and other abuses, involving at least 41 children over a six-year period. Doctors confirmed that 37 of the children showed physical signs of molestation. After a grueling pre-trial hearing lasting several months, many parents withdrew their children as witnesses after watching other children undergo lengthy cross-examination by defense attorneys. Later the Los Angeles County District Attorney dropped all charges against five of the seven defendants, citing a lack of evidence.<sup>7</sup>

In 1985 a Roman Catholic priest was convicted of molesting over a period of years at least 37 boys, among them altar boys and members of the parish Boy Scout troop in Henry, Louisiana. Depositions in the case disclosed that the priest's supervisors had confronted him with such allegations as far back as 1974 and had received similar complaints from parents in 1977. Yet the supervisors did not alert police and still allowed the priest to work with children. More than a dozen civil suits were filed against the diocese by the families and \$4.2 million in damages already has been awarded.<sup>8</sup>

In Tampa, Florida, Eric Cross, who had been convicted of molesting young girls in four counties, was indicted for allegedly distributing child pornography while in prison on a molestation charge. He was convicted on 19 counts of distributing child pornography and other charges and sentenced to a 95-year prison term.<sup>9</sup>

As a large number of cases illustrate, child molesters come from virtually every type of background in society. In the past two years those convicted on such charges have included police officers, politicians, judges, physicians, lawyers, journalists, grandmothers, teachers and military officers, among others. To their neighbors and co-workers they were often respected, responsible members of the community, remembered by some acquaintances as being "great with kids." Many were active in church, school and sports organizations. The stereotype of the child molester as a menacing deviate lurking in public places obviously does not apply to many of them.

With these events as a backdrop, the Senate Permanent Subcommittee on Investigations in early 1984 began an investigation of child pornography and pedophilia—the abnormal sexual desire of an adult for pre-pubescent children. Subcommittee investigators interviewed more than 200 people in more than 30 states, including convicted child molesters, pornographers, pedophilia activists, molestation victims, investigators, judges, prosecutors, psychiatrists and child protection workers. The Subcommittee also reviewed thousands of documents, including arrest reports, victim statements, pedophile correspondence, newsletters, child pornography catalogs, films, videotapes and magazines. Finally, the Subcommittee held three days of public hearings—on Nov. 29 and 30, 1984 and Feb. 21, 1985—for further exploration of the issues and questions raised during the investigation.<sup>10</sup>

The investigation's primary focus was on child pornography and pedophile activities in the United States, but because of the importance of The Netherlands, Denmark and Sweden in the international distribution of child pornography, the Subcommittee also examined efforts to combat child pornography in those countries.<sup>11</sup>

The Subcommittee found that while the growth in the number of reports of abuse and sexual exploitation of children is cause for continuing concern, recent Federal laws—no-

tably the Child Protection Act of 1984—are beginning to show significant results in the battle against these evils. The public perception of an "epidemic" of child abuse and child pornography reports and arrests, which has led to demands for even tougher laws, may actually be testimony to the effectiveness of the existing laws in providing authorities with the tools to arrest and convict child abusers and pornographers. In addition, the economic impact of the child pornography industry often tends to be overstated. The most significant impact to society from this practice cannot be measured in economic terms; instead, it must be measured in terms of the extent of physical and psychic damage to innocent children brought about by the production and use of child pornography.

#### II. ORGANIZED CRIME

Because of the Subcommittee's historic interest in the activities of organized crime, an effort was made to obtain any information that might show a direct link between organized crime and the distribution of child pornography in the United States. The Subcommittee interviewed former child pornography distributors, federal informants, pedophiles, prosecutors and law enforcement officials from the United States, Canada and Europe. No one produced definitive evidence that traditional organized crime groups, such as La Cosa Nostra, have any appreciable influence on the production or distribution of true pedophile-oriented child pornography. Nor was evidence found of any widespread involvement, much less control, of child pornography distribution by other ethnic crime organizations or criminal groups, such as motorcycle gangs.

There is evidence that La Cosa Nostra crime families are involved in the production and distribution of commercial adult pornography.<sup>12</sup> A small portion of this market may include underaged models, usually 16 or 17, and some material appears to show legal-aged models who are dressed and made up to look like minors. While any sexually explicit material involving persons of this age is usually harmful, if not illegal, for purposes of this report child pornography refers to material involving children under 13.

After extensive inquiries, the Subcommittee has concluded that the distribution of child pornography in the United States is largely carried out by individual pedophiles, who produce this material and trade it among themselves or order it through the mail from other countries. In the few instances when police have uncovered commercial child pornography operations, they paled in comparison to the sophistication and profits of adult pornography distributors, and were not controlled by traditional organized crime. One such organization was run by Cathy Wilson, who at the time of her arrest in California in 1983 was believed to control about 80 percent of the commercial child pornography trade in the United States.<sup>13</sup> Wilson told Subcommittee investigators in August 1984 that "the Mafia" had not been involved in her operation or that of any other child pornographer with whom she dealt during the 1970s and early 1980s.<sup>14</sup> Richard Trolie, once a business partner of Wilson's who later became a federal informant against her, told the Subcommittee he agreed with Wilson's assessment.<sup>15</sup>

Economics probably plays a major part in organized crime's lack of interest in child pornography. The adult sex industry (magazines, videotapes, X-rated movie theaters, nightclubs, massage parlors, "dial-a-porn" and "escort" services, etc.) operates legally

in much of the country and grosses several billion dollars annually.<sup>16</sup> Conversely, the commercial child pornography industry has declined substantially in recent years.<sup>17</sup>

Perhaps equally discouraging to organized crime is the aggressive enforcement of the 1984 federal child pornography statutes,<sup>18</sup> which carry 10-year prison terms for production, importation or distribution of the material. In comparison, violations involving adult pornography are often treated as misdemeanor obscenity cases, when they are prosecuted at all.

#### III. PROSECUTIONS BY THE DEPARTMENT OF JUSTICE

On February 6, 1978, Congress enacted Public Law 95-225, the Protection of Children Against Sexual Exploitation Act of 1977. This legislation added sections 2251 through 2253 to Title 18 of the United States Code to deal specifically for the first time with the problem of child pornography. Efforts by prosecutors to obtain convictions under these statutes, however, were hampered by a provision in the law that the pornographic material in question had to be produced or distributed for "commercial" purposes in order to warrant prosecution. Since most child pornographers in the United States tend to trade child pornography among themselves rather than sell it, the Department of Justice was forced to rely primarily upon sections 1461-1465, Title 18 of the U.S. Code, the federal obscenity statutes, to prosecute child pornographers.

Congress moved to close this loophole on May 21, 1984, by amending the child pornography statutes to delete the "commerciality" requirement and a requirement that the disseminated material be legally obscene.<sup>19</sup> The amendments, which also added civil and criminal forfeiture provisions to the statutes, now appear as sections 2251-2255, Title 18, U.S. Code. The effect of these amendments on the Department of Justice's ability to prosecute child pornography cases has been dramatic: from 1978 to April 1984, the Department obtained 64 convictions; between May 1984, and June 1986, at least 164 convictions were obtained.<sup>20</sup>

Year:	Indictments	Convictions
1978	13	13
1979	1	1
1980	11	10
1981	14	15
1982	19	7
1983	6	15
1984 (pre-Act)	5	3
1984 (post-Act)	55	35
1985	123	102
1986 (May)	24	27

#### IV. PEDOPHILIA

The terms pedophile and pedophilia have been so widely used in the news media in recent years that their clinical definitions sometimes are overlooked. Many references to "pedophiles" seem to indicate the term is applied to any adult who is sexually attracted to a legal minor. That is not the case, and the distinction is worth noting.

Pedophilia, literally "love of a child," as used in this report refers to the condition in which an adult's primary sexual attraction is to prepubescent children—roughly between six and twelve years of age.<sup>21</sup> While many cases exist in which true pedophiles have been involved with children below and above those age boundaries, the vast majority fall between them. (A less-commonly used term, hebephilia, describes an adult's sexual attraction to adolescents. This more accurately defines the offenders involved in

teenage prostitution, for example, than does the often-misused label, pedophile.) Pedophiles normally have little interest in adolescents who are beginning to reach sexual maturity; it is, in fact, the very lack of sexual development, the childish innocence, that arouses most true pedophiles. The term pedophile is often misused when applied to all child sex crime offenders. Experts agree that many children are assaulted simply because they are available and, of course, more easily overpowered than an adult. The true pedophile, as a rule, does not commit violent acts against his victim.

Pedophiles often are attracted to children within a specific age range—boys from 8 to 10, girls under 9, etc.—and there is some evidence to show this preference may develop because it was the same age at which the molester was also first molested as a child.<sup>22</sup> Many studies have shown a large percentage of convicted child molesters were themselves molested as children.<sup>23</sup>

While pedophiles come from virtually all social, racial, ethnic and age groups, therapists and investigators have been able to arrive at some common characteristics many of them seem to share. Pedophiles normally are divided into two categories—regressed and fixated. An authoritative psychiatric profile described them in this way:<sup>24</sup>

"The [fixated] often has never developed emotionally or intellectually. He feels comfortable around children and uncomfortable around adults. He sees the child as an adequate sexual partner who will enjoy the experience. He shows no guilt of shame afterwards. This offender will be passive, dependent, immature, lonely, inadequate, with low self-esteem. He knows right from wrong and will be law abiding apart from child molestation. He will have dated little and rarely be married. His immaturity will mean that his work, social and personal adjustment will be poor. He will often be employed in menial jobs and prefer to work around children. He seeks children out as companions and in his jobs, so he may be found working with children in his job or as a recreation.

"The [regressed offender] is reasonably well adjusted. He will have no criminal record (apart from child molestation) and will have a good job, social and personal adjustment. He will have dated and typically be married. However, under stress, especially threats to his masculinity, he regresses to immature behavior. So if he is fired, or criticized at work, or if his wife has an affair or criticizes him, he may begin to drink alcohol and impulsively choose a non-threatening female sexual partner (a child). After the experience, he will realize what he has done and feel guilt and shame. He deals with this guilt by attributing his behavior to alcohol."

#### V. MEETING AND SEDUCING CHILDREN

"I used all the normal techniques used by pedophiles. I bribed my victims, I pleaded with them, but I also showed them affection and attention they thought they were not getting anywhere else. Almost without exception every child I molested was lonely and longing for attention"—Joseph Henry<sup>25</sup>

A determined pedophile quickly masters the art of meeting and engaging the trust of children. Pedophiles are constantly seeking out new ways of drawing children into their confidence without raising suspicions.

Those who seek frequent contact with children, and either have no criminal record or believe it would not be discovered, may find employment as day care center workers, recreation directors, video arcade managers, Little League coaches, scout leaders, Big Brothers, schoolteachers or in a host of

other occupations where children are present. In a study of 40 pedophile cases by FBI Special Agent Kenneth Lanning and Dr. Ann Burgess, almost half of the offenders used their occupations to encounter children.<sup>26</sup>

Other pedophiles have located children through babysitting, neighborhood contacts and volunteer organizations. Many have met their eventual victims through adult relationships with parents, as friends, co-workers, counselors, etc.

A number of cases have involved people in positions of authority—people to whom even careful parents often entrust their children, such as priests, teachers and police officers. These cases are cited not to undermine faith in these professions, but to emphasize that a pedophile's all-consuming desire for children will often outweigh his position of trust in the community.

Some pedophiles expose themselves to children or attempt to lure them into their cars or homes with presents, promises and deception, but these cases represent a small minority of the molestation incidents investigated by police officials in the United States. Fortunately, the stereotype of the child molester as a dirty, leering stranger on a park bench is disappearing as awareness of the true nature of pedophilia grows.

The words of a pedophile provide the best description of the thought process involved in attempting to meet and seduce children. Following is an anonymously-written excerpt from *How To Have Sex With Kids*, a booklet published by David Sonenschein, an Austin, Texas, author who has written extensively about pedophilia:

"The important thing about meeting kids is that it happens best when you meet in places or in doing things that interest both of you. Like in video game arcades, kids can tell if you're just in their cruising for sex, or are there because you like playing the games. The same with sports and sporting events. You can meet kids anywhere you go that you're interested in going, and what's important about this is you've got a right to be where you are. Like your own neighborhood. We have a right to walk around, talk to people there, and get to know who's who.

"It's also a good idea to get to know parents. Sometimes you can get babysitting tasks or you can just take the kids places when they know you and know that the kids like being with you. Sometimes parents can introduce you to other kids too."<sup>27</sup>

Once the pedophile has gained private access to the child, he then must convince the child to cooperate. According to Nicholas Groth, a psychiatrist who has worked with many pedophiles in the Connecticut prison system, "The most commonly used technique of luring the child into . . . sexual activity is by capitalizing on the child's need for attention, approval, and human contact."<sup>28</sup>

Convicted child molester Joseph Henry, who molested 22 girls aged six to fourteen over a period of nearly 30 years, testified before the Subcommittee about the techniques he used to manipulate children:

" . . . I would take my victims to movies and to amusement parks. When I babysat them, I would let them stay up past their bedtime if they let me fondle them. One little 8-year-old girl I was babysitting came over to my house one day soaking wet from a rainstorm. I told her I'd pay her \$1 if she would stay undressed for an hour. This incident opened the door for three years of molestation."<sup>29</sup>

#### VI. USE OF CHILD PORNOGRAPHY

No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child erotica has been documented in many studies and has been established by hundreds of arrests of pedophiles who are found to possess a large amount of sexually explicit material involving children.

Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80 percent owned either child or adult pornography.<sup>30</sup>

Each convicted child molester interviewed by the Subcommittee either collected or produced child pornography, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities—alone, with other children, with adults, and even with animals. In some child pornography, the children depicted are infants and toddlers, some as young as 18 months.<sup>31</sup>

Rainer Hernandez, a California college student who testified before the Subcommittee about his experience as a molestation victim, reported that when Los Angeles Police officers searched the home of his uncle, who has molested Mr. Hernandez for four years when he was a teenager, they found thousands of sexually explicit photos of children.<sup>32</sup> In many other cases police have discovered extensive collections carefully indexed, often on home computers, by age of the children, origin of the material and type of sexual activities performed. A man in Austin, Texas analyzed an entire collection of child pornography magazines by the emotions shown on the children's faces—boredom, pleasure, pain, etc.<sup>33</sup>

In testimony before the U.S. Senate Subcommittee on Juvenile Justice on August 8, 1984, Special Agent Kenneth Lanning of the FBI's Behavioral Science Unit, a recognized expert on pedophilia, elaborated on the pedophile's fascination with child pornography:

"They (pedophiles) typically collect books, magazines, articles, newspapers, photographs, negatives, slides, movies, albums, drawings, audio tapes, videotapes, personal letters, diaries, sexual aids, souvenirs, toys, games, lists, paintings, ledgers, etc., all relating to children in either a sexual, scientific or social way. Not all pedophiles collect all these items. Their collections vary in size and scope. However, the maintenance and growth of their collections becomes one of the most important things in their life. . . . They may hide their collections, move them, or even give them to another pedophile, but they almost never destroy them."<sup>34</sup>

Experts cite seven primary reasons that pedophiles collect child pornography:

1. Justification.—A pedophile needs to know or to convince himself that his obsession is not "abnormal" and dirty, but is shared by thousands of other intelligent, sensitive people. The collection and trading of child pornography, along with scientific and academic articles justifying pedophilia, accomplishes this goal. Pornography also provides pedophiles with a common currency, a mutually desired possession which

can be bought, sold and traded in order to develop trust and camaraderie with fellow pedophiles.<sup>45</sup>

The pedophile's collection includes lists of names, addresses and phone numbers of other pedophiles, and correspondence received from such persons. These lists are guarded like gold, often kept in safe deposit boxes or secretly hidden in the pedophile's residence. They not only provide contacts for the pedophile, but they further reinforce the belief that because so many others engage in the same activity, it must not be as "wrong" as society believes. This constant need for validation and support from other pedophiles, however, often overcomes the instinct for caution. Enticed by fantasy letters about child sex or promises of exchanging child pornography, many pedophiles have been trapped by police through the simple exchange of letters.

2. *Arousal.*—In the same way others use adult pornography, pedophiles use child pornography to stimulate their sexual drive and to aid in masturbation. While some pedophiles may only fantasize about the material, Lanning suggests that "the arousal and fantasy fueled by the pornography is only a prelude to actual sexual activity with children."<sup>38</sup>

3. *To lower a child's inhibitions.*—Many pedophiles firmly believe children enjoy sex with adults and that pictures of this activity will convince reluctant children to more freely participate. "Peer pressure has a tremendous effect on children," Lanning testified. "If other children are involved, maybe it is all right, the child thinks. In the pornography used to lower inhibitions, the child portrayed will appear to be having a good time."<sup>37</sup>

In two cases examined extensively by Subcommittee investigators, convicted molesters Joseph Henry and Donald Woodward acknowledged that they showed their victims child pornography in an effort to lower their inhibitions and even to suggest specific sex acts. In letters written by Woodward to other pedophiles, he explained specifically what he had in mind for the child pornography he was sending or receiving:

"I've just mailed you, in a separate envelope, a bunch of material on (the two children he was convicted of molesting). I need this material back before 7/23 for use as "bait" in a plan I'll tell you all about if it comes off. Maybe bait is the wrong word; they (the photos) are intended to be emulated by prospective participants . . ."<sup>38</sup>

"The photos of [his 10-year-old victim], of course, are to be samples of poses that I want them [other children] in, from mild and sweet, to hot and lewd . . ."<sup>39</sup>

Woodward and his friends also found that a Polaroid camera came in handy during photo sessions with children. "I may just pick up a Polaroid . . . since kids always enjoy seeing how they look in pictures right away," Woodward wrote to another pedophile, "and I think it helps persuade them to go 'just a little farther' in the next shot . . ."<sup>40</sup>

4. *Preservation of the child's youth.*—Another principal reason for the collection of child pornography by pedophiles is to insure there will always be an image of the child at the age of sexual preference. "No matter how attractive any one child sexual partner is," Lanning testified, "there can be no long-term sexual relationship. All child victims will grow up and become sexually unattractive to the pedophile. However, in a photograph, a 9-year-old boy stays young forever."<sup>41</sup> Nor are the photographs always sexually explicit. Many pedophiles avidly col-

lect photos of clothed children. Pederasts, or "boy-lovers" as they call themselves, quite often collect photos of young boys in sports outfits. William Thorne, a detective in the Bergen County, New Jersey, prosecutor's office, testified before the Subcommittee that in the arrest of James Cooper on molestation charges, officers found several hundred 35mm photographs of teenage boys at parks, swimming pools, ice rinks, video arcades, baseball games, even newspaper boys on their routes—all clothed, but usually wearing shorts (see pp. 20, 21).<sup>42</sup> Other pedophiles have collected department store catalog photos of young children in underwear.

5. *Blackmail.*—A child molester is consumed with the prospect of being caught. When he has taken sexually explicit photos of his victims, he not only has preserved the object of his desire for posterity, but he also has created an effective tool for keeping the child from revealing his abuse. If a child should threaten to tell his parents or authorities, the molester will remind him of the photos and tell him he will be punished or lose the affection of parents and siblings if the photos are revealed.<sup>43</sup>

6. *A medium of exchange.*—Agent Lanning testified that some pedophiles exchange photographs in order to gain access to other children. The quality and theme of the material (boy-boy, boy-girl, adult-child, etc.) determines its value. Because of this system of exchange, copying machines, slide enlargers and photo duplicating equipment are often used to produce duplicate copies of material which can be offered to other pedophiles.<sup>44</sup>

<sup>1</sup>American Humane Association/American Association for Protecting Children, *Highlights of Official Child Neglect and Abuse Reporting*, Denver, CO, 1984, p. 17.

<sup>2</sup>Report to Subcommittee by Congressional Research Service, Washington, June 1986.

<sup>3</sup>Child Welfare League of America, *Too Young to Run: The Status of Child Abuse in America*; New York, February 1985, p. 5.

<sup>4</sup>*Ibid.*, p. 10.

<sup>5</sup>Subcommittee staff interview with Sgt. William D. Brown, Vice Division, Houston, TX, Police Department, February 1986.

<sup>6</sup>National Committee for the Prevention of Child Abuse, "The Size of the Child Abuse Problem"; Chicago, February 1985, p. 2; Sally Squires, "Who Would Sexually Abuse a Child?"; *The Washington Post "Health" Magazine*, June 19, 1986, p. 7.

<sup>7</sup>Ted Rohrlitch and Lois Timnick, "McMartin Flaw: Gaps in Evidence"; *The Los Angeles Times*, Jan. 27, 1986, p. 4.

<sup>8</sup>Jon Northeimer, "Sex Charges Against Priest Embroil Louisiana Parents"; *The New York Times*, June 20, 1985, p. A-24.

<sup>9</sup>John Dorschner, "The Child Seducer"; *The Miami Herald "Tropic" Magazine*, Oct. 9, 1983, pp. 14-21; Subcommittee staff interview with Special Agent Barry Carmody, Federal Bureau of Investigation, Tampa, FL, March 1986. (Also see pp. 39-41.)

<sup>10</sup>Permanent Subcommittee on Investigations, United States Senate, *Child Pornography and Pedophilia*; S. Hrg. 98-1277, Part 1, Nov. 29-30, 1984; S. Hrg. 99-18, Part 2, Feb. 21, 1985 (*Hearings*).

<sup>11</sup>The U.S. Customs Service estimated in 1985 that 85 percent of the child pornography seized as it was entering the United States came from Denmark and the Netherlands; see pp. 29-34.

<sup>12</sup>California Department of Justice, *Organized Crime in California, 1982-83*; Sacramento, 1984, pp. 14-15.

<sup>13</sup>"Case Synopsis," Administrative Vice Division, Los Angeles Police Department, May 7, 1982 (copy retained in Subcommittee files).

<sup>14</sup>Subcommittee staff interview, August 1984.

<sup>15</sup>Subcommittee staff interview, August 1984.

<sup>16</sup>Gregory Stricharchuk, "Porn King Expands His Empire With Aid of Businessman's Skills"; *The Wall Street Journal*, May 9, 1985, p. 1.

<sup>17</sup>U.S. Customs Service seizure reports, February 1986; Subcommittee staff interview with Cathy Wilson, *op. cit.*; Subcommittee staff interview with Joyce Karlin, Assistant U.S. Attorney, Los Angeles, August, 1984.

<sup>18</sup>See following section.

<sup>19</sup>Child Protection Act of 1984, P.L. 98-292.

<sup>20</sup>Report to Subcommittee by Criminal Division, U.S. Department of Justice, June 1986.

<sup>21</sup>Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis*; National Center for Missing and Exploited Children, Washington, February 1986, pp. 1-2.

<sup>22</sup>Sharon Araj and David Finkelhor, "Abusers: A Review of the Research," in Finkelhor, *A Source Book on Child Sexual Abuse* (Beverly Hills: Sage, 1986), p. 103.

<sup>23</sup>Lanning, *op. cit.*, p. 11.

<sup>24</sup>*Op. cit.*

<sup>25</sup>*Hearings*, Part 2, p. 8.

<sup>26</sup>Kenneth V. Lanning and Ann Wolbert Burgess, "Child Pornography and Sex Rings," *FBI Law Enforcement Bulletin*, Washington, January 1984, p. 11.

<sup>27</sup>David Sonenschein, ed., *How to Have Sex With Kids*; Austin, TX, 1983, pp. 6-7 (copy retained in Subcommittee files).

<sup>28</sup>A. Nicholas Groth with H. Jean Birnbaum, *Men Who Rape: The Psychology of the Offender* (New York: Plenum, 1979), p. 142.

<sup>29</sup>*Hearings*, Part 2, p. 8.

<sup>30</sup>Subcommittee staff interview, September 1985.

<sup>31</sup>*Hearings*, Part 1, p. 53.

<sup>32</sup>*Hearings*, Part 2, p. 18.

<sup>33</sup>Austin, TX Police Department, evidence seized in search of the home of David Sonenschein, August 1984.

<sup>34</sup>Subcommittee on Juvenile Justice, United States Senate, *Effect of Pornography on Women and Children*, S. Hrg. 98-1267, Aug. 8, 1984, p. 38.

<sup>35</sup>*Ibid.*, pp. 40-41.

<sup>36</sup>*Ibid.*, p. 43.

<sup>37</sup>*Ibid.*

<sup>38</sup>Donald Woodward, personal correspondence seized as evidence by Los Angeles Police Department.

<sup>39</sup>*Ibid.*

<sup>40</sup>*Ibid.*

<sup>41</sup>Subcommittee on Juvenile Justice, *op. cit.*, p. 42.

<sup>42</sup>*Hearings*, Part 1, p. 54.

<sup>43</sup>Subcommittee on Juvenile Justice, *op. cit.*, pp. 43-44. Also see *Hearings*, Part 2, p. 18.

<sup>44</sup>Subcommittee on Juvenile Justice, *op. cit.*, p. 44.

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, June 26, 1991.

Hon. JESSE HELMS,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HELMS: This letter is in response to your request for the views of the Department of Justice on your proposed amendment relating to various sentencing guidelines for child pornography offenses. My comments are directed to section (1)(b) of your amendment which would modify the Sentencing Commission's proposed changes to the penalties for the receipt of child pornography (sections 2G2.2 and 2G2.4 of the guidelines).

Your proposed legislation is consistent with the position the Department recently advocated to the Sentencing Commission. The Department strongly believes that receipt of child pornography should be grouped with trafficking violations and not with the new possession offense. Reducing sanctions for receiving child pornography would send the wrong message to those who may consider violating the law.

Therefore, the Department supports your effort to reinstate previously established penalties for receiving child pornography which has travelled in interstate or foreign commerce, or through the mail.

The Office of Management and Budget has advised that there is no objection to the submission of this position from the standpoint of the Administration's program.

Sincerely,

W. LEE RAWLS,  
Assistant Attorney General.

RELIGIOUS ALLIANCE  
AGAINST PORNOGRAPHY,  
Cincinnati, OH, June 24, 1991.

Hon. JESSE HELMS,  
U.S. Senator,  
Washington, DC.

DEAR SENATOR HELMS: We are writing you on behalf of the National Coalition Against Pornography, Religious Alliance Against Pornography (RAAP) and the National Women's Leadership Task Force (NWLTF) to express our strong support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses.

Our concern that new legislation be introduced stems from the proposed guidelines that will take effect on November 1, 1991 unless both houses of Congress take affirmative action before that date. We were profoundly disappointed to discover that the proposed guidelines recommended reduced sentencing levels for transporting, receiving and possessing child pornography.

The reduction in sentencing requirements will have a devastating effect on law enforcement efforts in this area. We have made progress over these last few years because federal law enforcement authorities have been able to convict child molesters on child pornography charges. Those men could then count on spending some substantial time in jail. Sadly, every picture of child pornography displays a child molestation taking place.

With the new guidelines, receipt or possession of child pornography is only a base level 10 offense. For a defendant receiving child pornography (who accepts responsibility), the recommended sentence has dropped from 8-14 months to 2-4 months, with probation now being a distinct possibility! Having worked on behalf of thousands of victims of this material, it is our strong belief that the sentencing requirements for these offenses need to be strengthened significantly, rather than lessened.

It also seems inconceivable that these proposed guidelines reflect the seriousness with which we know you and the Congress view this heinous offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to strengthen the offense) were to result in a decrease in child victimization prosecutions.

We believe the pending Crime Bill offers an appropriate and opportune time to make some vital adjustments consistent with the seriousness of the crime.

Each of our united networks is a mainstream alliance of concerned leaders and citizens. The Religious Alliance Against Pornography membership includes the top leaders of nearly 50 denominations, faith groups and interfaith organizations, serving over 100 million citizens. The National Women's Leadership Task Force was formed with the same objective as RAAP: reducing sexual victimization by eliminating illegal and child pornography. We would be strongly supportive of any action taken in this area.

We look forward to the opportunity to continue working with you and your staff on making this vital correction in the immediate future. Thank you for your continued leadership and concern. We are deeply grateful.

Sincerely yours,

DR. JERRY R. KIRK,

Chairman, Religious Alliance Against Pornography;  
President, National Coalition Against Pornography.

DEEN KAPLAN,

Vice President, Public Policy.

RELIGIOUS ALLIANCE AGAINST PORNOGRAPHY

As religious leaders, we believe in the inherent dignity of each human being. Created in God's image and likeness, the human person is the clearest reflection of God's presence among us. Because human life is sacred, we all have a duty to develop the kind of societal environment that protects and fosters its development. This is why we address a broad range of life threatening and life diminishing issues. These assaults on human life and dignity are all distinct, each requiring its own moral analysis and solution. But they must be confronted as elements of a larger picture.

The purpose of RAAP is to bring into clear focus a major factor in the assault on human dignity and the consequent dehumanization that it promotes: hardcore and child pornography. This concern brought us together following the release of the Report of the Attorney General's Commission on Pornography. We are in unanimous agreement that hard-core and child pornography, which are not protected by the Constitution, are evils which must be eliminated.

As religious leaders, our primary responsibility is to teach and to motivate. We can and must help people understand the moral dimensions of the problem of hard-core and child pornography and what their responsibility is in this regard, while fully respecting freedom of expression guaranteed by the First Amendment. In particular, we wish to make it clear that we do not and will not advocate 'censorship'. Our understanding of censorship implies actions being taken against materials which are protected by the First Amendment.

As teachers, we will do all in our power to proclaim the truth of human dignity and freedom, and to promote the God-given human values needed for the moral health of our society. Given the information and motivation, people will do what is necessary to affect public policy.

The membership of RAAP, representing a broad spectrum of America's religious community, is an indication of the seriousness of the problem and our commitment to addressing it. This represents the beginning of an ongoing process which will facilitate greater cooperation on this vital issue among religious bodies.

MEMBERSHIP

Cooperative

Mrs. Jacqueline G. Wexler, President, National Conference of Christians and Jews.

Greek Orthodox

His Eminence Archbishop Iakovos, Primate, Archdiocese of North and South America.

Bishop Philip of Daphnousia, Archdiocese of North and South America.

Reverend Milton B. Efthymiou, Archdiocese of North and South America.

Jewish

Rabbi March, Tanenbaum.

Rabbi Mordecai Waxman.

Rabbi Walter S. Worzburger.

Protestant

Rev. James E. Andrews, Stated Clerk, Presbyterian Church (USA).

Bishop George W. Bashore, Bishop of Western Pennsylvania, United Methodist Church.

Dr. Harold C. Bennett, President & Treasurer, Executive Committee, Southern Baptist Convention.

Mrs. Sarah Blanken, Vice President, Women's Leadership, National Coalition Against Pornography.

Dr. Ralph A. Bohlmann, President, The Lutheran Church-Missouri Synod.

Bishop Voy M. Bullen, General Overseer, The Church of God.

Dr. G. Raymond Carlson, General Superintendent, Assemblies of God.

Rev. Clifford R. Christensen, Conference Minister, Conservative Congregational, Christian Conference.

Dr. Raymond E. Crowley, General Overseer, Church of God (Cleveland, TN).

Rev. L. Edward Davis, Stated Clerk, Evangelical Presbyterian Church.

Dr. James Dobson, President, Focus on the Family.

Bishop Paul A. Duffey, Secretary, Council of Bishops, United Methodist Church.

Dr. Steve F. Flatt, Minister, Madison Church of Christ.

Bishop William Frey, The Episcopal Church.

Dr. Archie R. Goldie, Secretary, N. Amer. Baptist Fellowship, Baptist World Alliance.

Dr. Ray H. Hughes, First Assistant/General Overseer, Church of God (Cleveland, TN).

Dr. B. Edgar Johnson, General Secretary, Church of the Nazarene.

Dr. William A. Jones, President, National Conference of Black Pastors.

Rev. Dean M. Kelley, Director of Religious & Civil Liberties, National Council of Churches.

Dr. Jerry R. Kirk, President, National Coalition Against Pornography.

Dr. Richard Land, Executive Director, Christian Life Commission, Southern Baptist Convention.

Mr. James M. Lapp, Executive Secretary, General Board, The Mennonite Church.

Dr. Eileen W. Lindner, Associate General Secretary, National Council of Churches.

Chief John Maracle, Chief of North American Native Christian Council.

Bishop George Dallas McKinney, Bishop of Southern California, Church of God in Christ.

Dr. Thomas A. McDill, President, Evangelical Free Church of America.

Dr. Billy Melvin, Executive Director, National Association of Evangelicals.

Commissioner Andrew S. Miller, The Salvation Army, Retired.

Dr. Edwin G. Mulder, General Secretary, Reformed Church in America.

Mr. David H. Northrup, Executive Vice President, Advent Christian General Conference.

Commissioner James Osborne, National Commander, The Salvation Army.

Mr. Matt Parker, President, Institute for Black Family Development.

Mr. Vern Preheim, General Secretary, The General Conference Mennonite Church.

Dr. Adrian Rogers, Former President, Southern Baptist Convention.

Dr. Oscar Romo, Director, Div. of Language Missions, Southern Baptist Convention.

Dr. Mary O. Ross, President, Women's Conv. Auxiliary, National Baptist Convention, U.S.A., Inc.

Rev. Don Sauls, General Superintendent, Penecostal Free Will Baptist Church.

Dr. R. Donald Shafer, General Secretary, Brethren in Christ Church.

Rev. Ray E. Smith, General Superintendent, Open Bible Standard Churches, Inc.

Dr. Glen O. Spence, Executive Director, General Association of General Baptists.

Dr. Everett Stenhouse, Assistant General Superintendent, Assemblies of God.

Dr. Mary Ruthstone, Secretary, Women's Commission, National Association of Evangelicals.

Dr. Paul Tanner, Executive Secretary, Retired, Church of God (Anderson, IN).

Bishop Clyde E. Van Valin, Free Methodist Church of North America.

Rev. Vilis Varsbergs, President, Latvian Evangelical Lutheran Church in America.

Dr. Daniel E. Weiss, General Secretary, American Baptist Churches, U.S.A.

Dr. John H. White, President, National Association of Evangelicals.

Dr. Melvin L. Worthington, Executive Secretary, National Association of Free Will Baptists.

Rev. Donald E. Wrigley, President, Advent Christian General Conference.

#### Roman Catholic

His Eminence Joseph Cardinal Bernardin, Archbishop of Chicago.

His Eminence John Cardinal Krol, Archbishop of Philadelphia, Retired.

His Eminence Bernard Cardinal Law, Archbishop of Boston.

His Eminence John Cardinal O'Connor, Archbishop of New York.

Most Rev. Roger Mahony, Archbishop of Los Angeles.

Most Rev. James W. Malone, Former President, National Conference of Catholic Bishops.

Most Rev. Daniel E. Pilarczyk, President, National Conference of Catholic Bishops.

Bishop Robert J. Banks, Auxiliary Bishop of Boston.

Bishop Francis J. Mugavero, D.D., Bishop of Brooklyn and Queens.

*The Church of Jesus Christ of Latter Day Saints*

Elder John K. Carmack, First Quorum of the Seventy.

Dr. Richard P. Lindsay, Second Quorum of the Seventy.

Mr. Bruce Olsen, Managing Director, Public Affairs.

#### NATIONAL WOMEN'S LEADERSHIP TASK FORCE

The National Women's Leadership Task Force, in partnership with the National Coalition Against Pornography and the Religious Alliance Against Pornography, mobilizes and equips women to eliminate child pornography and to remove illegal pornography from the open market.

#### SUPPORTIVE CONCEPTS

We are women of faith who have prayerfully come together to commit ourselves to the preservation and enhancement of human dignity.

We are women united in commitment to the task of eradicating child pornography and illegal pornography from our nation and our world.

We are concerned citizens who serve as business executives, church leaders, community leaders, educators, and government officials living in a society where illegal pornography degrades and dehumanizes women, destroys children, and corrupts men, those caught up in addiction and those exploited.

We are women focused on the goals of protecting ourselves, our families, our neighborhoods, and our communities by raising awareness that child pornography and other illegal pornography promotes sexual violence and victimization of children, women, men and families; developing regional and community task forces across America called WIN groups; and working with the Religious Alliance Against Pornography and National Coalition Against Pornography to influence local, state and federal governments. We encourage networking and/or joining with other decency organizations wherever feasible.

We are women who care and will encourage other women of diverse religious persuasions and philosophical motivations to join us in

the challenge of freeing our nation from sexual abuse and degrading sexual attitudes.

#### MEMBERSHIP

Mrs. Sarah Blanken, Chairperson, Vice President, Women's Leadership, Natl. Coalition Against Pornography, Cincinnati, OH.

Mrs. Jan Augenstein-Miller, Development Officer, Miami University, Camden, OH.

Mrs. Susan A. Baker, Parents' Music Resource Center, Arlington, VA.

Mrs. Mariam Bell, Deputy Assistant Secretary for Public Affairs, Dept. of Health & Human Services, Washington, DC.

Mrs. Susan Bell, Board Member, Citizen's For Community Values, Cincinnati, OH.

Mrs. Ulyses Brinkley, Housing Program Specialist, Burke, VA.

Dr. Jane Nady Burnley, Director, Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

Mrs. Sandra Clopine, Secretary, Women's Ministry Dept., Assemblies of God, Springfield, MO.

Sister Joy Clough, Director, Office of Public Information, Archdiocese of Chicago, Chicago, IL.

Ambassador Holland Coors, Washington, DC.

Mrs. Martha Davis, Women's Crisis Center, Covington, KY.

Mrs. Shirley Dobson, Focus on the Family, Pomona, CA.

Mrs. Becky Dunlop, Management Consultant, Arlington, VA.

Mrs. Tish Fainelli, Businesswoman, Video Biz, Longwood, FL.

Mrs. Rebekah Gibson, Businesswoman, Los Angeles, CA.

Mrs. Sandy Grear, Communications Management Consultant, Chicago, IL.

Mrs. Olive Hodson, Vice President, Women's Ministers International, Free Methodist Church, Lebanon, OR.

Mrs. Colonel Barbara Hood, Assistant to National President For Women's Organizations, Salvation Army, Verona, NJ.

Mrs. Laura Hudson, Executive Director, Citizens for Advocating Decency & Revival of Ethics, Lexington, SC.

Mrs. Susan Hunt, Consultant, Women in the Church, Presbyterian Church of America, Atlanta, GA.

Mrs. Joanne Jankowski, Lawyer, Maple Grove, MN.

Mrs. Dee Jepsen, Chairman of the Board, Regent University, Fairfax, VA.

Mrs. Ardeth Kapp, International President, Young Women of the Church of Jesus Christ of Latter-day Saints, Salt Lake City, UT.

Mrs. Patty Kirk, Natl. Coalition Against Pornography, Cincinnati, OH.

Dr. Eileen Lindner, Associate General Secretary, National Council of Churches, New York, NY.

Miss Patricia McEntee, Public Relations, Morality in Media, New York, NY.

Mrs. Beverly Medved, President, Natl. Council of Catholic Women, Kallispell, MT.

Mrs. Monique Nelson, California Care Coalition, Irvine, CA.

Mrs. Dellanna O'Brien, Executive Director, Women's Missionary Union, Southern Baptist Convention, Birmingham, AL.

Ms. Peggy Owens, Staff Associate, Washington Office, Presbyterian Church USA, Washington, DC.

Dr. Georgiana Rodiger, Clinical Psychologist, Altadena, CA.

Dr. Mary O. Ross, President, Women's Convention Auxiliary, National Baptist Convention, Detroit, MI.

Mrs. Cleo Seremetis, Representative of the Greek Orthodox Archdiocese of N. & S. America, Church and the Ladies National Philothocos Society, Cincinnati, OH.

Dr. Mary Ruth Stone, Secretary, Women's Commission, National Association of Evangelicals, Cleveland, TN.

Rev. Leslie Taylor, Associate Director for Advocacy, United Church of Christ, Cleveland, OH.

#### CHILDREN'S LEGAL FOUNDATION,

Phoenix, AZ, June 20, 1991.

Hon. JESSE HELMS,  
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: As you well know, Children's Legal Foundation, founded in 1957, is dedicated to ridding the Nation of illegal child pornography and obscenity.

Child abuse and sexual assaults on children are occurring in epidemic numbers in the United States today. The Attorney General's Commission on Pornography in 1986 found that the primary vehicle for the production and distribution of child pornography involved trade in materials created by child abusers and distributed informally to other child abusers. If we, as a Nation, are to ever slow down this ever escalating exploitation of children, then we must treat the marketing—distributing, receipt, and possession—of child pornography as the serious crime that it is.

For the above reasons, and many more that are too numerous to list in this short letter, Children's Legal Foundation strongly endorses the legislation you are proposing which would strengthen the child pornography penalties as reflected in the Federal Sentencing Guidelines.

I know I speak not only for my organization, but also the more than 100,000 members of CLF when I thank you for your leadership in this area.

Sincerely,

JAMES P. MUELLER,  
General Counsel.

#### MORALITY IN MEDIA, INC.,

New York, NY, June 19, 1991.

Hon. JESSE HELMS,  
United States Senate,  
Washington, DC.

DEAR SENATOR HELMS: Morality in Media was greatly distressed to learn of new sentencing guidelines which will result in reduced sentences for those convicted of violating the Federal Laws pertaining to child pornography.

Child pornography is among the most heinous of crimes, and if anything, the penalties should be made stricter, not weaker. We are therefore strongly in favor of legislation which will "put teeth" back into the sentencing guidelines for those who violate the child pornography laws.

The best and only way to close the distribution network for child pornography is to severely punish those who create, distribute, procure, and possess this vile material.

Sincerely,

JOSEPHY J. REILLY, Jr.,  
President.

#### GAMMON & GRANGE,

Washington, DC, June 26, 1991.

Hon. JESSE HELMS,  
U.S. Senator, Washington, DC.

DEAR SENATOR HELMS: I am writing you to express the strongest possible support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses. I have spent the last 9 years combatting child exploitation and child pornography, as the Chief Assistant U.S. Attorney in North Carolina, then as the first Executive Director of the U.S. Department of Justice Child Exploitation and

Obscenity Section during the Reagan Administration, and now as the President of the National Law Center for Children and Families.

Corrective legislation is essential if we are to prevent hundreds of pedophiles from receiving token sentences which put them back on the streets to victimize children.

The clinical and law enforcement evidence in this area is overwhelming. Child pornography is produced, distributed, and consumed almost exclusively by pedophiles (adults expressing a sexual preference for children) or molesters. In hundreds of cases we have found it used to reduce the child's resistance to molestation, to blackmail the child against describing to authorities what has happened, to teach the child exactly what the molester wants done, and finally, as a form of stimulation for the molester. There is no such thing as a minor child pornography offense. The possession of one child pornography picture has directly contributed to the molestation of at least one young child.

The vast majority of these offenders are men. Their clandestine networks have proven extremely difficult for law enforcement agents to penetrate. We have used "reverse-stings" and a number of other innovative approaches to attempt to get beyond the veil of secrecy, to rescue these children. Two examples are particularly illustrative of the role of child pornography prosecutions in helping destroy molester networks.

In Los Angeles, The LAPD Sexually Exploited Child Unit has found pornography used in the commission of extrafamilial sex crimes against children in almost two-thirds of their cases over the past 10 years. In an enormous investigation (involving 40 major cases with 12 or more child victims per offender) by the Louisville Exploited and Missing Children Unit, they found all 40 of the adult predators with various forms of adult pornography. The vast majority also possessed child pornography. One can begin to understand the scope of this problem when you consider that one of the Louisville cases involved 320 children.

Without the strictest sentencing guidelines, pedophile networks will continue to grow and flourish, free from the fear of prison, where molesters can find no children to satisfy their urges. Law enforcement efforts in this area will be emasculated, as few U.S. Attorneys will devote either time or resources to an offense that in all likelihood, will produce probation as the final outcome. The tremendous progress we have made over the past five years through inter-agency cooperation, reverse-stings and new stricter laws, which have closed gaping loopholes, will be significantly eroded if the new sentencing guidelines mandate a level 10 offense for receiving child pornography. It seems almost inconceivable—hundreds of children will pay the price.

In almost every instance where we have investigated a child pornography offense, we have found some evidence of child molestation. I urge you to strengthen the old child pornography guidelines by at least two levels. A reduction in the sentencing requirements will tell the law enforcement community that these offenses are no longer considered serious by our policymakers. The strongest laws on the books are meaningless if an offender who is convicted of such a horrendous crime goes home an hour later.

Lastly, having worked both within the federal government and as an attorney in the private sector to help Congress draft effective laws dealing with child exploitation, I

am confident that there is no possibility that these proposed guidelines reflect the seriousness with which the Congress views this life destroying offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to significantly strengthen the offense) were to result in a decrease in child victimization prosecutions. I urge you to prevent that from happening.

Sincerely,

H. ROBERT SHOWERS, Esq.,  
President, National Law Center  
for Children and Families, Partner, Gammon  
& Grange.

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 14 seconds.

Mr. HELMS. I will use those 14 seconds to thank the Chair for his courtesy to me, and to thank the Senate for listening to me to the extent that the Senate has listened to me.

I yield back the last 6 seconds of my time.

Mr. SYMMS. Mr. President, I will vote against cloture and urge my colleagues to do the same.

One hundred thirty days ago, the President asked Congress to send him a crime bill. The problem is that what the President had in mind was an anticrime bill, not a procrime bill.

The bill we have in front of us has the word "crime" in the title. But that is about the only sense in which it is a "crime" bill. This bill is, in most respects, a travesty which seeks to promote the liberal agenda, but would do little to stop crime on our Nation's streets.

As originally introduced, this bill would have outlawed the death penalty and expanded the rights of prisoners and criminal defendants. Some, but not all, of these aspects have been eliminated from the bill.

In its current form, this bill would override Federal and State Hatch Acts for the purpose of politicizing our Nation's law enforcement officers. Neither the police chiefs nor the law enforcement officers themselves can conceivably view this as a salutary development.

At the same time as it takes this country within one step of national firearms registration, this bill would do nothing to impose mandatory minimum sentences for nongun related offenses such as rape, kidnapping, or first degree murder.

Mr. President, the Senate can do better—and it should do better. This bill is not the final step in crime reform legislation during the 102d Congress. We will have plenty of opportunities to revisit the crime issue, ranging from the motor voter bill to the title X bill to the Kennedy quota bill, all of which are slated for Senate consideration this month.

So, Mr. President, let us have a crime bill. But let it be an anticrime bill,

rather than the gun control bill which is before us today.

I ask unanimous consent that a letter sent to every Senator from the National Rifle Association that sets out that it is not a crime bill but a gun control bill, along with a letter sent to me from Neal Knox Associates, The Firearms Coalition, explaining the weak parts of this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE ASSOCIATION  
OF AMERICA,

Washington, DC, July 9, 1991.

DEAR SENATOR: The NRA strongly opposes any attempt to limit debate on S. 1241 and asks you to oppose cloture when it is offered. Despite the addition of several positive anti-crime elements to this legislation long with the modification and deletion of several of the more onerous antigun sections, it contains provisions amounting to nothing less than an unmitigated attack on the rights of law-abiding gun owners. The continued inclusion of the unwarranted federal waiting period, the extension of criminal background checks for all firearms including long guns, and the ban and registration of semi-automatic firearms place this bill in diametric opposition to the protections guaranteed by the second amendment.

If the above listed provisions remain, S. 1241 will stand as a watershed for anti-gun forces. By tacitly accepting the flawed logic that controlling the rights of the law-abiding offers a check on the activities of the lawless, you make citizens less secure and criminals more so. This is antithetical to the spirit and the letter of the protections guaranteed by the U.S. Constitution, but more importantly, if opens the door to further diminishment.

Any law which diminishes the ability of citizens to secure the firearms necessary for self-protection is not only wrong, it is counter productive. Rape, robbery, assault, homicides, and other crimes of violence against individuals are at an all time high. However, an average of more than 600,000 of potential crimes such as these are thwarted by armed citizens each year. The vote you cast for S. 1241 may serve to deny present or future constituents the means to acquire the firearms they need to protect themselves or their family. Before you vote to diminish this right you should demand proof that it will serve a purpose other than that of political expediency. S. 1241 does not meet this burden of proof. That such actions are being justified in the name of crime control is a travesty.

S. 1241 is not a crime bill, it is a gun control bill. It does not deserve your support, and we urge you to vote against final passage.

Sincerely,

PATRICK J. RAFFANIELLE,  
Director

THE FIREARMS COALITION,  
Silver Spring, MD, July 8, 1991.

Senator STEVE SYMMS,  
Hart Senate Building,  
Washington, DC.

DEAR STEVE: I truly appreciate your statement that S. 1241 is no longer an anti-crime bill; it is now an anti-gun bill. Amen. And it must be voted upon accordingly. We will not eat a rotten steak no matter how much ketchup is on it.

The present language changes the "Brady Bill" section from a 7 day waiting period on handgun purchases to "five business days"—which is a distinction without a difference.

Further, after 30 to 60 months, probably, the "waiting period" will give way to an unwritten "instant check" on all firearms buyers—which few owners and buyers of rifles and shotguns, even few Senators, presently realize.

Finally, S. 1241 contains an outright ban on—initially—14 mainly semi-automatic firearms, with stringent and unrealistic requirements on present owners. Owners would have to register each gun with a licensed dealer, obtain a Federal form from anyone to whom they sold the gun, then keep that records forever. Considering that 70 percent wouldn't tell the Census Bureau how many bathrooms they have, and considering that even IRS requires tax records be kept only for 3 years, this is a prescription for turning countless law-abiding citizens into criminals.

Our friends in the Senate are now faced with the prospect of casting a single vote "for guns and against the death penalty" or "against guns and for the death penalty." Politically, they must not cast a vote on S. 1241, for it is a "Lose-Lose" situation.

To the five million readers of my columns in *Guns & Ammo*, *Handloader*, *Rifle*, and *Shotgun News*, S. 1241 will be the key vote of the 102d Congress. Frankly, most of my readers regard the "death penalty" as a farce and "habeas corpus" as a variety of mosquito. But they understand "gun control"—they recognize it in S. 1241—and they don't want it.

Please do your best to block S. 1241.

Yours for the Second Amendment,  
NEAL KNOX.

The PRESIDING OFFICER. The Senator from Delaware and the Senator from South Carolina each have 5 minutes.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I will try to do this as quickly and succinctly as I can. No. 1, the reason there is not a vote on the Helms amendment, notwithstanding its merit or lack thereof, is because there is a refusal to allow votes on other amendments like the Wirth amendment on the other side. And it is clear that if we get into some of these incredibly contentious votes, the bill that my friend from Idaho calls not a crime bill will come down.

Mr. President, 126 days ago, the President of the United States called on the Congress to pass a crime bill.

The Democratic leadership in the Senate has taken this challenge seriously. We have introduced a crime bill, we agreed to bring it directly to the floor, without any delay in committee—and to the majority leader's great credit, he agreed to make the crime bill the first order of business in the Senate after we disposed of the President's other 100-day challenge, the transportation bill.

After 3 weeks of debates, amendments, and votes—today, the Senate stands prepared to pass a crime bill that answers the President's challenge.

Now it is true that this crime bill more closely resembles the Democratic

crime bill than the President's—it includes a version of the Brady bill in it; it includes the DeConcini assault weapons ban; it includes our exclusionary rule provision; it includes most of our death penalty procedures, and it includes the many, many important crime fighting programs we Democrats have proposed.

But to the President's credit—and I do want to give him credit for this—it is my understanding that he and the Justice Department have said, that notwithstanding these differences from the President's bill, the President supports Senate passage of this crime bill.

So here we are. The Senate has a crime bill that most Democrats are prepared to support, that the President is prepared to support. Why can we not pass it?

We cannot pass this crime bill because some Senators are engaged in a filibuster of it.

Why? Why do these Senators want to block our adoption of this bill?

It cannot be because the Republicans have been denied their chance to offer anticrime amendments.

When my Republican colleagues wanted a vote on the President's crime bill, we agreed to their request.

And then, when they said, "No, actually, we want to vote on a revised crime bill"—a bill that dropped items from the President's bill and added most of our bill to it—we agreed to that request. And the Senate voted, and rejected this hybrid proposal soundly.

The Republicans wanted a vote on exclusionary rule reform. So we said, OK let's vote on the President's package. And they said, "No thanks," and proposed a reform that was one-half of what the President proposed.

And still, we took an up-and-down vote on it. And again, we rejected it.

The Republicans said they did not want to have the first gun vote be on the Brady bill—they wanted to have a gun substitute, the Stevens bill. So we gave them a vote on the Stevens bill—and, again, we rejected it.

And on, and on, and on. Each time, we have been, in effect, dared to take up and vote on Republican amendments to this bill—and each time, we have voted on them, up and down, just as requested.

So we have had a full airing of the philosophical differences between the President's bill and our bill—the President has won on some, we have won on others—and whatever you want to say about the product, no one can be against cloture because there has not yet been a full airing of our respective views.

Now maybe the opponents of cloture will say that they are voting "no" because they have nongermane amendments they wish to offer to the bill.

We all have amendments we would like to put on this bill. There are doz-

ens of Democratic Senators who have amendments. I have amendments.

But we recognize that there comes a time when each Senator's desire to have his amendments adopted must give way to the Senate's need to complete a bill. On this bill, the Senate has considered and disposed of 84 amendments—84 amendments.

So, it can hardly be said that the bill has been closed to amendment. And so I say to my Republican friends: If we Democratic Senators are prepared to forgo our amendments to pass this bill, why will you not do the same?

Now, perhaps we will hear that some people don't want cloture because they are afraid that the key provisions in the bill will be changed after cloture is invoked. But yesterday, I stood here and proposed that we look in the key provisions of the bill—an offer the distinguished ranking Member accepted—only to have it rejected by other Republican Senators.

So much for that excuse for being against cloture.

Perhaps we will hear the opposite complaint: That cloture should not be invoked because the major provisions in the bill need to be changed. But to this I say: Many amendments that would change the major provisions in the bill would remain germane postcloture. So invoking cloture does not cut off all efforts to change the exclusionary rule or habeas corpus.

So much for that excuse.

Now I am sure that we will hear a host of other explanations as well. But let's lay the cards on the table. If cloture is not invoked today, it is for one simple reason, and it can be summarized in four letters: g-u-n-s, guns. If cloture is not invoked, it will be because opponents of the firearms provisions in this bill vote to block further progress on the bill.

I respect the rights of any Senator to vote against cloture for any reason. If a Senator wants to oppose cloture because he does not want any crime bill if that bill includes the Brady bill or the DeConcini bill, that is his prerogative, and I respect that.

But I hope we do not hear that Senators are voting against cloture because, as one of my Republican colleagues claimed last week, this is a gun bill, not a crime bill.

This isn't a crime bill? With 60 death penalty offenses—more than even the President's bill contained? With 10,000 new local cops?

Not a crime bill? With unprecedented limits on habeas appeals? With 3,000 new Federal agents? With a rural crime plan?

Not a crime bill? With new mandatory penalties for every gun offense? With an antigang plan? With new prisons and boot camps?

Not a crime bill? Tell that to the police officers waiting out in the reception room—or to those walking the

beat today in neighborhoods around the country.

They want this bill. And they want you to vote for cloture on it.

In closing, Mr. President, I want to make two observations.

First, I want to say to my colleagues, that we all make speeches about getting tough on crime. Boy, do we make speeches. We make TV ads. We go to town meetings and tell our constituents how tough we are on crime. And we make more speeches.

Well today, we vote on whether we are going to have a crime bill. And it is high time to see whether our votes are going to match up to our raised voices. Are we going to just give speeches on crime, or are we going to have a crime bill—that's the question.

My second observation concerns the administration, and the politics of crime.

When this bill came to the floor, I called on the administration to take the politics out of this bill; to make it a bipartisan effort; to join us in working out a compromise crime bill.

It has not been easy, but here we are with a crime bill—not the way I wanted it, not the way the President wanted it—but basically, in a fashion that we are both prepared to accept it. Simply put: I support this crime bill. The President supports this crime bill. That dispute is resolved.

I do want to say this: I have been reading over the past few weeks that the White House intends to make crime an issue in the upcoming elections.

And if that is true, I hope the President and the media will not forget today's vote. Because if cloture fails today, and the crime bill is blocked, it won't be because a majority of Democrats vote against cloture—it will be because a majority of the members of the President's own party vote to block a crime bill.

So let's not hear about the Republicans being tougher on crime. I hope we won't hear any statements from the White House about congressional foot-dragging on crime unless those statements also include an accurate report that the cause of the delay is members of the President's own party.

Crime is not a political issue, or at least it should not be. And before anyone tries to make it one, they should stop and reflect on today's vote, and what it means.

With regard to what we had agreed to in terms of the amendments that we had agreed to by unanimous consent, if all my papers are here—here they are. I want to make clear what they are. They have been out there for a long time. We have been on this for 3 weeks.

This is Rudman amendment, which we accepted, which changes the Biden bill in the following way: It says instead of the drug czar deciding where we place these boot camps, the Director of the Bureau of Prisons will make

that decision. I accepted that amendment.

Mr. President, there is a D'Amato amendment that is a purely technical amendment relating to a previous amendment the Senate had passed, having to do with whereas and wherefores, and it does not change the substance of what was passed.

There is a Dole technical amendment on guns; there is a Seymour amendment on alien exploitation, where if someone has an alien, or has control of an alien, and says, "Unless you commit the following crime, I will report you and you will be deported," it calls for a penalty for that.

There is a McConnell amendment changing the McNally ruling so that wire fraud statutes can be used more easily against public officials who are engaged in wrongdoing.

There is a Thurmond-Biden technical amendment which is purely technical.

There is a Bingaman technical amendment relating to the Bingaman amendment which we passed relating to literacy training and teaching in prisons.

There is a Riegle amendment on violent crime by minorities, where some of these new grants will go into the cities with the highest crime rates.

There is a DeConcini amendment setting up a Commission on Law Enforcement to help the law enforcement agencies to determine what new initiatives they can take, and how they can better organize to deal with violent crime.

And there is a Graham prison amendment which says that if you use dope, if you use narcotics, if you use controlled substances while you are in prison, it increases the penalty for those. That is what we just did, Mr. President.

And this brings us to a total of 94 amendments that have been disposed of relative to this bill, and cloture is the only way, the only way to get a crime bill the President wants and all America wants.

So we can play games all we want, all night. We can be petulant; we can insist that every one of our amendments or only our amendments get accepted. It will be totally appropriate in light of what we just heard for Senator WIRTH to come over here and suggest that he is going to insist on a vote on his amendment, and so on.

But I hope we do not do that. I hope we get a crime bill. There are a number of other vehicles that are available to pursue amendments that in fact have not been accepted and will be out of order because they are not germane if we vote cloture.

I thank my colleagues for listening, and I hope we invoke cloture.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to say that I am in favor of invoking

cloture on this bill. This bill contains the key points of the President's bill. They have been incorporated into the bill offered by the distinguished Senator from Delaware, the chairman of the committee: The comprehensive Federal death penalty, which is virtually identical to the death penalty contained in the President's crime bill—and this will give Federal prosecutors their first comprehensive death penalty since 1972.

This bill contains a habeas corpus reform which is extremely important. The Senate passed President Bush's habeas corpus reform proposal, which is the toughest habeas reform ever to pass this Senate.

And this bill contains a provision on antiterrorism that is important. Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

This bill contains a provision on victims. The bill lifts the cap on the crime victim fund which helps crime victims recover financially. In addition, the bill contains language on mandatory restitution for crime victims.

So, Mr. President, this bill contains some things that I do not approve of. But on account of containing the main provisions of the President's crime bill, which we have incorporated into this bill, I feel that they outweigh the detrimental portions of the bill and we should pass this crime bill.

The people of this country are demanding action on this crime bill. I do not know of anybody anywhere that does not favor taking action on crime. There is too much crime all over this country; not just here, in Washington, DC, but in all the States of the Nation. And the people are looking to us to pass a bill that will take care of this crime situation.

Therefore, I am going to vote for cloture, and I hope every Member of this Senate will vote for cloture. I certainly hope we get enough to apply cloture. Anyway, the provisions that my distinguished chairman of the committee just mentioned—he has listed those—I will not go over them again. We have reached a consensus on those. I want some others there, but we could not reach a consensus on them. I wanted a vote on some others, in addition to that, but the chairman of the committee decided we could not do that.

So at any rate, these are provisions that I think are helpful, and I am willing to go along with them and adopt them at this time prior to the voting on cloture.

So, Mr. President, I am hoping that we can adopt these provisions that have been agreed upon en bloc, and then vote for cloture on this crime bill.

#### CLOTURE MOTION

The PRESIDING OFFICER. The hour of 8:30 p.m. having arrived, under the

previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

**CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden, Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

**CALL OF THE ROLL**

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

**VOTE**

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on S. 1241, a bill to control and reduce violent crime, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The yeas and nays resulted—yeas 71, nays 27, as follows:

[Rollcall Vote No. 123 Leg.]

**YEAS—71**

Adams	Durenberger	Metzenbaum
Akaka	Eron	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boren	Gore	Packwood
Bradley	Gorton	Pell
Brown	Graham	Reid
Bryan	Harkin	Riegle
Bumpers	Hartfield	Robb
Burdick	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerry	Seymour
D'Amato	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Specter
Dixon	Dodd	Thurmond
Dole	Lieberman	Wirth
Domestic	McCain	Wofford
	McConnell	

**NAYS—27**

Baucus	Hatch	Nickles
Breaux	Heflin	Pressler
Burns	Helms	Shelby
Coats	Johnston	Smith
Craig	Leit	Stevens
Danforth	Lugar	Symms
Garn	Mack	Wallop
Gramm	McCain	Warner
Grassley	Murkowski	Wellstone

**NOT VOTING—2**

Bond  
Pryor

The PRESIDING OFFICER (Mr. FORD). On this vote, there are 71 yeas, 27 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

**MORNING BUSINESS**

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, 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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

**REPORT OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT—PM 60**

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 Armed Services:

*To the Congress of the United States:*

I transmit herewith the report of the Defense Base Closure and Realignment Commission pursuant to section 2903 of Public Law 101-510; 104 Stat. 1810, accompanied by the Commission's errata sheet submitted to me on July 9, 1991.

I also hereby certify that I approve all the recommendations contained in the Commission's report.

GEORGE BUSH.

THE WHITE HOUSE, July 10, 1991.

**MESSAGES FROM THE HOUSE**

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1455) to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence: Mr. McCURDY, Mr. WILSON, Mrs. KENNELLY, Mr. GLICKMAN, Mr. MAVROULES, Mr. RICHARDSON, Mr. SOLARZ, Mr. DICKS, Mr. DELLUMS, Mr. BONIOR, Mr. SABO, Mr. OWENS of Utah, Mr. SHUSTER, Mr. COMBEST, Mr. BERREUTER, Mr. DORNAN of California, Mr. YOUNG of Florida, Mr. MARTIN, and Mr. GEKAS.

From the Committee on Armed Services, for the consideration of the Department of Defense Tactical Intelligence and related activities and section 505 of both the House bill and Senate amendment: Mr. ASPIN, Mr. SKELTON, and Mr. DICKINSON.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 531. An act to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes.

H.R. 2387. An act to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes;

H.R. 2720. An act to extend for 1 year the authorization of appropriations for the programs under the Child Abuse Prevention and Treatment Act, and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes; and

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 113. Concurrent resolution to express the sense of the Congress that the President should seek an international moratorium on the use of large-scale driftnets called for in United Nations Resolution 44-225, while working to achieve the United States policy of a permanent ban on large-scale driftnets.

The message also announced that pursuant to the provisions of section 3(a) of Public Law 86-380, and the order of the House of June 26, 1991, empowering the Speaker to make appointments authorized by law or by the House, the

Speaker, on June 28, 1991, did appoint Mr. PAYNE of New Jersey to the Advisory Commission on Intergovernmental Relations on the part of the House.

#### MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2387. An act to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2720. An act to extend for 1 year the authorizations of appropriations for the programs under the Child Abuse Prevention and Treatment Act, and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes; to the Committee on Labor and Human Resources.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 531. An act to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Raoul Lord Carroll, of the District of Columbia, to be President, Government National Mortgage Association;

Constance Tastine Harriman, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1995;

Eugene Peters, of Pennsylvania, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1992; and

David W. Mullins, Jr., of Arkansas, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

(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. COCHRAN (for himself, Mr. BUMPERS, Mr. LOTT, Mr. PRYOR, Mr. GRASSLEY, Mr. HEFLIN, Mr. MCCONNELL, Mr. SHELBY, Mr. SEYMOUR, Mr. BOREN, Mr. THURMOND, Mr. BREAUX,

Mr. FOWLER, Mr. JOHNSTON, Mr. BENTSEN, Mr. ADAMS, Mr. BURDICK, Mr. GORE, Mr. NUNN, Mr. GRAMM, Mr. SANFORD, Mr. SASSER, Mr. DASCHLE, Mr. HOLLINGS, Mr. CRANSTON, and Mr. CRAIG):

S. 1441. A bill to provide disaster assistance to agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 1442. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN (for himself and Mr. HATCH):

S. 1443. A bill to clarify the treatment of mineral materials on public lands; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 1444. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, and Mr. LIEBERMAN):

S. 1445. A bill to amend the Safe Drinking Water Act to reduce human exposure to lead in drinking water; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself and Mr. WOFFORD):

S.J. Res. 175. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

By Mr. DIXON (for himself and Mr. BURNS):

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; 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. DOLE (for himself, Mr. MITCHELL, Mr. SPECTER, Mr. CRANSTON, and Mr. KERRY):

S. Con. Res. 51. Concurrent resolution authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (for himself, Mr. BUMPERS, Mr. LOTT, Mr. PRYOR, Mr. GRASSLEY, Mr. HEFLIN, Mr. MCCONNELL, Mr. SHELBY, Mr. BOREN, Mr. THURMOND, Mr. BREAUX, Mr. FOWLER, Mr. JOHNSTON, Mr. BENTSEN, Mr. ADAMS, Mr. BURDICK, Mr. GORE, Mr. NUNN, Mr. GRAMM, Mr. SANFORD, Mr. SASSER, Mr. DASCHLE, and Mr. HOLLINGS):

S. 1441. A bill to provide disaster assistance to agricultural producers, and

for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

#### AGRICULTURE DISASTER ASSISTANCE ACT

Mr. COCHRAN. Mr. President, there have been some very serious weather problems throughout the country this year and last year which have caused some serious problems for American agriculture. The 1990 farm bill has several provisions such as the Emergency Loan Program and other programs that are designed to respond to some of the needs that farmers have as a result of natural disasters such as severe weather problems. But we have found that in the administration of the programs, particularly the Emergency Loan Program, the requirements for eligibility and the exact steps that were required of farmers to qualify for loans were such that very few were being approved.

In testimony before the Agriculture Appropriations Subcommittee this came out in the early part of this year when we were having our usual hearings which included witnesses from the Farmers Home Administration. As a result of the information obtained from these hearings and in visiting with farmers throughout my State of Mississippi and across the country, it became obvious that we needed additional assistance from the administration or possibly additional legislation. We worked with the Secretary of Agriculture and other administration officials to try to identify things that could be done administratively to respond to these problems.

I must say, Mr. President, that the Secretary and his staff have worked very hard to help meet some of these needs, but it seems to me that in spite of some very sensitive changes that have already been made we do need additional assistance.

Today, I am introducing an agriculture disaster assistance act which will provide what we hope will be adequate assistance to farmers in the form of direct payments for eligible producers of 1990 or 1991 crops that were prevented from planting or that have experienced reduced yields due to damaging weather conditions.

I am happy to report, Mr. President, that over 20 Senators are joining in cosponsoring this legislation.

Thousands of farm families throughout the country have been adversely affected by devastating crop losses due to drought, flood, and freeze damage during 1990 and the current growing season. This bill will provide disaster assistance in the form of direct payments to eligible producers of all 1990 or 1991 crops that were prevented from planting or that have experienced reduced yields due to damaging weather conditions.

It is imperative that we assist these farmers who have suffered great losses due to conditions beyond their control.

I have received many letters from across the Nation requesting disaster assistance for 1990 crop losses due to adverse weather conditions. In fact, in my State, it is estimated that farmers lost nearly \$100 million due to natural disasters during the 1990 growing season.

Agricultural production in the Midsouth region of the country is currently suffering from a deluge of record flooding that has caused severe damage. During this spring nearly 2 million acres of crop land was flooded in Mississippi alone. These heavy rains resulted in the delayed planting of thousands of acres of cotton, rice, and soybeans which will cause a significant reduction in normal production yields. It is estimated that over 100,000 acres of crop land in Mississippi will not be planted this year due to flooding. In addition to the row crop losses, there were several thousand acres of commercial catfish ponds which were flooded. Many of the farmers affected by this year's floods, also suffered devastating crop losses during last year's growing season.

Mr. President, this bill satisfies the provision in the Omnibus Budget Reconciliation Act of 1990, pertaining to the designation of an emergency by Congress. If enacted, the Secretary of Agriculture would have the authority to utilize funds from the Commodity Credit Corporation to provide disaster assistance only if the President designates that an emergency exists. Therefore, this bill is designed to provide needed disaster assistance without triggering a sequester under the Budget Act, as amended.

The principal provisions of this legislation are as follows:

For 1990 crop losses: Producers who have had losses to their 1990 crops may elect to obtain benefits under the emergency crop loss assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, but may not obtain benefits for crop losses in both 1990 and 1991.

For 1991 crop losses: Program crop participants will retain their advance deficiency payment on up to 35 percent of normal production on maximum payment acres. For losses of 36 to 75 percent of normal production, they will receive 65 percent of the target price and for losses of more than 75 percent of normal production, they will receive 90 percent of the target price.

Nonprogram participants with losses of 36 to 75 percent of normal production will receive 65 percent of the loan value and for losses of more than 75 percent, producers will receive 90 percent.

Provides prevented planting and reduced yield benefits for crops planted, or intended to be planted, on all flex acres on the same basis as nonparticipants or nonprogram crops, whichever is applicable.

Provides payments to producers of peanuts, sugar beets, sugarcane, and

tobacco at a rate of 65 percent of price support level for losses in excess of 35 percent and 90 percent for losses in excess of 75 percent. Losses are measured by county average yield, payment yield, or farm marketing quota as applicable.

Provides payments to producers of oilseeds and other nonprogram crops at a rate of 65 percent of the 5-year average market price received by producers, excluding the high and low years, for losses in excess of 35 percent of the 3-year average yield and 90 percent for losses in excess of 75 percent.

Provides payments to operators of commercial aquaculture ventures for financial losses as a result of damaging weather on the same basis as for other nonprogram crops. It also authorizes an emergency cost-share program to provide for repair of damaged levees used for commercial aquaculture.

Reauthorizes the Emergency Livestock Feed Assistance Program.

Authorizes additional payments to producers of crops that suffer losses from the reduced quality of such crops due to damaging weather or related conditions.

Authorizes payments for reduced yields to be calculated on the basis of crop production by a producer on the farm if there are multiple producers on the same farm who collectively do not qualify.

Authorizes the Secretary to make a reasonable adjustment to disaster payments to reflect the income generated by any replacement crop produced on the same acreage, provided the adjustment does not exceed 5 percent of the value of the replacement crop.

Authorizes loan guarantees to rural businesses impacted directly or indirectly by the adverse weather.

I ask unanimous consent that the bill and the bill summary be printed in the RECORD.

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

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Disaster Assistance Act of 1991".

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 101. Emergency feed and related assistance.

Sec. 102. Emergency forage program.

Sec. 103. Emergency aquaculture program.

#### TITLE II—EMERGENCY CROP LOSS ASSISTANCE

##### Subtitle A—Annual Crops

Sec. 201. Payments to program participants for target price commodities.

Sec. 202. Payments to program nonparticipants for target price commodities.

Sec. 203. Peanuts, sugar, and tobacco.

Sec. 204. Oilseeds and nonprogram crops.

Sec. 205. Crop quality reduction disaster payments.

Sec. 206. Effect of Federal crop insurance payments.

Sec. 207. Crop insurance coverage for the 1992 crops.

Sec. 208. Transfer of funds.

Sec. 209. Crops harvested for forage uses.

Sec. 210. Payment limitations.

Sec. 211. De minimis yields.

Sec. 212. Producer eligibility.

Sec. 213. No double payments on replanted acreage.

Sec. 214. Substitution of crop insurance program yields.

#### Subtitle B—Administrative Provisions

Sec. 221. Timing and manner of assistance.

Sec. 222. Use of Commodity Credit Corporation.

Sec. 223. Emergency crop loss assistance for the 1990 crops.

Sec. 224. Emergency designation of outlays.

Sec. 225. Regulations.

#### Subtitle C—Sense of Congress

Sec. 231. Purposes of disaster payments.

#### TITLE III—OTHER EMERGENCY PROVISIONS

Sec. 301. Disaster assistance for rural business enterprises.

Sec. 302. Shifting of crop acreage bases.

#### SEC. 2. DEFINITIONS.

As used in this Act:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, excessive wind, or any combination thereof.

(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

#### TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

##### SEC. 101. EMERGENCY FEED AND RELATED ASSISTANCE.

Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by adding at the end the following new subsections:

"(e) No person may receive benefits under this title attributable to lost production of a feed commodity due to damaging weather in 1991 to the extent that the person receives a disaster payment under the Disaster Assistance Act of 1991 on that lost production.

"(f) A person otherwise eligible for a livestock emergency benefit under this title in 1991 shall be subject to the combined payment and benefits limitation established under section 210(c) of the Disaster Assistance Act of 1991."

##### SEC. 102. EMERGENCY FORAGE PROGRAM.

(a) IN GENERAL.—The Secretary shall implement an emergency forage program for established pasture damaged by damaging weather or related condition in 1991, under which the Secretary shall enter into cost-share agreements with owners or operators of the damaged land to provide for reseeding of forage crops on the land in order to facilitate late fall 1991 and early spring 1992 grazing and haying. Assistance may be provided to the owners and operators only when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost-effective method for reestablishing the forage crop; and

(3) reseeded is not undertaken simply to improve the forage crop damaged by the drought.

(b) **COST-SHARE.**—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

(c) **LIMITATIONS ON ASSISTANCE.**—

(1) **TOTAL ASSISTANCE.**—The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be \$3,500.

(2) **RESEEDING.**—The Secretary may cost-share for reseeded under this section only if the reseeded is to be used for nonannual crops planted for pasture purposes.

(d) **FUNDING.**—

(1) **IN GENERAL.**—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section as provided under section 224.

(2) **LIMITATION.**—Not more than \$50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) **PRORATION.**—To ensure the equitable award of agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

#### SEC. 103. EMERGENCY AQUACULTURE PROGRAM.

(a) **IN GENERAL.**—The Secretary shall implement an emergency aquaculture program to assist owners and operators of established commercial fresh water aquaculture operations in restoring the retention levees and other structural improvements that have been damaged by damaging weather or related condition in 1991.

(b) **COST-SHARE.**—Assistance under this section shall be provided through cost-share agreements entered into by the Secretary with the owners and operators for the restoration of the damaged levees and other structural improvements. The Secretary shall share half the costs incurred under each agreement based on damage surveys made pursuant to regulations issued by the Secretary.

(c) **FUNDING.**—

(1) **IN GENERAL.**—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section as provided in section 224.

(2) **LIMITATION.**—Not more than \$5,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) **PRORATION.**—To ensure the equitable award of funds for agreements under this section as a result of the limitations in paragraphs (1) and (2), the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

### TITLE II—EMERGENCY CROP LOSS ASSISTANCE

#### Subtitle A—Annual Crops

#### SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) **DISASTER PAYMENTS.**—

(1) **IN GENERAL.**—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the

producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of damaging weather or related condition in 1991) within the payment acres as determined by the Secretary for the crop, the Secretary shall make a disaster payment available to the producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(B) 90 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(2) **LIMITATIONS.**—

(A) **PAYMENT ACRES.**—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the payment acres for the farm for the commodity.

(B) **PLANTING FLEXIBILITY.**—

(i) **IN GENERAL.**—Payments shall be made available as provided in section 202, 203, or 204 of this Act, as applicable, to the extent the Secretary determines that because of damaging weather or other related condition in 1991 there is a reduction in the quantity of the crop of a commodity that producers are able to harvest, in accordance with section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464).

(ii) **AMOUNT OF PAYMENTS.**—The payments shall be based on losses to the commodity on the nonpaid flexible acreage. The acreage for which prevented planting credit shall be provided shall not exceed an amount determined by the Secretary that will provide fair and equitable treatment to producers.

(C) **CROP INSURANCE.**—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) **DEFICIENCY PAYMENTS.**—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) **ELECTION OF PAYMENTS.**—Effective only for the 1991 crops of wheat, feed grains, cotton, and rice, in the case of producers on a farm who elected after March 11, 1991, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(C), 1444f(c)(1)(E), 1444-2(c)(1)(D), or 1441-2(c)(1)(D)), the Secretary shall allow the producers (within 30 days after the date of the enactment of this Act) to elect whether to receive disaster payments in accordance with this subsection in lieu of payments under such section.

(b) **ADVANCE DEFICIENCY PAYMENTS.**—

(1) **APPLICABILITY.**—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

(2) **PAYMENTS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), if because of damaging weather or related condition in 1991 the total quantity of the 1991 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for the crop by the sum of the payment acreage planted for harvest and the payment acreage prevented from being planted (because of the damaging weather, as determined by the Secretary) for the crop (hereafter referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for the crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

(B) **CROP INSURANCE.**—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) **ELECTION.**—The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1991 crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) to elect (within 30 days after the date of the enactment of this Act) whether to receive the advance deficiency payments.

(4) **REFUND.**—Effective only for the 1991 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) must be refunded, the refund shall not be required prior to July 31, 1992, for that portion of the crop for which a disaster payment is made under subsection (a).

#### SEC. 202. PAYMENTS TO PROGRAM NON-PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) **DISASTER PAYMENTS.**—

(1) **APPLICABILITY.**—Except as provided in section 201(a)(2)(B), this section is effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

(2) **PAYMENT.**—If the Secretary determines that because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers are able to harvest on the farm or on the nonpaid flexible acreage is less than the result of multiplying 65 percent of the county average yield established by the Secretary for the crop by the sum of acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers. The payment shall be made to the producers at a rate equal to—

(1) 65 percent of the basic county loan rates (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as deter-

mined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest on the farm because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) ACREAGE LIMITATIONS.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted to the commodity for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in this subsection to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—

(1) ACREAGE LIMITATION PROGRAM PERCENTAGE.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for the crop under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for the 1991 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to—

(A) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop (or in the case of a crop of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 35 percent, but not greater than 75 percent, of the farm's effective marketing quota for 1991); and

(B) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop (or, in the case of burley tobacco or flue-cured

tobacco, for any deficiency in production greater than 75 percent of the farm's effective marketing quota for 1991).

(3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 204(a)(2); or

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1991 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1991 price support levels.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) ACREAGE LIMITATIONS.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and increased quotas for the 1991 crops of tobacco.

(c) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of the anticipated production that has been transferred from the farm;

(2) payments shall be made under this section whether the deficiency in production was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1991 crop that may otherwise be claimed under section 353 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1353) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1991 crop

that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) SPECIAL RULE FOR SUGAR.—

(1) INABILITY TO PROCESS.—A producer of the 1991 crop of sugarcane or sugar beets that is unable to process the commodity into sugar because of the inability of local processing plants to process sugar as a result of damaging weather or related condition in 1991 shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to the inability. Disaster payments made available under this subsection for the loss of production shall be reduced by an amount equal to any proceeds received by the producer from the disposition of that portion of the crop on which disaster payments are made.

(2) SUGARCANE.—For purposes of determining the total quantity of the 1991 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

SEC. 204. OILSEEDS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) IN GENERAL.—Effective only for the 1991 crops of oilseeds and nonprogram crops, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of—

(i) with respect to oilseeds, the State, area, or county yield, adjusted for adverse weather conditions during the 3 previous crop years, as determined by the Secretary; or

(ii) with respect to nonprogram crops, the yield established by the Commodity Credit Corporation under subsection (d)(2),

for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(B) RATES.—The payment shall be made to the producers at a rate equal to—

(i) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(ii) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

(3) METHOD OF DETERMINING PAYMENTS.—

(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under sub-

section (a) on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) SEPARATE CROPS.—For the purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity for which there is a significant difference in the economic value in the market.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) ACREAGE LIMITATION.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted because of damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—

(1) FARM YIELDS.—

(A) IN GENERAL.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops.

(B) BASIS.—The yield for a farm shall be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding 3 crop years. If the data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity or by using other data available to it.

(3) DEMONSTRATION OF LOSSES.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses resulting from damaging weather or related condition in 1991 in order for the producers to obtain disaster payments under this section.

(4) NONPROGRAM CROPS.—

(A) IN GENERAL.—As used in this section, the term "nonprogram crops" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1991, and other commercial crops (including sweet potatoes) for which the insurance was not available for crop year 1991, except that the term shall not include a crop covered under section 201, 202, or 203, or oilseeds.

(B) FISH OR SEAFOOD.—As used in the nonprogram crop provisions of this section—

(i) a reference to the acreage on the farm planted for harvest, or prevented from being planted, shall be considered to refer to the acreage of the pond or other aquatic areas in which the fish or seafood are produced or prevented from being produced; and

(ii) the term "nonprogram crop" includes fish or seafood produced or prevented from being produced in established freshwater commercial aquaculture operations.

SEC. 205. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1991 crops covered under the sections 201 through 203, and producers of oilseeds, are treated equitably, the Secretary may make additional disaster payments to producers of the crops that suffer losses resulting from the reduced quality of the crops caused by damaging weather or related condition in 1991, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if the producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for the crop (as determined under section 201, 202, 203, or 204, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, but the rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 201;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 202;

(3) the payment level under section 203(a)(2), for commodities covered under section 203; and

(4) the payment level under section 204(a)(2), for commodities covered under section 204.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by the damaging weather or related condition in 1991, as determined by the Secretary.

SEC. 206. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1991 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary shall reduce the amount of payments made available under this subtitle for the crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by the producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for the crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for the crop; by

(2) the sum of the acreage of the crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster pay-

ments under section 201, the eligible acreage established under sections 201(a)(1) and 201(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1991 crop or wheat, feed grains, upland cotton, extra-long staple cotton, or rice, the established price for the 1991 crop of the commodity, except that for the non-paid flexible acreage for the producers, there shall be used a price determined under subparagraph (B), (C), or (D), as applicable to the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1991 crop or wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1991 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 203(a)(2); or

(D) in the case of producers of oilseeds or a nonprogram crop (as defined in section 204(d)(4)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 207. CROP INSURANCE COVERAGE FOR 1992 CROPS.

(a) REQUIREMENT.—Subject to subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1991, or forgiveness of the repayment of advance deficiency payments under section 201(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1992 crop of the commodity for which the payments, loans, or forgiveness are sought.

(b) CROP INSURANCE.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 75 percent;

(2) crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for the crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1991 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for the crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on

the producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

**(c) IMPLEMENTATION.—**

**(1) IN GENERAL.—**The Secretary shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 201 through 205 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) in counties in which emergency loans, as described in subsection (a), are made available, that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

**(2) DEMONSTRATION OF COMPLIANCE.—**Each producer who is subject to the requirements of this section may comply with the requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

**(3) REDUCTION OF COMMISSIONS.—**The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that the insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

**(d) REPAYMENT OF BENEFITS.—**Notwithstanding any other provision of law, if (prior to the end of the 1992 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

**SEC. 208. TRANSFER OF FUNDS.**

The Secretary may transfer funds made available to the Commodity Credit Corporation during fiscal year 1991 to the Agricultural Stabilization and Conservation Service in such amounts as are necessary for salaries and other expenses incurred in carrying out title I and this title, except that this authorization shall be available only if funding for this purpose is not provided under an appropriations Act.

**SEC. 209. CROPS HARVESTED FOR FORAGE USES.**

Not later than 15 days after the date of enactment of this Act, the Secretary shall announce the terms and conditions by which producers on a farm may establish 1991 yields, for purposes of this Act, with respect to crops that will be harvested for silage and other forage uses.

**SEC. 210. PAYMENT LIMITATIONS.**

**(a) LIMITATION.—**Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed \$100,000.

**(b) DUPLICATIVE PAYMENTS.—**No person may receive disaster payments under this subtitle to the extent that the person receives a livestock emergency benefit for lost feed production in 1991 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

**(c) COMBINED LIMITATION.—**

**(1) TOTAL BENEFITS.—**No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1991 if the payment or benefit will cause the combined total amount of the payments and benefits received by the person to exceed \$100,000.

**(2) ADVANCE DEFICIENCY PAYMENTS.—**The advance deficiency payments referred to in section 201(b) shall continue to be subject to the payment limitation in section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) in lieu of the foregoing limitation.

**(3) ELECTION OF BENEFITS.—**If a producer is subject to paragraph (1), the producer may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the \$100,000 in the payments, or the livestock emergency benefits (not to exceed \$50,000), or a combination of payments and benefits specified by the person.

**(d) REGULATIONS.—**The Secretary shall issue regulations—

(1) defining the term "person" for the purposes of this section, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

**SEC. 211. DE MINIMIS YIELDS.**

**(a) IN GENERAL.—**Any producer whose actual yield for a crop is equal to or less than the de minimis yield for the crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for the crop under this subtitle.

**(b) DETERMINATION BY SECRETARY.—**

**(1) IN GENERAL.—**The Secretary may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subtitle.

**(2) LEVEL.—**The de minimis yield shall be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting.

**(3) MINIMUM.—**In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary.

**SEC. 212. PRODUCER ELIGIBILITY.**

A producer on a farm who produces any crop of a commodity for which disaster payments are made available under this subtitle shall qualify for a disaster payment if the total quantity of the commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather or related condition in an amount that meets the criteria of section 201, 202, 203, or 204, even though the producers on the farm, collectively, may not meet the criteria.

**SEC. 213. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.**

**(a) REDUCTION OF DISASTER PAYMENT.—**Effective only for the producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary shall reduce the payments by an amount that reflects 5 percent of the value of any crop that the producers plant for harvest in 1991 to replace the crop for which disaster payments are received.

**(b) REPLACEMENT CROPS.—**For purposes of subsection (a), a crop shall be considered to

be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1991) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

**(c) ADMINISTRATION.—**In carrying out this section, the Secretary shall—

(1) determine the value of the second crop based on the actual yield of the producers and average market prices for the second crop during a representative period; and

(2) take into account the historical cropping patterns of producers.

**SEC. 214. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.**

**(a) IN GENERAL.—**Notwithstanding any other provision of this Act, the Secretary may permit each eligible producer (as defined in subsection (d)) of a 1991 crop of a commodity who has obtained multiperil crop insurance for the crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1990 crop of the commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for the crop, as established under such Act, for the farm yield otherwise assigned to the producer under this Act, for the purposes of determining the producer's eligibility for a disaster payment on the 1991 crop under this Act and the amount of the payment.

**(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—**

**(1) IN GENERAL.—**Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for the producer's 1991 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on the crop under this Act shall be adjusted as provided in paragraph (2).

**(2) AMOUNT.—**The amount of production of the crop on which a producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this Act shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this Act using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this Act.

**(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—**A producer may use the crop insurance yield for the producer's 1990 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) was not made available to the producer for the producer's 1991 crop of the commodity.

**(d) DEFINITION OF ELIGIBLE PRODUCER.—**For purposes of this section, the term "eligible producer" means a producer of the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

**Subtitle B—Administrative Provisions**

**SEC. 221. TIMING AND MANNER OF ASSISTANCE.**

**(a) TIMING OF ASSISTANCE.—**

**(1) IN GENERAL.—**

**(A) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—**Subject to subparagraph (B), the Secretary shall make full disaster assistance available under this title as soon as

practicable after the date of the enactment of this Act.

(B) COMPLETED APPLICATION.—Notwithstanding any other provision of law or of this Act, no payment or benefit provided under this title shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(2) DEADLINE FOR APPLICATION.—A person eligible to receive payments under subtitle A shall make application for the payments not later than March 31, 1992, or such later date as the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

**SEC. 222. USE OF COMMODITY CREDIT CORPORATION.**

(a) USE.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title, as provided in section 224.

(b) EXISTING AUTHORITY.—The authority provided by this title shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

**SEC. 223. EMERGENCY CROP LOSS ASSISTANCE FOR THE 1990 CROPS.**

(a) FUNDING.—Notwithstanding sections 2270 and 2271 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note), funds of the Commodity Credit Corporation, as provided in section 224, shall be available to carry out chapter 3 of title XXII of such Act (7 U.S.C. 1421 note).

(b) DUPLICATIVE BENEFITS.—A producer eligible for assistance under such chapter who is also eligible for assistance under titles I and II may elect to receive benefits under such chapter or under this Act, but may not receive benefits under both.

**SEC. 224. EMERGENCY DESIGNATION OF OUTLAYS.**

(a) FINDINGS.—Congress finds that in fiscal years 1990 and 1991 there have been excessive rains, often of unprecedented scope, in many sections of the United States, and serious drought conditions and other unusual weather conditions in many other sections of the United States that have caused major economic losses to producers of agricultural commodities.

(b) FUNDING.—The funds of the Commodity Credit Corporation shall be available subject to the limitations set forth in subparagraph (c) to carry out chapter 3 of title XIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) and titles I and II of this Act.

(c) EMERGENCY DESIGNATION.—

(1) IN GENERAL.—Subject to paragraph (2), the funds provided for in this Act are designated as an emergency requirement as provided for in section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

(2) BUDGET REQUEST.—The funds provided for in this Act shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as provided for in section 252(e) of such Act.

(d) All actions authorized by this Act which result in cost shall be subject to the limitations set forth in subparagraph (c).

**SEC. 225. REGULATIONS.**

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this title as soon as practicable after the date of enactment of

this Act, without regard to the requirement for notice and public participation in rule-making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

**Subtitle C—Sense of Congress**

**SEC. 231. PURPOSES OF DISASTER PAYMENTS.**

It is the sense of Congress that disaster payments made to producers under subtitle A are intended to—

- (1) preserve each producer's livelihood and farming operation;
- (2) enable the producer to meet preexisting commitments and obligations;
- (3) protect the infrastructure of the United States agricultural production input, supply, marketing, and distribution systems; and
- (4) preserve the vitality and financial health of rural communities.

**TITLE III—OTHER EMERGENCY PROVISIONS**

**SEC. 301. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.**

(a) LOAN GUARANTEES.—The Secretary shall guarantee loans made in rural areas—

- (1) to public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities, to assist them in alleviating distress caused to the entities, directly or indirectly, by the damaging weather or related condition in 1991; and
- (2) to the entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of the damaging weather or related condition in 1991.

(b) ELIGIBLE LOANS.—Loans that may be guaranteed under this section are loans made by any—

- (1) Federal or State chartered—
  - (A) bank;
  - (B) savings and loan association;
  - (C) cooperative lending agency; or
  - (D) insurance company; or
- (2) other legally organized lending agency.

(c) LENDING LIMITS.—

(1) INDIVIDUAL GUARANTEES.—No guarantee under this section may exceed 90 percent of the principal amount of the loan. Guarantees made on loans to any eligible borrower may not exceed \$500,000.

(2) TOTAL AMOUNT OF GUARANTEES.—The total amount of loan guarantees that may be made under this section shall not exceed \$200,000,000.

(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of carrying out this section.

**SEC. 302. SHIFTING OF CROP ACREAGE BASES.**

Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end the following new subsection:

“(1) SHIFTING OF BASES.—Notwithstanding any other provision of this section, in order to help alleviate economic distress caused by a natural disaster or other similar condition beyond the control of producers, the Secretary may provide for the temporary shifting of some or all of the crop acreage bases between farms owned or operated by the same producers, under such terms and conditions as are determined appropriate by the Secretary. Such a shift may be allowed only on a crop-year-by-crop-year basis.”

**AGRICULTURE DISASTER ASSISTANCE ACT OF 1991**

**SUMMARY OF MAJOR PROVISIONS**

Provides disaster assistance to eligible producers of all 1990 or 1991 crops (at the producer's option) prevented from planting or experiencing reduced yields due to damaging weather conditions.

For 1990 crop losses:

Producers who have had losses to their 1990 crops may elect to obtain benefits under the Emergency Crop Loss Assistance Provisions under the Food, Agriculture, Conservation and Trade Act of 1990, but may not obtain benefits for crop losses in both 1990 and 1991.

For 1991 crop losses:

Provides payments for producers of program crops as follows:

Program Participants:

Losses of up to 35 percent of normal production on maximum payment acres—retain advanced deficiency payment;

Losses of 36 to 75 percent of normal production on maximum payment acres—65 percent of target price; and

Losses of more than 75 percent of normal production on maximum payment acres—percent of target price.

Non-participants:

Losses of 36 to 75 percent of normal production—65 percent of loan; and

Losses of more than 75 percent of normal production—90 percent of loan.

Provides prevented planting and reduced yield benefits for crops planted or intended to be planted on flex acres (NFA and OFA) on same basis as non-participants or non-program crops, whichever is applicable.

Provides payments to producers of peanuts, sugar beets, sugar cane, and tobacco at a rate of 65 percent of price support level for losses in excess of 35 percent and 90 percent for losses in excess of 75 percent. Losses are measured by county average yield, payment yield or farm marketing quota as applicable.

Provides payments to producers of oilseeds and other non-program crops at a rate of 65 percent of the five-year average market price received by producers, excluding the high and low years, for losses in excess of 35 percent of the three-year average yield and 90 percent for losses in excess of 75 percent.

Provides payments to operators of commercial aquaculture ventures for financial losses as a result of damaging weather on the same basis as for other non-program crops.

Reauthorizes emergency livestock feed assistance program.

Authorizes emergency forage program for established pasture under which the Secretary may utilize cost-share agreement, limited to \$3,500 per operator, for reseeding.

Authorizes emergency cost-share program to provide for repair of damaged levees used for commercial aquaculture.

Authorizes additional payments to producers of crops that suffer losses from the reduced quality of such crops due to damaging weather or related conditions.

Limits the total of disaster payments and crop insurance benefits to a level not to exceed 100 percent of the price used to calculate disaster benefits multiplied by the payment yield.

Requires producers who accept disaster payments for losses of production in excess of 75 percent to purchase crop insurance for 1992 unless it is determined to be an economic hardship.

Establishes a separate limitation of \$100,000 per person for combined crop losses and livestock emergency losses provided livestock benefits may not exceed \$50,000 in a calendar year.

Authorizes establishment of de minimis yields, for each crop eligible for reduced yield disaster payments, that shall be considered as having an actual yield of zero.

Authorizes payments for reduced yields to be calculated on basis of crop production by a producer on the farm if there are multiple producers on the same farm who collectively do not qualify.

Authorizes Secretary to make a reasonable adjustment to disaster payments to reflect the income generated by any replacement crop produced on the same acreage—provided the adjustment does not exceed 5 percent of the value of the replacement crop.

Authorizes Secretary to allow producers who purchased crop insurance to substitute the insurance yield for the farm program payment yield.

Authorizes Secretary to utilize CCC funds to carry out provisions of legislation and designates the outlays as an emergency requirement as provided in the Omnibus Budget Reconciliation Act of 1990.

Authorizes loan guarantees to rural businesses impacted directly or indirectly by adverse weather.

Mr. BUMPERS. Mr. President, I rise to say that my staff and Senator COCHRAN'S staff have worked long and hard on this legislation that is being introduced. We now have 26 Senators sponsoring this bill upon introduction.

But the point I make is that in my State—and I speak only for my State—I believe that my farmers are in about as bad shape as they have ever been. Those who did not get wiped out in 1990 got wiped out in 1991.

Incidentally, under this bill, these farmers will have to choose between 1990 and 1991. Some of them suffered damages in both years. But the bill gives them the option. It will provide 65 percent of all the losses they sustained above 35 percent. So if a farmer had 100 acres of soybeans and he lost the whole 100 acres, he will be entitled to 65 percent of the loss on 65 acres.

Now, Mr. President, last year the Red River Valley in southwest Arkansas and in northeast Texas and southeast Oklahoma, northwest Louisiana, that whole four-State region had the most unbelievable flood in the history of my State, I believe. It was not just a loss of crops. Oftentimes an entire farm had 2 and 3 feet of sand on it when the waters receded, so that much of the land was lost permanently. That is the kind of damage that occurred. This year farmers have had to plant their crops two, sometimes three times. I have talked to the most successful farmers in my State who tell me they are hanging by their thumbs. If we do get some relief, they are going under.

Finally, Mr. President, I believe very strongly that we simply have to cut some spending or things that do not amount to a priority. For example, I am going to offer an amendment this morning on the superconducting super collider to cut it, maybe eliminate it.

And I am going to make a clinical case. I do not have a dog in the fight, but I can tell you that is a project—no matter how meritorious it is—which is

not urgent just like a lot of other things around here which are not urgent.

We sent disaster relief to Bangladesh because of cyclones; we sent disaster relief to Ethiopia because of famine; to Sudan because of famine; to Angola; we sent aid to Kuwait to help them put out their oil well fires. We send money on an emergency basis to every nation on Earth almost.

We have farmers that are the most endangered species in America. They are people. They are human beings. And they are suffering and they are hurting. It has gotten to where nobody goes into farming except an occasional son of a farmer.

Mr. President, the cost of this is \$1 billion. Two or three people who were asked to cosponsor said they did not know about the cost. I do not know about the cost either. It is staggering. But I can tell you this: people vote for the most unbelievable things around here that cost billions, and when it comes to helping our own and doing something for our own people oftentimes we cannot find it in our hearts to do it.

So I am not only the chief coauthor and the cosponsor of this bill, but I strongly urge all of my colleagues to cosponsor this, and help us come up with the funds to not only pass the bill but to fund it.

Mr. SEYMOUR. Mr. President, I am proud to join Senator COCHRAN and Senator BUMPERS as an original cosponsor of this important legislation to provide relief to America's farm communities devastated by natural disasters. As many Senators know, there have been substantial natural disasters throughout the United States during 1990, and in 1991. Producers in the Southeast, Southwest, Midwest, as well as in California have suffered significant crop loss.

In California, a catastrophic freeze struck in December 1990, destroying much of California's navel and valencia orange crop, as well as many other crops. The freeze damage further compounded losses suffered within the agricultural sector by the drought, which is now in its fifth year. While USDA and various agencies within the administration have attempted to develop regulatory fixes to these disasters, much more needs to be done. At this point, I am convinced that disaster assistance is the only solution to assist rural communities that are in desperate need of assistance.

Mr. President, in many rural communities throughout California, as well as across the Nation, agriculture is the economic industry which holds these communities together. For people in these communities, agriculture is more than fresh produce in a grocery store. The orange crop, the avocado crop, strawberries, these crops provide a way of life, and ultimately, livelihood.

From local business to school lunch programs, the fiscal consequences of this freeze has reached all corners of California.

In terms of crop damage, this cold wave was the most devastating on record in California. From December 19 to January 3, numerous all time low temperatures were broken, breaking records set as far back as 1932. Conservative estimates of crop damage have been as high as \$1 billion. Some of the hardest hit agricultural communities were in the counties of Tulare, Fresno, Ventura, and Kern. The freeze coupled with the last 5 years of drought has been devastating to California's rural communities.

In Tulare County, crop damage has been estimated to be in excess of \$341 million, while unemployment reached upward of 23 percent in March 1991. Tulare County, located in the heart of California's Central Valley, lost 90 percent of its citrus crops to the freeze, and additionally incurred substantial losses of avocados, olives, pistachios, nursery stock, and broccoli crops. In the small town of Lindsay, in Tulare County, unemployment due to the freeze reached 50 percent. In Fresno County, citrus producers had production losses totaling over 227,000 tons, resulting in a crop loss of over \$70 million.

This winter's freeze is the third worst disaster in the history of California, third only to the 1906 San Francisco earthquake and the 1989 Loma Prieta earthquake. For farmers, farmworkers, and farm families, the devastation they suffered is no less catastrophic than a tornado or hurricane.

Though the cold weather has given way to the warm months of summer, the crippling effects of the freeze are still being felt today. Orange groves that would normally be bustling with farmworkers harvesting ripe Valencia oranges, now stand quiet. Once green, healthy trees stand brown and withered, their fruit decaying on the ground below. Packing plants normally working around the clock have been turned into distribution centers, where proud farmworkers stand in line to receive food supplies to feed their families.

Small business continue to suffer as unemployment has slowed even necessary consumer spending.

We need disaster assistance so that farmers will be able to get back to farming, and farmworkers will be able to go back to work. This is why I am cosponsoring a disaster relief bill that will provide the essential assistance to farmers whose crops were severely devastated in 1990 and 1991 by natural disaster. I urge my colleagues to support this bill.

By Mr. PRESSLER:

S. 1442. A bill relating to the rights of consumers in connection with tele-

phone advertising; to the Committee on Commerce, Science, and Transportation.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, today I am introducing the Telephone Advertising Consumer Rights Act, a bill that responds to the national outcry over the explosion of unsolicited telephone advertising. I am pleased to join this effort which was begun by Representative EDWARD J. MARKEY, the chairman of the House Telecommunications and Finance Subcommittee, who has shown real vision and leadership in this area.

The telemarketing industry has witnessed unprecedented success over the past 10 years. In fact, telemarketing sales skyrocketed to over \$435 million in 1990. This is a fourfold increase since 1984. This marketing success has created an industry in which over 300,000 telemarketing solicitors call more than 18 million Americans every day. Many consumers and business owners, however, complain that these calls are not only an annoyance, but also can pose dangerous consequences.

The cost and the interference of unsolicited advertising calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. I am proud to say that my home State of South Dakota is at the forefront of this effort and has just passed one of the most comprehensive pieces of legislation dealing with telemarketing abuse. Congress needs to act now to provide uniform ground rules to protect consumers while ensuring that the telemarketing industry continues to be a vigorously active player in the U.S. economy.

The Telephone Advertising Consumer Rights Act directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider, if this bill becomes law, is the use of a telephone electronic data base that would allow consumers to have their phone numbers protected from unsolicited advertising. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange. This bill would not end unsolicited calls, but it would allow consumers to choose how their phone is used and requires vendors to respect that consumer decision.

Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There are many examples of auto-dial machines hitting hospital

switchboards and sequentially delivering a recorded message to all phone lines. In some instances, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phone inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, my bill requires auto-dialer machines to release the phone line after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number, or address of the person or business initiating the call. This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising: the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. My bill requires that auto-dial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

My legislation provides uniform Federal guidelines to ensure that the telemarketing industry will continue to experience unprecedented growth. Responsible telemarketers welcome a single set of clear rules. This bill will not preempt any State law addressing this topic. Rather, it would assist States in their attempts to regulate intrastate telemarketing abuse.

I urge my colleagues to support and cosponsor this legislation. It can ensure a robust telemarketing industry while giving consumers the ability to choose how their telephones are used.

By Mr. SIMON:

S. 1444. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles; to the Committee on Finance.

DEDUCTION OF PERCENTAGE OF PURCHASE PRICE OF NEW ELECTRIC AUTOMOBILES

Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1986 to allow a deduction of 25 percent of the purchase price of new electric-powered automobiles.

The widespread use of electric vehicles [EV's] would go a long way toward resolving some of our Nation's environmental and energy problems.

Ninety-six cities and urban areas in the United States have air pollution levels that exceed national standards for ozone. While, as we all know, gasoline-fueled vehicles produce emissions of various pollutants, including volatile organic compounds, carbon monoxide and nitrogen oxide, electric vehi-

cles produce no tailpipe emissions whatsoever, and they generate only minute emissions resulting from the operation of the vehicle. When compared to gasoline-powered vehicles, electric vehicles show a 97-percent reduction of major pollutant emissions. Electric vehicles would be the single most effective means of reducing transportation sector emissions in urban areas. The benefits of the use of EV's to air pollution control would be enormous.

The use of electric vehicles would also bring about greater energy efficiency. Sixty-three percent of the total U.S. oil consumption is used in the transportation sector. This is true even though significant advancements have been made in vehicle fuel efficiency in the last 15 years. Use of petroleum in the United States was approximately the same in 1989 as it was in 1974 because there are more vehicles on the road traveling more miles annually. But it has been estimated that a 1-percent replacement of gasoline-powered vehicles by electric-powered vehicles would reduce oil consumption by 60,000 barrels a day.

We would cut down on the use of imported oil by the use of electric vehicles, and we must cut down on foreign oil. Nearly one-half of the oil used in the United States today is imported, and this has a significant adverse impact on the U.S. balance of trade.

While their extensive use will not be the total solution to our air pollution problems, there is no doubt about the great benefit to society of converting to electric vehicles. We cannot do this right away, Mr. President. But we can do it in the near future. U.S. automakers are interested in the development of electric vehicle batteries and the major domestic automobile manufacturers have all announced plans to produce electric vehicles in the months ahead. This year General Motors unveiled an electric sports car, the Impact. And they have designated a facility in East Lansing, MI, as a potential site for future production of electric vehicles.

Although they will become less expensive over time, initially, electric vehicles will be costly. The deduction my bill provides would be an incentive to taxpayers to purchase electric-powered vehicles—an incentive that will help the development of electric vehicles succeed in its crucial first step. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that an article from the Washington Post on this subject, titled "Gasoline-Fueled Cars May Be Running Out of Time," be printed in full in the RECORD.

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

[From the Washington Post, July 6, 1991]  
**GASOLINE-FUELED CARS MAY BE RUNNING OUT OF TIME**

(By Thomas W. Lippman)

Within a few years, millions, of Americans will be driving cars, light trucks and buses that do not run on gasoline.

Federal and state air quality laws, and in particular rigorous new antipollution rules adopted by California and Texas, are compelling manufacturers and purchasers of vehicles to switch to natural gas, propane, alcohol fuels and electricity.

Major corporations, including the "Big Three" U.S. auto makers and giant utilities such as Southern California Edison, are pouring money into research to develop and test the vehicles. Each week brings some new announcement: Phillips Petroleum has installed a natural-gas pump at a filling station in Oklahoma; Nissan has developed a quick-recharge battery; a Sunoco station in the District is selling methanol; Chrysler Corp. is making an electric version of its popular minivan.

Nobody knows for certain how many alternative-fuel vehicles will be on the road a decade from now, but the California and Texas rules alone ensure that the number will be in the millions. The American Gas Association has projected a figure as high as 10 million. The U.S. car and truck fleet now totals 172 million vehicles.

The picture will become clearer in the next year or two as additional states formulate plans for compliance with the 1990 Clean Air Act, new alternative-fuel measures work their way through Congress and test results on new engines and batteries become available.

Gasoline—cheap, ubiquitous and technologically familiar—will remain the fuel that powers most privately owned vehicles for many years to come, according to industry experts and independent analysts. But with the switch to alternative sources by vehicles such as taxis and delivery vans could come the public acceptance that would make alternative fuels adaptable to the family car as well.

After years in which the U.S. demand for alternative-fuel vehicles was so light that manufacturers and energy companies could ignore it, companies are racing to secure a share of what suddenly looms as a booming market. Du Pont Co.'s Conoco division, for example, has set up a separate unit to promote propane as an alternative to the natural gas that otherwise might corner the market in Texas and other states.

"It's a marketing horse race," said Robert E. Meyers, president of the LP Gas Clean Fuels Coalition, a propane advocacy group in Irvine, Calif.

The 1990 amendments to the Clean Air Act require many fleets that are fueled at a central site, such as school buses and Federal Express vans, to be converted to cleaner-burning fuels beginning in 1993. President Bush's proposed national energy strategy and a wide-ranging energy bill under consideration in the Senate would greatly expand the number of fleets covered by this requirement and put it into effect sooner.

Bush also has issued an executive order requiring that federal fleets acquire "the maximum number practicable" of non-gasoline vehicles. The Energy Department and the General Services Administration are scheduled to take delivery next March of 50 vans built by Chrysler that will be powered by compressed natural gas, a fuel now available commercially at an Amoco station on Capitol Hill.

Industry officials and regulators expect that mandatory sales to fleets will induce car makers to produce more vehicles and fuel suppliers to provide more fueling sites. The "chicken and egg problem" has long inhibited the development of alternative-fuel vehicles; consumers will not buy them because the fuel is not available, and auto manufacturers will not make them because consumers won't buy them. As more alternative-fuel cars are made, more sources of the fuel become available and more drivers become familiar with the vehicles, costs should decline and consumer demand is expected to rise.

"Car companies know a lot about how to build cars that run on alternative fuels," said Thomas H. Hanna, president of the Motor Vehicle Manufacturers Association. "The question is whether people want to buy them."

California and Texas have ensured that some people will buy them whether they want to or not.

A new Texas law requires most school districts, public transit authorities and state agencies to buy only vehicles powered by natural gas or other cleaner burning alternative fuels beginning this year, and to convert at least half their vehicles by 1996.

California, the most populous state, has gone much further. Regulations adopted by the Air Resources Board require progressive reductions in hydrocarbon emissions beginning in 1994. By 2003, all cars must emit 85 percent less hydrocarbons than currently permitted, 50 percent less carbon monoxide and 75 percent less nitrogen oxide. State officials said the regulations do not specify which technology or fuel auto makers must adopt to meet the standards, but they said that cars fueled by methanol, natural gas and propane will be a large part of the mix.

The state recently certified a natural gas school bus engine built by a Massachusetts firm, Tecogen Inc., as acceptable under the new antipollution standards. The state financed development of the engine as part of a \$100 million program to replace 463 school buses built before 1977 with new, cleaner burning models.

In addition, 2 percent of the 2 million vehicles sold in California each year must be "emission free" beginning in 1998. By 2003, the figure will rise to 10 percent.

"Emission free" means "powered by electricity," said Air Resources Board spokesman Jerry Martin.

Because the California market is so large that manufacturers cannot abandon it, these rules have spurred auto and fuel industries into a burst of research and experimentation. In April, for example, Mobil Corp. opened the first for 10 planned methanol filling stations in Pasadena. Chrysler, Ford and General Motors have begun producing cars that can run on a mixture of 15 percent gasoline and 85 percent methanol, or wood alcohol.

As Hanna said, there is essentially nothing new about making cars and light trucks that run on methanol, compressed natural gas or propane.

The Energy Department and other federal agencies here have methanol powered cars in their fleets that are indistinguishable in appearance and performance from conventional autos. School buses in Hudson, Ohio, run on natural gas. The truck fleet of the Los Angeles Times runs on propane. Overall, more than 30,000 natural gas vehicles and more than 400,000 propane-powered cars and trucks are in use in the United States.

The vast majority are owned by governments and corporations, not individual mo-

torists. Almost any new car can run on gasoline, a mixture of gasoline and ethanol, but vehicles powered by natural gas, propane and methanol are generally not available in retail showrooms. Standard cars can be converted to "dual fuel" operation—capable of running on gasoline and either natural gas or propane—at a cost of \$1,000 or more.

The real technological innovation is in electricity, long spurned as a power source for motor vehicles because electric cars require large banks of heavy, expensive batteries that run down in an hour or so of use. Facing a requirement to produce electric cars that California motorists will buy, the electric utility industry and all major auto makers are seeking ways to increase the cars' range and cut the batteries' size and weight.

Industry officials say electric vehicles probably will never replace the family station wagon, but should be adequate to serve commuters and other motorists who drive short distances. Daniel Sperling, an alternative-fuel expert at the University of California-Davis, has predicted that most households will have several vehicles, "each serving a different specialized need. For instance, commuter cars could be electric, while vehicles used on longer drives could run on natural gas."

"An electric vehicle won't take you as far as a tank of gas, but who drives 350 miles a day anyway?" said Paul Brown, executive director of the Electric Vehicle Association of the Americas, an industry-sponsored group.

The three major U.S. auto makers have formed an Advanced Battery Consortium that is working with Southern California Edison, the utility-funded Electric Power Research Institute, and the Energy Department on a \$10 million battery research program. Under this program, Chrysler built four prototypes of an electric minivan.

"They do perform," said Lawrence O'Connell, transportation program manager of the Electric Power Research Institute. "The next step is to undertake production engineering, which essentially means to keep vehicle performance as good as it is in the prototypes, while cutting weight and cost. The next step [after that] would be federal safety certification."

Separately, General Motors Corp. has announced plans to build an electric-powered sports car, the Impact. GM already is selling an electric-powered van known as the G-Van with a 60-mile range. Ford is testing an electric version of its European Escort model, Nissan Motor Co. of Japan reported in May that it had found a way to cut battery recharging time from several hours to 12 minutes.

A bill introduced by Rep. George E. Brown Jr. (D-Calif.) to provide \$100 million in federal aid over 10 years to promote the use of electric vehicles is considered to have a good chance of passage this year, congressional aides said. But aside from electricity, which is required in California, it is not clear which alternative fuel will gain the widest use as manufacturers, consumers and regulators evaluate test results.

Each of the major contenders—natural gas, methanol, propane and ethanol, or grain alcohol—has strong supporters on Capitol Hill and among state legislators, but each has drawbacks as a fuel. None provides as much energy as the equivalent amount of gasoline, and all are more difficult to store and transport. Methanol is poisonous and corrosive, propane is potentially explosive, ethanol is difficult to transport or store because it absorbs water, and natural gas requires large

onboard storage tanks that use up trunk space.

"None of the alternative-fuel options emerges as clearly superior to all the others," Sperling said.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, and Mr. LIEBERMAN):

S. 1445. A bill to amend the Safe Drinking Water Act to reduce human exposure to lead in drinking water; to the Committee on Environment and Public Works.

LEAD IN DRINKING WATER REDUCTION ACT

Mr. LAUTENBERG. Mr. President, I am joined by Senator DURENBERGER and Senator LIEBERMAN in introducing legislation, which will be the Senate companion on drinking water to the bill Congressman WAXMAN is introducing today in the House. Our bill, the Lead in Drinking Water Reduction Act, will significantly reduce the health threats of lead in our Nation's drinking water.

The threat is serious. Lead in drinking water contributes 10 to 20 percent of total lead exposure in young children.

Lead is highly toxic. The Centers for Disease Control tells us that lead is our No. 1 preventable pediatric health problem. Lead can interfere with the formation of red blood cells. It can reduce birth weight and cause premature birth. It can impair physical and mental development in babies and children.

In adults, lead can increase blood pressure and interfere with hearing. At high levels of exposure, lead can cause anemia, kidney damage, and mental retardation.

The 1986 amendments to the Safe Drinking Water Act told EPA to develop a drinking water standard for lead. On May 7, 1991, EPA gave us a regulation that falls far short of protecting the public health. It falls short by making the public wait too long—over 20 years in some cases—for water systems to reduce lead in drinking water.

It falls short by creating loopholes that would let water systems ignore the lead problems of 10 percent of their households.

It falls short by allowing too much lead for too long. It is ironic that recent tests showed high lead levels in the Vice President's house.

It is time for the administration to wake up and realize that the lead problem goes well beyond the pristine walls of the Vice President's mansion.

On May 17, 1991, the Subcommittee on Superfund, Ocean and Water Protection, which I chair held a hearing on EPA's implementation of the Safe Drinking Water Act and the mandate to protect the public from the threats of lead. That hearing underscored the many problems with EPA's approach and the need for congressional action.

For this reason, we are introducing this legislation to assure that we pro-

tect the public from lead in drinking water.

The legislation will set a tough limit for regulating lead in our water. It is important to point out, however, that the bill's lead contamination limit for tapwater is not a maximum contaminant level [MCL]. In drafting the legislation, we were aware of significant concerns raised by many water systems of potential liability for violations of a tapwater MCL, even if they did everything they could to comply but could not achieve that MCL. The tapwater limit provision, however, has been drafted so that not meeting it does not constitute a violation of the national primary drinking water regulations for lead. Instead, a violation would occur if a water system failed to comply with the actual requirements in the bill, such as corrosion control, public education, and service line replacement. So the bill forces water systems to take aggressive steps to reduce lead, but does so in a way that will not penalize them for results over which they have no control.

And the bill will force the Nation's drinking water systems promptly to get lead out of our drinking water. EPA's regulation gives water companies exceeding the Agency's action level 7 years to install corrosion control and 15 more years to replace lead lines. My bill would require corrosion control in 2 years and lead line replacement in 5 years after that, for an accelerated timeframe of 7 years. Communities with especially large numbers of lead lines will be able to seek extensions, however. A system with over 50,000 lines to be replaced would get a 3-year extension; one exceeding 100,000 lines would get a 5-year extension; one exceeding 300,000 lines would get a 10-year extension; and one exceeding 450,000 lines would get a 13-year extension.

Mr. President, the bill also addresses issues not covered by EPA's regulation, including lead in school drinking water. It strengthens existing programs to reduce lead in school drinking water, as well as the programs designed to eliminate the use of lead components in plumbing.

Mr. President, this legislation will allow the Nation to make major strides in the battle to get the lead out of the Nation's water supply. I look forward to working with Senator DURENBERGER, Senator LIEBERMAN, and my other colleagues in moving this legislation through the Senate Environment and Public Works Committee, and on to passage in the Senate.

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

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

S. 1445

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 "Lead in Drinking Water Reduction Act of 1991".

SEC. 2. LEAD CONTAMINATION IN DRINKING WATER.

(a) NATIONAL PUBLIC DRINKING WATER REGULATIONS FOR LEAD.—Title XIV of the Public Health Service Act (Safe Drinking Water Act; 42 U.S.C. 300f and following) is amended by inserting "Subpart 1—In General" immediately before the section heading for section 1411 and by adding the following at the end thereof:

"SUBPART 2—SPECIAL PROVISIONS RELATING TO NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD

"Subpart 2—Special Provisions Relating to National Primary Drinking Water Regulations for Lead

"Sec. 1418. Definitions.

"Sec. 1418A. General requirements.

"Sec. 1418B. Applicability of corrosion control treatment steps to small, medium-size and large water systems.

"Sec. 1418C. Description of corrosion control treatment requirements.

"Sec. 1418D. Source water maximum contaminant level.

"Sec. 1418E. Lead service line replacement requirements.

"Sec. 1418F. Public education and supplemental monitoring requirements.

"Sec. 1418G. Monitoring requirements for lead in tap water.

"Sec. 1418H. Monitoring requirements for water quality parameters.

"Sec. 1418I. Monitoring requirements for lead in source water.

"Sec. 1418J. Analytical methods.

"Sec. 1418K. Reporting requirements.

"Sec. 1418L. Recordkeeping requirements.

"Sec. 1418M. Implementation requirements.

"Sec. 1418N. EPA review of implementation of NPDWR for lead.

"Sec. 1418O. Variances and exemptions".

"SEC. 1418. DEFINITIONS.

"For purposes of this subpart—

"(1) The term 'corrosion inhibitor' means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead, by forming a protective film on the interior surface of those materials.

"(2) The term 'effective corrosion inhibitor residual' means a concentration sufficient to form a passivating film on the interior walls of a pipe.

"(3) The term 'first draw sample' means a one-liter sample of tap water, collected in accordance with section 1418G(b)(2), that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"(4) The term 'large water system' means a water system that serves more than 50,000 persons.

"(5) The term 'lead service line' means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting which is connected to such lead line.

"(6) The term 'medium-size water system' means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"(7) The term 'optimal corrosion control treatment' means the corrosion control treatment that minimizes the lead con-

centrations at users' taps while insuring that the treatment does not cause (A) the water system to violate any national primary drinking water regulations or (B) significant adverse impacts on the environment, including treatment works and the water receiving the effluent of treatment works.

"(8) The term 'service line sample means a one-liter sample of water, collected in accordance with section 1418G(b)(3) that has been standing for at least 6 hours in a service line.

"(9) The term 'single family structure' means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"(10) The term 'small water system' means a water system that serves 3,300 persons or fewer.

**"SEC. 1418A. GENERAL REQUIREMENTS.**

"(a) **APPLICABILITY AND EFFECTIVE DATES.**—(1) The requirements set forth in this subpart constitute the national primary drinking water regulation for lead for purposes of this part. Unless otherwise indicated, each of the provisions of this subpart applies to community water systems and noncommunity water systems (hereinafter in this subpart referred to as 'water systems' or 'systems').

"(2) Except as otherwise expressly provided in this subpart, the requirements set forth in this subpart shall take effect 30 days after the enactment of this subpart.

"(b) **LEAD CONTAMINATION LIMIT FOR TAP WATER.**—The Congress hereby establishing a limit for lead in tap water (hereinafter in this subpart referred to as the 'tap water lead limit'). The tapwater lead limit is exceeded if the concentration of lead in any tap water sample collected during any monitoring conducted in accordance with section 1418G is greater than 10 parts per billion (ppb).

"(c) **MAXIMUM CONTAMINANT LEVEL GOAL.**—The maximum contaminant level goal (in mg/L) for lead in drinking water is zero.

"(d) **VIOLATION OF NATIONAL PRIMARY DRINKING WATER REGULATIONS.**—Failure to comply with the applicable requirements of this subpart, including requirements established by the State pursuant to this subpart, shall constitute a violation of the national primary drinking water regulations for lead.

"(e) **RELATIONSHIP TO PRIOR REGULATIONS.**—

"(1) **EPA LEAD REGULATIONS REPLACED.**—The requirements set forth in this subpart shall apply in lieu of the requirements with regard to lead in drinking water contained in regulations of the Administrator promulgated on May 6, 1991, except as otherwise provided in the first sentence of section 1418J (relating to analytical methods). After the enactment of this section, the Administrator may promulgate, under this subpart and under subpart 1, regulations with regard to lead in drinking water but only to the extent that such regulations are more protective of human health than any corresponding requirements of this subpart.

"(2) **PRIOR MCL FOR LEAD.**—The maximum contaminant level for lead in effect for lead before May 6, 1991, shall be in effect immediately upon enactment of this subpart.

**"SEC. 1418B. APPLICABILITY OF CORROSION CONTROL TREATMENT STEPS TO SMALL, MEDIUM-SIZE AND LARGE WATER SYSTEMS.**

"(a) **COMPLETION OF CORROSION CONTROL TREATMENT.**—Systems shall complete the applicable corrosion control treatment requirements described in section 1418C by the deadlines established in this section.

"(1) A large system (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in subsection (d) of this section, unless it is deemed to have optimized corrosion control under paragraphs (2) or (3) of subsection (b).

"(2) A small system (serving greater than or equal to 3,300 persons) and a medium-sized system (serving greater than 3,300 persons and less than or equal to 50,000 persons) shall complete the corrosion control treatment steps specified in subsection (e) of this section, unless it is deemed to have optimized corrosion control under paragraphs (1), (2) or (3) of subsection (b).

"(b) **SYSTEMS DEEMED TO HAVE OPTIMIZED CORROSION CONTROL.**—A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies 1 of the following criteria:

"(1) A small or medium-sized water system is deemed to have optimized corrosion control if the system meets the tap water lead limit lead during each of 2 consecutive 6-month monitoring periods conducted in accordance with section 1418G.

"(2) Any water system may be deemed by the State, after notice and opportunity for comment, to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the State that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the State makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with section 1418C. A system shall provide the State with the following information in order to support a determination under this paragraph—

"(A) the results of all test samples collected for each of the water quality parameters in section 1418C(c)(3);

"(B) a report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in section 1418C(c)(1), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

"(C) a report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

"(D) the results of tap water samples collected in accordance with section 1418G at least once every 6 months for 1 year after corrosion control has been installed.

"(3) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with section 1418G and source water monitoring conducted in accordance with section 1418I that demonstrates for 2 consecutive 6-month monitoring periods that the difference between the highest tap water lead concentration and the highest source water lead concentration is not detectable.

"(c) **CESSATION OF CORROSION CONTROL.**—Any small or medium-sized water system that is required to complete the corrosion control steps due to its exceedance of the tap water lead limit may cease completing the treatment steps whenever the system meets such tap water lead limit during each of 2 consecutive monitoring periods conducted pursuant to section 1418G and submits the results to the State. If any such water system thereafter exceeds the tap water lead limit during any monitoring period, the system (or the State, as the case may be) shall

recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The State may require a system to repeat treatment steps previously completed by the system where the State determines that this is necessary to implement properly the treatment requirements of this section. The State shall notify the system in writing of such a determination and explain the basis for its decision.

"(d) **TREATMENT STEPS AND DEADLINES FOR LARGE SYSTEMS.**—Except as provided in paragraphs (2) and (3) of subsection (b) of this section, large systems shall complete the following corrosion control treatment steps by the indicated dates.

"(1) **STEP 1:** The system shall conduct initial monitoring (sections 1418G(d)(1) and 1418H(b)) within 6 months after enactment of this subpart.

"(2) **STEP 2:** The system shall complete corrosion control studies (section 1418C(c)) within 12 months after enactment of this subpart.

"(3) **STEP 3:** The State shall designate optimal corrosion control treatment (section 1418C(d)) within 18 months after enactment of this subpart.

"(4) **STEP 4:** The system shall install optimal corrosion control treatment (section 1418C(e)) within 24 months after enactment of this subpart.

"(5) **STEP 5:** The system shall complete follow-up sampling (section 1418H(c)) within 30 months after enactment of this subpart.

"(6) **STEP 6:** The State shall review installation of treatment and designate optimal water quality control parameters (section 1418C(f)) within 36 months after enactment of this subpart.

"(7) **STEP 7:** The system shall operate in compliance with the State specified optimal water quality control parameters (section 1418C(g)) and continue to conduct tap sampling (section 1418H(d)).

"(e) **TREATMENT STEPS AND DEADLINES FOR SMALL AND MEDIUM-SIZE SYSTEMS.**—Except as provided in subsection (b) of this section, small and medium-size systems shall complete the following corrosion control treatment steps (described in the referenced portions of sections 1418C, 1418G, and 1418H) by the indicated time periods.

"(1) **STEP 1:** The system shall conduct initial tap sampling (section 1418G(d)(1)) within 6 months after enactment of this subpart. A system exceeding the tap water lead limit shall recommence optimal corrosion control treatment (section 1418C(a)) within 6 months after it exceeds the tap water lead limit.

"(2) **STEP 2:** Within 12 months after a system exceeds tap water lead limit the State may require the system to perform corrosion control studies (section 1418C(b)). If the State does not require the system to perform such studies, the State shall specify optimal corrosion control treatment (section 1418C(d)) within 12 months after such system exceeds the tap water lead limit.

"(3) **STEP 3:** If the State requires a system to perform corrosion control studies under step 2, the system shall complete the studies (section 1418C(c)) within 12 months after the State requires that such studies be conducted.

"(4) **STEP 4:** If the system has performed corrosion control studies under step 2, the State shall designate optimal corrosion control treatment (section 1418C(d)) within 6 months after completion of step 3.

"(5) **STEP 5:** The system shall install optimal corrosion control treatment (section 1418C(e)) within 12 months after the State designates such treatment.

"(6) STEP 6: The system shall complete follow-up sampling (section 1418H(c)) within 24 months after the State designates optimal corrosion control treatment.

"(7) STEP 7: The State shall review the system's installation with the State designated optimal water quality control parameters (section 1418C(f)) within 6 months after completion of step 6.

"(8) STEP 8: The system shall operate in compliance with the State designated optimal water quality control parameters (section 1418C(g)) and continue to conduct tap sampling (section 1418H(d)).

**"SEC. 1418C. DESCRIPTION OF CORROSION CONTROL TREATMENT REQUIREMENTS.**

"Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under section 1418B.

"(a) SYSTEM RECOMMENDATION REGARDING CORROSION CONTROL TREATMENT.—Based upon the results of lead tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the tap water lead limit shall recommend installation of 1 or more of the corrosion control treatments listed in subsection (c)(1) of this section which the system believes constitutes optimal corrosion control for that system. The State may require the system to conduct additional water quality parameter monitoring in accordance with section 1418H(b) to assist the State in reviewing the system's recommendation.

"(b) STATE DECISION TO REQUIRE STUDIES OF CORROSION CONTROL TREATMENT (APPLICABLE TO SMALL AND MEDIUM-SIZE SYSTEMS).—The State may require any small or medium-size system that exceeds the tap water lead limit to perform corrosion control studies under subsection (c) of this section to identify optimal corrosion control treatment for the system.

"(c) PERFORMANCE OF CORROSION CONTROL STUDIES.—

"(1) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the following treatments, and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that system—

“(A) alkalinity and pH adjustment;

“(B) calcium hardness adjustment; and

“(C) the addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

"(2) The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry, and distribution system configuration.

"(3) The water system shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above—

“(A) lead;

“(B) copper;

“(C) pH;

“(D) alkalinity;

“(E) calcium;

“(F) conductivity;

“(G) orthophosphate (when an inhibitor containing a phosphate compound is used);

“(H) silicate (when an inhibitor containing a silicate compound is used); and

“(I) water temperature.

"(4) The water system shall identify all chemical or physical constraints that limit

or prohibit the use of a particular corrosion control treatment and document such constraints with at least 1 of the following:

"(A) data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

"(B) data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

"(5) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

"(6) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the State in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in subsections (c)(1) through (5) of this section.

"(d) STATE DESIGNATION OF OPTIMAL CORROSION CONTROL TREATMENT.—(1) Based upon consideration of available information including, where applicable, studies performed under subsection (c) of this section and a system's recommended treatment alternative, the State shall, after notice and opportunity for comment, either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in subsection (c)(1) of this section. When designating optimal treatment the State shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

"(2) The State shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the State requests additional information to aid its review, the water system shall provide the information.

"(e) INSTALLATION OF OPTIMAL CORROSION CONTROL.—Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the State under subsection (d) of this section.

"(f) STATE REVIEW OF TREATMENT AND SPECIFICATION OF OPTIMAL WATER QUALITY CONTROL PARAMETERS.—The State shall evaluate the results of all lead tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the State in subsection (d) of this section. Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the State shall, after notice and opportunity for comment, designate—

"(1) a minimum value or a range of values for pH measured at each entry point to the distribution system;

"(2) a minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0, unless the State determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

"(3) if a corrosion inhibitor is used, a minimum concentration or a range of concentra-

tions for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the State determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

"(4) if alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

"(5) if calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

The values for the applicable water quality control parameters listed above shall be those that the State determines to reflect optimal corrosion control treatment for the system. The State may designate values for additional water quality control parameters determined by the State to reflect optimal corrosion control for the system. The State shall notify the system in writing of these determinations and explain the basis for its decisions.

"(g) CONTINUED OPERATION AND MONITORING.—All systems shall maintain water quality parameter values at or above minimum values or within ranges designated by the State under subsection (f) of this section in each sample collected under section 1418H(d). If the water quality parameter value of any sample is below the minimum value or outside the range designated by the State, then the system is out of compliance with this subsection. As specified in section 1418H(d), the system may take a confirmation sample for any water quality parameter value no later than 3 days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under this subsection. States have discretion to delete results of obvious sampling errors from this calculation.

"(h) MODIFICATION OF STATE TREATMENT DECISIONS.—Upon its own initiative or in response to a request by a water system or other interested party, a State may, after notice and opportunity for comment, modify its determination of the optimal corrosion control treatment under subsection (d) of this section or optimal water quality control parameters under subsection (f) of this section. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The State may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the State's decision, and provide an implementation schedule for completing the treatment modifications.

"(i) EPA Regulations or Guidelines.—Within 6 months after the enactment of this subpart the Administrator shall issue regulations or guidelines to facilitate compliance with the requirements of this section.

**"SEC. 1418D. SOURCE WATER MCL.**

"The Congress hereby establishes, by operation of law, to be effective 18 months after the enactment of this subpart, a maximum contaminant level (MCL) for lead in source water which shall be considered exceeded whenever the concentration of lead in source water is greater than 5 parts per billion (ppb).

**"SEC. 1418E. LEAD SERVICE LINE REPLACEMENT REQUIREMENTS.**

"(a) **BASIC REQUIREMENT.**—Public water systems that fail to meet the tap water lead limit in samples taken pursuant to section 1418G(d) after installing corrosion control shall replace lead service lines in accordance with the requirements of this section.

"(b) **REPLACEMENT SCHEDULE.**—

"(1) **IN GENERAL.**—A system shall replace lead services lines in its distribution system at an annual rate which will replace each year either 20 percent of the lead service lines or 10 percent of the total service lines, whichever results in replacement of a greater number of lead service lines. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead and nonlead service lines in its distribution system based upon a materials evaluation, including the evaluation required under section 1418G(a). The first year of lead service line replacement shall begin on the date the tap water lead limit was exceeded in tap water sampling referenced in subsection (a) of this section. If the State fails to designate optimal corrosion control by the date required under section 1418B or if a system fails to install corrosion control treatment by the date required under section 1418B, the first year of lead service line replacement shall begin 6 months after the such date.

"(2) **EXTENSION OF SCHEDULE FOR CERTAIN SYSTEMS.**—Upon the application of a public water system with an especially large number of lead service lines in its distribution system, the State may, after notice and opportunity for comment, extend the schedule for lead service line replacement established under paragraph (1). Such extension shall provide for the replacement by the system of all lead service lines in its distribution system at the earliest feasible date. Such extension shall provide for replacement of an equal percentage of such lines in each year during the extension and shall terminate no later than the date specified in the following table:

<i>Total number of lead service lines to be replaced by system</i>	<i>Maximum extension period (years)</i>
More than 50,000 .....	3
More than 100,000 .....	5
More than 300,000 .....	10
More than 450,000 .....	13

"(c) **Service Lines Not Contributing to Violation.**—A system is not required to replace an individual lead service line if the State determines, after notice and opportunity for comment, that the service line does not contribute to tap water lead concentrations in excess of 10 parts per billion (ppb). In such a case, the service line shall be treated by the system as a nonlead line.

"(d) **PORTION OF SERVICE LINE REPLACED.**—A water system shall replace the entire service line (up to the building inlet) unless it demonstrates to the satisfaction of the State under subsection (e) of this section that it controls less than the entire service line. In such cases, the system shall replace the portion of the line which the State determines is under the system's control. The system shall notify the user served by the line that the system will replace the portion of the service line under its control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water

system shall inform each resident that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident so desires. In cases where the resident accepts the offer, the system shall collect the sample and report the results to the resident within 14 days following partial lead service replacement.

"(e) **CONTROL.**—A water system is presumed to control the entire lead service line (up to the building inlet) unless the State determines, after notice and opportunity for comment, that it does not have any of following forms of control over the entire line (as defined by State statutes, municipal ordinances, public service contracts or other applicable legal authority): authority to set standards for construction, repair, or maintenance of the line, authority to replace, repair, or maintain the service line, or ownership of the service line. The State shall review the information supplied by the system and determine whether the system controls less than the entire service line and, in such cases, shall determine the extent of the system's control. The State's determination shall be in writing and explain the basis for its decision.

"(f) **SHORTER SCHEDULE.**—The State shall require a system to replace lead service lines on a shorter schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The State shall, after notice and opportunity for comment, make this determination in writing and notify the system of its finding within 6 months after the system is triggered into lead service line replacement based on monitoring referenced in subsection (a) of this section.

"(g) **CESSATION OF SERVICE LINE REPLACEMENT.**—Any system may cease replacing lead service lines whenever the tap water samples collected pursuant to section 1418G(d)(1) meet the tap water lead limit during each of 2 consecutive monitoring periods and the system submits the results to the State. If the tap water samples in any such water system thereafter exceed the tap water lead limit, the system shall recommence replacing lead service lines within 6 months of such exceedance.

"(h) **REPORTING BY SYSTEM.**—To demonstrate compliance with subsections (a) through (d) of this section, a system shall report to the State the information specified in section 1418K(e).

"(i) **VOLUNTARY LEAD PIPE REMOVAL.**—Each State shall, within 18 months of the date of enactment of this subpart, establish a program to encourage all public water systems in the State to provide a voluntary service of referring building owners in the system's service area to approved contractors to remove lead plumbing, fixtures, or solder from their buildings. Such programs shall also encourage public water systems to offer to fund such removal and to bill their water customers on their water bills, amortized over a significant period of time, to allow easy payment for such removal. The Administrator shall, within 6 months of the date of enactment of this Act, develop and distribute to each State and the public a model State program designed to achieve these goals.

**"SEC. 1418F. PUBLIC EDUCATION AND SUPPLEMENTAL MONITORING REQUIREMENTS.**

"A water system that exceeds the tap water lead limit shall deliver the public education materials contained in subsections (a)

and (b) of this section in accordance with the requirements in subsection (c) of this section.

"(a) **CONTENT OF WRITTEN MATERIALS.**—A water system shall include the following text in all of the printed materials it distributes through its lead public education program. Any additional information presented by a system shall be consistent with the information below and be in plain English that can be understood by laypersons:

**"INTRODUCTION**

"The drinking water supplied by [insert name of water supplier] has been tested at several locations in your community and found to be contaminated with the toxic chemical lead. Some homes in the community have lead levels above the Federal tap water lead limit of 10 parts per billion (ppb), or 0.010 milligrams of lead per liter of water (mg/L). Other homes may have lead levels above the maximum contaminant level goal for lead established by the United States Environmental Protection Agency, which is no lead in drinking water.

Under Federal law we are required to have a program in place to minimize lead in your drinking water. This program includes corrosion control treatment (to decrease the level of lead drawn into water from lead in distribution pipes and from lead in home plumbing) and public education. We are also required to replace each lead service line that we control if the line contributes to lead concentrations of 10 parts per billion or more after we have completed the corrosion control treatment program. If you have any questions about how we are carrying out the requirements of Federal law please give us a call at [insert water system's phone number].

Although our lead control program will reduce lead in drinking water, because of contamination from home plumbing, it may not succeed in completely eliminating lead from drinking water or even in lowering lead contamination to the tap water lead limit. This brochure explains the simple additional steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

**"HEALTH EFFECTS OF LEAD**

"Lead is

"Lead is an extremely dangerous and pervasive poison found in lead-based paint, air, soil, household dust, food, certain types of pottery, porcelain, pewter, and water. Lead can pose a significant risk to your health and especially to the health of your children.

Lead builds up in the body over many years and can cause damage to the brain, red blood cells, and kidneys. Lead probably causes cancer in humans. Lead appears to cause elevated blood pressure in adult men.

The greatest risk is to young children and pregnant women. Small amounts of lead can impair normal mental and physical development of young children and fetuses. This damage can reduce intelligence and cause behavioral disturbances. These effects appear to be irreversible.

There is no known safe level of lead exposure.

**"LEAD IN DRINKING WATER**

"Lead in drinking water can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that, on average, drinking water makes up about 20 percent of a person's total exposure to lead. In some cases the percentage can be much higher. Infants who drink baby for-

mulas made from lead contaminated tap water have in some instances suffered acute lead poisoning.

"Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass, and chrome plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2 percent lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0 percent. In 1991 Congress further tightened controls on lead content in faucets, pipes and other plumbing materials.

"When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

"Federal law has set a tap water lead limit which is being exceeded in homes in your community. As a result of this exceedance, we are undertaking a program of corrosion control, public education, and [if necessary] lead service line replacement as required by Federal law to reduce lead levels in tap water. Installation of corrosion control [is required to occur/occurred] by [insert date]. Replacement of lead service lines [if necessary] [is required to occur/occurred] by [insert date]. Despite these measures lead levels [may] still exceed the tap water lead limit in homes in your community due to lead contamination in home plumbing.

"To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call [insert phone number of water system]. "If a water test indicates that the drinking water drawn from a tap in your home contains lead above 10 ppb, then you should take the following precautions. The EPA has set a goal of zero for lead contamination in drinking water so you should consider taking these steps even if the lead concentration in your drinking water is below 10 ppb.

"(1) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than 6 hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15-30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than 1 or 2 gallons of water and costs less than [insert a cost estimate based

on flushing 2 times a day for 30 days] per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible use the first flush water to wash the dishes or water the plants.

"If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

"(2) Try not to cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove.

"(3) Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from 3 to 5 minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

"(4) If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that he or she replace the lead solder with lead-free solder. Lead solder looks dull gray, and when scratched with a key looks shiny. In addition, notify your State [insert name of department responsible for enforcing the Safe Drinking Water Act in your State] about the violation.

"(5) Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by contacting us at [insert phone number of water system] hiring a licensed plumber to inspect the line or contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the [insert name of department that issues building permits]. A licensed plumber can at the same time check to see if your home's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead.

The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes to an exceedance of the Federal tap water lead limit after our corrosion control treatment program is in place, we are required to replace the line. If the line is only partially controlled by the [insert name of the city, county, or water system that controls the line], we are required to provide you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within 14 days of the replacement. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes.

"(6) Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

"The steps described above will reduce the lead concentrations in your drinking water.

However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 10 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures.

"(1) Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap, however all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

"(2) Purchase bottled water for drinking and cooking.

"In addition to exposure through drinking water, a child at play often comes into contact with sources of lead contamination—like dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often to reduce these sources of lead exposure.

"You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with more information about the health effects of lead. State and local government agencies that can be contacted include:

"[insert the name of city or county department of public utilities] at [insert phone number] can provide you with information about your community's water supply, and a list of local laboratories that have been certified by EPA for testing water quality;

"[insert the name of city or county department that issues building permits] at [insert phone number] can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and

"[insert the name of the State Department of Public Health] at [insert phone number] or the [insert the name of the city or county health department] at [insert phone number] can provide you with information about the health effects of lead and how you can have your child's blood tested.

"The following is a list of some State approved laboratories in your area that you can call to have your water tested for lead. [Insert names and phone numbers of at least 2 laboratories].

"(b) CONTENT OF BROADCAST MATERIALS.—A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

"Why should everyone want to know the facts about lead and drinking water? Because lead is an extremely dangerous poison that can enter drinking water and pose a significant risk to your health and the health of your children. Lead contamination can impair the intellectual development of young children. That's why I urge you to do what I did. I had my water tested for [insert free or \$ per sample]. You can contact the [insert the name of the city or water system] for information on testing and on simple ways to reduce your exposure to lead in drinking water.

"To have your water tested for lead, or to get more information about this public health concern, please call [insert the phone number of the city or water system].

"(c) DELIVERY OF PUBLIC EDUCATION PROGRAM.—(1) In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

"(2) A community water system that fails to meet the tap water lead limit shall, within 60 days:

"(A) insert notices in each customer's water utility bill containing the information in subsection (a), along with the following alert on the water bill itself in large print:

**"SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH AND TO THE HEALTH OF YOUR CHILDREN. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION,"**

"(B) submit the information in subsection (a) to the editorial departments of the major daily and weekly newspapers circulated throughout the community,

"(C) deliver pamphlets and/or brochures that contain the public education materials in subsection (a) of this section relating to the health effects of lead and steps to be taken in the home to reduce exposure to lead in drinking water of this section to facilities and organizations, including the following: public and private schools and/or local school boards; city or county health department; women, infants, and children and/or Head Start Program(s) whenever available; public and private hospitals and/or clinics; pediatricians; family planning clinics; public libraries; and local welfare agencies, and

"(D) submit the public service announcement in subsection (b) to at least 5 of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

"(3) A community water system shall repeat the tasks contained in subsection (c)(2) (A), (B), and (C) every 12 months, and the tasks contained in subsection (c)(2)(D) every 6 months for as long as the system exceeds the tap water lead limit.

"(4) Within 60 days after it exceeds the tap water lead limit, a noncommunity water system shall deliver the public education materials contained in subsection (a) of this section as follows:

"(A) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system.

"(B) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the noncommunity water system.

"(5) A noncommunity water system shall repeat the tasks contained in subsection (c)(4) of this section at least once during each calendar year in which the system exceeds the tap water lead limit.

"(6) A water system may discontinue delivery of public education materials if the system has met the tap water lead limit during the most recent 6-month monitoring period conducted pursuant to section 1418G. Such a system shall recommence public education in accordance with this section if it subsequently exceeds the tap water lead limit during any monitoring period.

"(d) SUPPLEMENTAL MONITORING AND NOTIFICATION OF RESULTS.—A water system that fails to meet the tap water lead limit shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

"(e) NOTIFICATION OF VIOLATIONS.—

"(1) IN GENERAL.—A water system which fails to comply with a water maximum contaminant level for lead or any other requirement under this subpart shall notify persons served by such system of such violation in the manner provided for public notification of violations of maximum contaminant levels and treatment techniques in regulations of the Administrator under this part.

"(2) MANDATORY HEALTH EFFECTS LANGUAGE.—When providing the information on potential adverse health effects in notices of violation, the water system shall include the language in subsection (a) relating to the health effects of lead.

"SEC. 1418G. MONITORING REQUIREMENTS FOR LEAD IN TAP WATER.

"(a) SAMPLE SITE LOCATION.—(1) By the applicable date for commencement of monitoring under subsection (d)(1) of this section, each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this section, and which is sufficiently large to ensure that the water system can collect the number of lead tap samples required in subsection (c). All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

"(2) A water system shall use the information that it is required to collect under regulations promulgated by the Administrator under this part relating to special monitoring for corrosivity characteristics when conducting a materials evaluation. When an evaluation of the information collected pursuant to such regulations is insufficient to locate the requisite number of lead sampling sites that meet the targeting criteria in this subsection, the water system shall review each source of information listed below in order to identify a sufficient number of sampling sites and in addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g. checking service line materials when reading water meters or performing maintenance activities):

"(A) All plumbing codes, permits, and records in the files of the building department which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system.

"(B) All inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system.

"(C) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead concentrations.

"(3) The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or (B) are served by a lead service line. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

"(4) Any community water system with insufficient tier 1 sampling sites shall com-

plete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that: (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or (B) are served by a lead service line.

"(5) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983.

"(6) The sampling sites selected for a noncommunity water system ("tier 1 sampling sites") shall consist of buildings that: (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or (B) are served by a lead service line.

"(7) A noncommunity water system with insufficient tier 1 sites that meet the targeting criteria in paragraph (6) of subsection (a) shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983.

"(8) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the State under section 1418K(a)(2) why a review of the information listed in subsection (a)(2) was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

"(9) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of those samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall demonstrate in a letter submitted to the State why the system was unable to locate a sufficient number of such sites. Such a water system shall collect lead service line samples from all of the sites identified as being served by such lines.

"(b) SAMPLE COLLECTION METHODS.—(1) All tap samples for lead collected in accordance with this subpart (but not lead service line samples collected under section 1418E) shall be first draw samples.

"(2) Each first-draw tap sample for lead shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least 6 hours. First draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be collected at an interior tap from which water is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sampling collection, the accuracy of sampling results.

"(3) Each service line sample shall be 1 liter in volume and have stood motionless in the lead service line for at least 6 hours. Lead service line samples shall be collected in 1 of the following 3 ways:

"(A) At the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of

the pipe between the tap and the lead service line.

“(B) Tapping directly into the lead service line.

“(C) If the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

“(4) A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

“(c) NUMBER OF SAMPLES.—Water systems shall collect at least one sample during each monitoring period specified in subsection (d) from the number of sites listed in the first column below (‘standard monitoring’). A system conducting reduced monitoring under subsection (d)(2) may collect one sample from the number of sites specified in the second column below during each monitoring period specified in subsection (d)(2).

System size (No. people served)	No. of sites (standard monitoring)	No. of sites (reduced monitoring)
100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
100	5	5

“(d) TIMING OF MONITORING.—

“(1) STANDARD MONITORING.—Monitoring required under this section for lead concentrations in tap water shall commence 6 months after the enactment of this subpart and shall occur at 6-month intervals thereafter, except as provided in paragraph (2).

“(2) REDUCED MONITORING.—(A) Any water system that meets the tap water lead limit during each of 2 consecutive 6-month monitoring periods may reduce the number of samples in accordance with subsection (c) of this subsection, and reduce the frequency of sampling to once per year.

“(B) Any water system that meets the tap water lead limit during 3 consecutive years of monitoring may reduce the frequency of monitoring for lead from annually to once every 3 years.

“(C) A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in subsection (a). Systems sampling annually or less frequently shall conduct the lead tap sampling during the month of June, July, August, or September.

“(D) Any water system subject to reduced monitoring that exceeds the tap water lead limit shall immediately resume sampling in accordance with subsection (d)(1) and collect the number of samples specified for standard monitoring under subsection (c).

“(e) ADDITIONAL MONITORING BY SYSTEMS.—The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the State in making any determinations under this subpart.

**“SEC. 1418H. MONITORING REQUIREMENTS FOR WATER QUALITY PARAMETERS.**

“All large water systems and all small and medium-size systems that exceed the tap water lead limit shall monitor water quality

parameters in addition to lead in accordance with this section.

“(a) GENERAL REQUIREMENTS.—

“(1) SAMPLE COLLECTION METHODS.—(A) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this section is not required to be conducted at taps targeted for lead sampling under section 1418G(a).

“(B) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

“(2) NUMBER OF SAMPLES.—(A) Systems shall collect 2 tap samples for applicable water quality parameters during each monitoring period specified under subsections (b) through (e) of this section from the following number of sites:

System size	Number of people served:	Number of sites
100,000	100,000	25
10,001 to 100,000	10,001 to 100,000	10
3,301 to 10,000	3,301 to 10,000	3
501 to 3,300	501 to 3,300	2
101 to 500	101 to 500	1
100	100	1

“(B) Systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in subsection (b). During each monitoring period specified in subsections (c) through (e) of this section, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

“(b) INITIAL SAMPLING.—All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each 6-month monitoring period specified in section 1418G(d)(1). All small- and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each 6-month monitoring period specified in section 1418G(d)(1) during which the system exceeds the tap water lead limit.

“(1) At taps: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium; conductivity; and water temperature.

“(2) At each entry point to the distribution system: all of the applicable parameters listed in paragraph (1) above.

“(c) MONITORING AFTER INSTALLATION OF CORROSION CONTROL.—Any system which installs optimal corrosion control treatment pursuant to section 1418B(d)(4) or section 1418B(e)(5) shall measure the water quality parameters at the locations and frequencies specified below during each 6-month monitoring period following such installation.

“(1) At taps, two samples for: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium, when calcium carbonate stabilization is used as part of corrosion control.

“(2) At each entry point to the distribution system, one sample every two weeks for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

“(d) MONITORING AFTER STATE SPECIFIES WATER QUALITY PARAMETER VALUES FOR OPTIMAL CORROSION CONTROL.—After the State specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under section 1418C(f), all systems shall measure the applicable water quality parameters in accordance with subsection (c) of this section during each 6-month monitoring period after such specification. The system may take a confirmation sample for any water quality parameter value no later than 3 days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under section 1418C(g). States have discretion to delete results of obvious sampling errors from this calculation.

“(e) REDUCED MONITORING.—(1) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive 6-month monitoring periods under subsection (d) of this section shall continue monitoring at the entry point(s) to the distribution system as specified in subsection (c)(2) of this section. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each 6-month monitoring period.

System size	Reduced number of sites
Number of people served:	
More than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
Less than 100	1

“(2) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under section 1418C(f) during 3 consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (1) from every 6 months to annually.

“(3) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

“(4) Any water system subject to reduced monitoring frequency that fails to operate within the range of values for the water quality parameters specified by the State under section 1418C(f) shall resume tap water sampling in accordance with the number and frequency requirements in subsection (c) of this section.

“(f) ADDITIONAL MONITORING BY SYSTEMS.—The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the State in making any determinations (i.e., determining concentrations of water quality parameters) under this section or section 1418C.

**"SEC. 1418I. MONITORING REQUIREMENTS FOR LEAD IN SOURCE WATER.**

"(a) **SAMPLE LOCATION, COLLECTION METHODS, AND NUMBER OF SAMPLES.**—(1) Each water system shall collect lead source water samples in accordance with the requirements regarding sample location, number of samples, and collection methods specified in regulations of the Administrator under subpart 1 relating to inorganic chemical sampling.

"(2) Where the results of sampling indicate an exceedance of the source water maximum contaminant level for lead, the State may require that 1 additional sample be collected as soon as possible after the initial sample was taken (but not to exceed 2 weeks) at the same sampling point. If a State-required confirmation sample is taken for lead, then the results of the initial and confirmation sample shall be averaged in determining compliance with the source water maximum contaminant level for lead. Any sample value below the detection limit shall be considered to be zero. Any value above the detection limit but below the PQL shall either be considered as the measured value or be considered one-half the PQL.

"(b) **Monitoring Frequency.**—Each system shall collect one source water sample from each entry point to the distribution system within 6 months after the enactment of this subpart and at 6 month intervals thereafter.

"(c) **Reduced Monitoring Frequency.**—(1) A water system using only ground water which demonstrates that finished drinking water entering the distribution system has been maintained below the source water maximum contaminant level for lead during at least 3 consecutive compliance periods under subsection (b) of this section may reduce the monitoring frequency for lead to once every 2 years.

"(2) A water system using surface water (or a combination of surface and ground waters) which demonstrates that finished drinking water entering the distribution system has been maintained below the source water maximum contaminant level for lead for at least 3 consecutive years may reduce the monitoring frequency in subsection (b) of this section to once every 2 years.

"(3) A water system that uses a new source of water is not eligible for reduced monitoring for lead until concentrations in samples collected from the new source during 3 consecutive monitoring periods are below the source water maximum contaminant level for lead.

**"SEC. 1418J. ANALYTICAL METHODS.**

"Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature shall be conducted using the methods specified in 40 C.F.R. 141.89, as may be modified by the Administrator from time to time. For purposes of this title and regulations thereunder, where it is not economically or technologically feasible to ascertain the level of a contaminant in drinking water which is as close to the maximum contaminant level goal as feasible, the Administrator shall establish a treatment technique for such contaminant in accordance with section 1412(b)(7). The Administrator shall have no authority in such cases to promulgate national primary drinking water regulations under this title based upon the level of a contaminant which is economically or technologically feasible to ascertain. Any such regulations in effect on the date of enactment of this subpart which are inconsistent with the provisions of the preceding sentence (including any regulations based on a Practical Quantification Level) shall be revised by the Administrator

within 6 months after the enactment of this subpart to conform to such requirements. Such existing inconsistent regulations shall cease to apply on the date on which the revised regulations take effect.

**"SEC. 1418K. REPORTING REQUIREMENTS.**

"All water systems shall report all of the following information to the State in accordance with this section.

"(a) **Reporting Requirements for Tap Water Monitoring for Lead and for Water Quality Parameters Monitoring.**—(1) A water system shall report the information specified below for all tap water samples within the first 10 days following the end of each applicable monitoring period specified in section 1418G and 1418H (i.e. every 6 months, annually, or every 3 years).

"(A) The results of all tap samples for lead, including the location of each site and the criteria under paragraph (3), (4), (5), (6) and/or (7) of section 1418G(a) under which the site was selected for the system's sampling pool.

"(B) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of its knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least 6 hours.

"(C) Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures.

"(D) The results of all tap water samples for lead.

"(E) With the exception of initial tap sampling conducted pursuant to this section, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed.

"(F) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under subsections (b) through (e) of section 1418H.

"(G) The results of all samples collected at the entry point to the distribution system for applicable water quality parameters under subsections (b) through (e) of section 1418H.

"(2) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each community water system which does not complete its targeted sampling pool with tier 1 sampling sites meeting the criteria in section 1418G(a)(3) shall send a letter to the State justifying its selection of tier 2 and/or tier 3 sampling sites under section 1418G(a)(4) and/or (a)(5).

"(3) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each noncommunity water system which does not complete its sampling pool with tier 1 sampling sites meeting the criteria in section 1418G(a)(6) shall send a letter to the State justifying its selection of sampling sites under section 1418G(a)(7).

"(4) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each water system with lead service lines that is not able to locate the number of sites served by such lines required under section 1418G(a)(9) shall send a letter to the State demonstrating why it was unable to locate a sufficient number of such sites based upon the information listed in section 1418G(a)(2).

"(b) **SOURCE WATER MONITORING REPORTING REQUIREMENTS.**—(1) A water system shall report the sampling results for all source water samples collected in accordance with section 1418I within the first 10 days follow-

ing the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in section 1418I.

"(2) With the exception of the first round of source water sampling conducted pursuant to section 1418I, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

"(c) **CORROSION CONTROL TREATMENT REPORTING REQUIREMENTS.**—By the applicable dates under section 1418B systems shall report the following information:

"(1) For systems demonstrating that they have already optimized corrosion control, information required in section 1418B(b)(2) or (3).

"(2) For systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under section 1418C(a).

"(3) For systems required to evaluate the effectiveness of corrosion control treatments under section 1418C(c), the information required by that paragraph.

"(4) For systems required to install optimal corrosion control designated by the State under section 1418C(d), a letter certifying that the system has completed installing that treatment.

"(d) **LEAD SERVICE LINE REPLACEMENT REPORTING REQUIREMENTS.**—Systems shall report the following information to the State to demonstrate compliance with the requirements of section 1418E:

"(1) Within 12 months after a system exceeds the tap water lead limit in sampling referred to in section 1418E(a), the system shall demonstrate in writing to the State that it has conducted a materials evaluation, including the evaluation in section 1418G(a), to identify the initial number of lead service lines in its distribution system, and shall provide the State with the system's schedule for replacing lead service lines.

"(2) Within 12 months after a system exceeds the tap water lead limit in sampling referred to in section 1418E(a), and every 12 months thereafter, the system shall demonstrate to the State in writing that the system has replaced in the previous 12 months the number of lead service lines in its distribution system required by section 1418E.

"(3) The annual letter submitted to the State under subsection (d)(2) shall contain the following information:

"(A) The number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule.

"(B) The number and location of each lead service line replaced during the previous year of the system's replacement schedule.

"(C) If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

"(4) As soon as practicable, but in no case later than 3 months after a system has completed the installation of optimal corrosion control treatment and subsequently been found to exceed the tap water lead limit in any sampling referred to in section 1413(a), any system seeking to rebut the presumption that it has control over the entire lead service line pursuant to section 1418E(d) shall submit a letter to the State describing the legal authority (e.g., State statutes, municipal ordinances, public service contracts, or other applicable legal authority) which limits the system's control over the service lines and the extent of the system's control.

"(e) **PUBLIC EDUCATION PROGRAM REPORTING REQUIREMENTS.**—(1) By December 31 of

each year, any water system that is subject to the public education requirements in section 1418F shall submit a letter to the State demonstrating that the system has delivered the public education materials that meet the content requirements in section 1418F(a) through (d) and the delivery requirements in section 1418F(c). This information shall include a list of all the newspapers, radio stations, television stations, facilities, and organizations to which the system delivered public education materials during the previous year. The water system shall submit the letter required by this paragraph annually for as long as it exceeds the tap water lead limit.

"(2) By December 31 of each year any water system subject to the public notification requirements of section 1418F(e) shall submit a letter to the State demonstrating compliance with the requirements of section 1418F(e).

"(f) REPORTING OF ADDITIONAL MONITORING DATA.—Any system which collects sampling data in addition to that required by this subpart shall report the results to the State by the end of the applicable monitoring period under sections 1418G, 1418H, and 1418I during which the samples are collected.

"(g) ANNUAL COMPLIANCE CERTIFICATION.—All public water systems shall submit a letter to the State by March 1 of each year certifying the extent to which the system was in compliance with each applicable provision of this subpart during the preceding calendar year.

**"SEC. 1418L. RECORDKEEPING REQUIREMENTS.**

"Any system subject to the requirements of this subpart shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, State determinations, and any other information required by this subpart. Each water system shall retain the records required by this section for no fewer than 12 years.

**"SEC. 1418M. IMPLEMENTATION REQUIREMENTS.**

"(a) RECORDS KEPT BY STATES.—Each State shall maintain for not less than 10 years files for each public water system which contain records of currently applicable or most recent State determinations, including all supporting information and an explanation of the technical basis for each of the following decisions, made under the preceding provisions of this subpart:

"(1) Decisions to require a water system to conduct corrosion control treatment studies.

"(2) Designations of optimal corrosion control treatment.

"(3) Designations of optimal water quality parameters.

"(4) Decisions to modify a public water system's optimal corrosion control treatment or water quality parameters.

"(5) Determinations that a system does not control entire lead service lines.

"(6) Determinations establishing or failing to establish a shorter lead service line replacement schedule than required by section 1418E.

"(7) Records of reports and any other information submitted by water systems under section 1418K.

"(8) Records of State activities, and the results thereof, to verify compliance with State determinations issued under section 1418C(f) and 1418C(h) and compliance with lead service line replacement schedules under section 1418E.

"(9) Records of each system's currently applicable or most recently designated monitoring requirements.

If, for the records identified in paragraphs (1) through (6) of this subsection, no change is

made to a State decision during a 12 year retention period, the State shall maintain the record until a new decision, determination, or designation has been issued.

"(b) SPECIAL REPORTS.—Each State shall submit to the Administrator by May 15, August 15, November 15, and February 15 of each year the following information relating to each system's compliance with the requirements for lead under this subpart during the preceding calendar quarter. Specifically, States shall report the name and Public Water System identification number of—

"(1) each public water system which exceeded any maximum contaminant level for lead or tap water lead limit and the date upon which the exceedance occurred;

"(2) each public water system required to complete the corrosion control evaluations specified in section 1418C(c) and the date the State received the results of the evaluations from each system;

"(3) each public water system for which the State has designated optimal corrosion control treatment under section 1418C(d), the date of the determination, and each system that completed installation of treatment as certified under section 1418K(c)(4);

"(4) each public water system for which the State has designated optimal water quality parameters under section 1418C(f) and the date of the determination; and

"(5) each public water system required to begin replacing lead service lines as specified in section 1418E, each public water system for which the State has established a replacement schedule under section 1418E(f), and each system reporting compliance with its replacement schedule under section 1418K(d)(2).

"(c) SPECIAL PRIMACY REQUIREMENTS.—An application for approval of a State program revision which adopts the requirements specified in this section must contain (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the Federal requirements) a description of how the State will accomplish the following program requirements:

"(1) SECTION 1418C(d), (f), AND (h).—Designating optimal corrosion control treatment methods, optimal water quality parameters and modifications thereto.

"(2) SECTION 1418K(d).—Verifying compliance with lead service line replacement schedules and of Public Water System demonstrations of limited control over lead service lines.

"(d) AVAILABILITY OF RECORDS.—All records, data, and reports collected, maintained, received, or otherwise developed by States pursuant to the requirements of this subpart shall be made available by the State to the public upon request, unless making such records, data, or reports available would divulge trade secrets or secret processes.

**"SEC. 1418N. EPA REVIEW OF IMPLEMENTATION OF NPDWR FOR LEAD.**

"(a) EPA REVIEW.—Pursuant to the procedures in this section, the Administrator shall review State determinations required to be made after notice and opportunity for comment under this subpart and shall issue an order establishing a Federal determination where—

"(1) a State has failed to issue a determination by the applicable deadline; or

"(2) a State has issued a determination that does not comply with the requirements of this subpart.

"(b) INFORMATION USED BY STATE.—The State shall forward to the Administrator

each State determination referred to in subsection (a) and all information that was considered by the State in making its determination, including public comments, if any, within 60 days of the State determination.

"(c) PROPOSED REVIEW OF STATE DETERMINATIONS.—(1) Where the conditions in subsection (a)(1) or (a)(2) are met, the Administrator shall issue a proposed review order within 90 days of the State action or failure to act which shall—

"(A) identify the public water system(s) affected, the State determination being reviewed and the provisions of State and/or Federal law at issue;

"(B) identify the determination that the State failed to carry out by the applicable deadline, or identify the particular provisions of the State determination which, in the Administrator's judgment, fail to carry out applicable requirements of this subpart and explain the basis for the Administrator's conclusion;

"(C) identify the treatment requirements which the Administrator proposes to apply to the affected system(s), and explain the basis for the proposed requirements; and

"(D) request public comment on the proposed order and the supporting record.

"(2) The Administrator shall provide notice of the proposed review order by:

"(A) mailing the proposed order to the affected public water system(s), the State agency whose order is being reviewed, and any other parties of interest known to the Administrator; and

"(B) publishing a copy of the proposed order in a newspaper of general circulation in the affected communities.

"(3) The Administrator shall make available for public inspection during the comment period the record supporting the proposed order, which shall include all of the information submitted by the State to the Administrator under subsection (b) of this section, all other studies, monitoring data and other information considered by the Administrator in developing the proposed order.

"(d) FINAL REVIEW ORDER.—(1) Based upon review of all information obtained regarding the proposed review order, including public comments, the Administrator shall issue a final review order within 120 days after issuance of the proposed order which affirms, modifies, or withdraws the proposed order. If the final order modifies or withdraws the proposed order, the final order shall explain the reasons supporting the change.

"(2) The record of the final order shall consist of the record supporting the proposed order, all public comments, all other information considered by the Administrator in issuing the final order and a document responding to all significant public comments submitted on the proposed order. If new points are raised or new material supplied during the public comment period, the Administrator may support the responses on those matters by adding new materials to the record. The record shall be complete when the final order is issued.

"(3) Notice of the final order shall be provided by mailing the final order to the affected system(s), the State, and all parties who commented on the proposed order.

"(4) Upon issuance of the final order, its terms constitute requirements of the national primary drinking water regulation for lead until such time as the Administrator issues a new order (which may include rescission of the previous order) pursuant to the procedures in this section. Such requirements shall supersede any inconsistent treatment requirements established by the State pursu-

ant to the national primary drinking water regulations for lead.

"(5) The Administrator may not issue a final order to impose conditions less stringent than those imposed by the State.

"(e) FINALITY.—Action of the State with respect to which review by the Administrator is required under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

"(f) PRIMACY STATES.—All references in this subpart to the 'State' refer to the State which has primary enforcement responsibility under this title for the public water system concerned. If a State does not have primary enforcement responsibility under this title for public water systems in that State, the authorities and responsibilities vested in the State under this section shall be vested in the Administrator and all references in this section to the 'State' shall be treated as references to the 'Administrator'. The Administrator shall promptly withdraw primary enforcement responsibility under this title in the case of any State which is not fully implementing the requirements of this title.

**"SEC. 14190. VARIANCES AND EXEMPTIONS.**

"(a) USE OF BOTTLED WATER, ETC.—The State may require a public water system to use bottled water, point-of-use devices, point-of-entry devices, or other means as a condition of granting a variance or exemption from the requirements of national primary drinking water regulations under this part to avoid an unreasonable risk to health. The State may require a public water system to use bottled water and point-of-use devices or other means, but not point-of-entry devices, as a condition for granting an exemption from corrosion control treatment requirements for lead in sections 1418B and 1418C to avoid an unreasonable risk to health. The State may require a public water system to use point-of-entry devices as a condition for granting an exemption from the source water and lead service line replacement requirements for lead under section 1418D or 1418E to avoid an unreasonable risk to health.

"(b) PUBLIC WATER SYSTEMS USING BOTTLED WATER.—Public water systems that use bottled water as a condition for receiving a variance or an exemption from the national primary drinking water regulations under this part or an exemption from the requirements of sections 1418B through 1418E must meet the requirements specified in either paragraph (1) or (2) and paragraph (3) of this subsection:

"(1) The State must require and approve a monitoring program for bottled water. The public water system must develop and put in place a monitoring program that provides reasonable assurances that the bottled water meets all maximum contaminant levels and does not contain lead content in excess of 10 parts per billion. The public water system must monitor a representative sample of the bottled water for all contaminants regulated under this part during the first 3-month period that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the State annually.

"(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an 'approved source' as defined by rule by the Administrator of the Food and Drug Administration; the bottled water company has conducted monitoring in accordance with such rules; and the bottled water does not exceed any maximum con-

taminant levels or quality limits as set out in such rules. The public water system shall provide the certification to the State the first quarter after it supplies bottled water and annually thereafter. At the State's option a public water system may satisfy the requirements of this subsection if an approved monitoring program is already in place in another State.

"(3) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system via door-to-door bottled water delivery.

"(c) POINT OF ENTRY DEVICES.—In requiring the use of a point-of-entry device as a condition for granting an exemption from the national public drinking water regulation for lead under section 1418D or 1418F, the State must be assured that use of the device will not cause increased corrosion of lead bearing materials located between the device and the tap that could increase contaminant levels at the tap."

(b) EPA ACTION LEVEL REGULATIONS.—The Congress hereby finds and declares that the establishment by the Environmental Protection Agency of action levels in regulations regarding lead and copper in drinking water is inconsistent with title XIV of the Public Health Service Act because it does not provide the protection for public health mandated by section 1412 of that title. The Administrator may not hereafter promulgate any national primary drinking water regulations under such title based on an action level in lieu of a maximum contaminant level or a treatment technique as prescribed by section 1412 of that title, and any such regulations promulgated before the enactment of this Act, including regulations relating to lead and copper in drinking water, are hereby declared to be null and void on the date 30 days after the enactment of this Act (except as otherwise provided in the first sentence of section 1418J of that title, relating to analytical methods). In the case of any contaminant, other than lead, for which regulations are declared null and void under this subsection, the Administrator shall promulgate national primary drinking water regulations under subpart 1 of title XIV of the Public Health Service Act which are consistent with the requirements of section 1412 of that title within 6 months after the enactment of this Act.

(c) CLASSES OF PUBLIC WATER SYSTEMS.—Except as specifically provided in sections 1415 and 1416 and subpart B of title XIV of the Public Health Service Act (the Safe Drinking Water Act), nothing in such title shall be construed to authorize the Administrator of the Environmental Protection Agency or a State with primary enforcement responsibility under that title to regulate any class of public water systems in a manner that may be less protective of public health than is required for all other public water systems.

(d) SCHOOL DRINKING WATER CONTAINING LEAD.—

(1) TESTING.—(A) Section 1464(d)(1) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-23) is amended by adding the following at the end thereof: "Within 18 months after the enactment of the Lead Contamination Control Act Amendments of 1991 each local education agency shall complete testing, in accordance with the protocol under subsection (b), for lead contamination in drinking water from coolers and in other drinking water outlets (including outlets used in food preparation) at schools under the jurisdiction of such agency."

"(B) Section 1464(b) of such Act is amended by adding the following at the end: "The Administrator shall revise the guidance document and the protocol published under this subsection within 6 months after the enactment of the Lead Contamination Control Act Amendments of 1991. Such revision shall, at a minimum, provide for follow-up sampling and recommend remedial steps whenever the lead concentration in any drinking water outlet exceeds 10 parts per billion."

(2) PUBLIC AVAILABILITY.—Section 1464(d)(2) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-24(d)(2)) is amended by inserting the following before the period at the end thereof: "and, if the testing results show a tap water lead concentration in excess of 10 parts per billion, the local education agency shall, within 90 days after completion of such testing, provide to all teachers and other school personnel at the school and to parents (and guardians) of children enrolled in the school a summary of the testing results, a lead disclosure statement, and a description of the actions the agency has taken, or will take, in response to such test results, together with a schedule for such actions. The local education agency shall simultaneously provide a copy of such materials to the agency with primary enforcement responsibility for the public water system which serves the school. Such agency with primary enforcement responsibility shall promptly (but not later than 3 months after receipt of such materials) transmit to the Administrator a summary of such test results, the response actions taken, and proposed response actions. The Administrator, in consultation with the Centers for Disease Control, shall, within 1 year after the enactment of the Lead Contamination Control Act Amendments of 1991, publish a lead disclosure statement to be used for purposes of this subsection. Such statement shall explain the risks to children from exposure to lead in school drinking water and describe potential remedial actions."

(3) FEDERAL ASSISTANCE.—(A) Section 1465(a) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-25(a)) is amended by striking "may" in the last sentence and inserting "shall only" and by adding the following before the period at the end thereof: ", except that not more than 5 percent of the grants made to any State for purposes of this section in any fiscal year may be retained by the State for purposes of administering the grant program under this section. Reimbursement shall be made to local education agencies on the basis of financial need and the severity of the drinking water contamination at the schools concerned"

(B) Section 1465(c) of such Act is amended by striking "and" and by inserting the following before the period at the end thereof: "and \$30,000,000 for each of the 5 fiscal years thereafter."

(4) CIVIL PENALTIES.—Section 1464 of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-24(d)(2)) is amended by adding the following new subsection at the end thereof:

"(e) ENFORCEMENT.—Any local education agency which fails or refuses to comply with the requirements of this section shall be subject to a civil penalty in the amount of \$10,000 for each such violation. The Administrator may bring an action in the appropriate United States district court to assess and collect such penalty or to enjoin any such violation. The court in any action against a local education agency under this

section or section 1449 shall have discretion to order that all civil penalties collected be used to reimburse the local education agency for the costs of testing and remedying lead contamination in drinking water."

(5) COOLERS CONTAINING LEAD.—

(A) List.—Section 1463(a) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-23(a)) is amended by adding the following at the end thereof: "At a minimum, the Administrator shall revise and republish the list within 1 year after the date of the enactment of the Lead Contamination Control Act Amendments of 1991 to ensure that all drinking water coolers in use or being manufactured as of that date which are not lead free are included on the list."

(B) RECALL ORDER.—Section 1462 of such Act is amended by striking "such order" in the last sentence thereof and inserting "each such order" and by adding the following before such last sentence: "The Commission shall issue a new order within 1 year after the list is revised under section 1463 to require manufacturers and importers of all coolers on such list to repair, replace, or recall and provide a refund for such coolers."

(C) CLARIFYING AMENDMENT.—Section 1461(3)(B) of such Act is amended to read as follows:

"(B) the owner of any building used as a school."

(e) LEAD PIPES, SOLDER, AND FLUX.—

(1) IN GENERAL.—Section 1417 of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300g-6) is amended as follows:

(A) Subsection (a) is amended—

(i) by inserting "pipe fitting, fixture," after "pipe,";

(ii) by striking out so much of subparagraph (B) as follows "consumption" and inserting in lieu thereof a comma; and

(iii) by adding the following at the end thereof "Effective 1 year after the enactment of the Lead Contamination Control Act Amendments of 1991, it shall be unlawful (i) for any person to introduce into commerce any pipe, pipe fitting or fixture that is not lead free, (ii) for persons engaged in the business of selling plumbing supplies to sell solder or flux which is not lead free, or (iii) for any person to introduce into commerce any solder or flux which is not lead free unless such solder or flux bears a prominent label stating that it is illegal to use such solder or flux in the installation or repair of any plumbing providing water for human consumption."

(B) Subsection (d) is amended by adding the following at the end thereof: "Effective 4 years after the enactment of the Lead Contamination Control Act Amendments of 1991, when used with respect to pipes, pipe fittings, fixtures, solder, and flux, such term refers to pipes, pipe fittings, fixtures, solder, and flux that either have no lead content or that have been certified as lead free by the Administrator. The Administrator may certify a pipe, pipe fitting, fixture, solder, or flux as lead free only if the Administrator determines that (A) such pipe, pipe fitting, fixture, solder, or flux cannot feasibly be manufactured without lead or with a lower lead content, (B) such product meets the definition of lead free under paragraph (1) or (2), as applicable, and (C) use of such pipe, pipe fitting, fixture, solder, or flux, when new and after 30 days of usage, will not cause tap water lead concentrations to exceed 10 parts per billion (ppb), as demonstrated pursuant to leach tests using corrosive water and dwell periods of at least 10 hours."

(2) ENFORCEMENT.—Title XIV of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300g-6) is amended as follows:

(A) Subsection (c) of section 1417 is amended by inserting "(1)" after "Penalties.—" and by adding the following at the end thereof:

"(2) Any person who violates any requirement of this section, including any requirement of any regulation, order, or certification issued under this section, shall be in violation of this section and shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each such violation. The \$10,000 amount specified in the preceding sentence shall be adjusted annually for each calendar year after the calendar year 1991 to account for inflation or deflation."

"(3) The Administrator may commence a civil action to enjoin any violation of this section or to assess and recover any civil penalty under paragraph (2). Any action under this paragraph may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has its principal place of business, and the court shall have jurisdiction to issue injunctive relief and to assess a civil penalty."

"(4) The Administrator may issue an order to any person requiring such person to comply with any requirement of this section and the Administrator may, after notice and opportunity for hearing on the record in accordance with section 554 and 556 of title 5 of the United States Code, issue an order assessing a civil penalty for violation of this section."

(B) In subsection (a)(1) of section 1449 after "alleged" insert "to have violated or".

(C) The last sentence of subsection (a) of section 1449 is amended by inserting the following before the period at the end "and to apply any appropriate civil penalties (except for actions under paragraph (2))".

(D) Insert in section 1449 "or a State with primary enforcement responsibility" after "the Administrator" in each place such term appears.

(E) In section 1445(a)(1), strike all of the first sentence before "shall establish" and insert "Every person who is subject to any requirement of this title" and strike "by regulation".

(F) In section 1445(b)(1), strike "any supplier of water" and all that follows down to "is authorized to" and insert "any person who is subject to any requirement of this title or any person who is in charge of any property of such person,".

Mr. LIEBERMAN. Mr. President, I am delighted to join with my colleagues Senator LAUTENBERG and Senator DURENBERGER in introducing the Lead in Drinking Water Reduction Act. The more we learn about lead, the more we understand how dangerous it is to our children, and how important it is that we remove it from the environment. Lead in drinking water is responsible for 10 to 20 percent of the total lead exposure in young children. We know how to test for lead in water and we could be protecting our children from being exposed to lead in the water they drink at home and at school, yet we have failed to do so. Instead, we have waited for the Environmental Protection Agency to regulate lead in drinking water and it has failed to do so. Today, we are introducing legislation that will finally ensure that our children do not risk lead poisoning by drinking water.

The Lead in Drinking Water Reduction Act does what EPA has failed to do over the past 5 years, it protects the public health by strictly regulating lead in our drinking water and mandating prompt action to reduce the lead throughout our Nation's drinking water systems. The bill establishes a limit for lead in tapwater. Water systems will be required to monitor lead levels at the tap; however, under this legislation water systems which comply with the corrosion control and lead service line replacement provisions will not be held liable if the tapwater monitorings show levels above the established lead limit. I believe these provisions provide workable, effective protections for our children.

Today, the National Resources Defense Council released a report on the failure of the States to test schools and day care facilities for lead in drinking water. In 1988, Congress enacted legislation requiring States to identify and eliminate lead hazards in school and day care drinking water. In very few States have these requirements been met and every day in schools and day care centers across the country children are drinking water which may contain hazardous amounts of lead. This bill will require that the testing of lead in schools and day care centers be completed within 18 months after enactment and that parents be notified of the results.

I look forward to working with my colleagues to ensure that this legislation and the Lead Exposure Reduction Act previously introduced by Senator REID and myself become law this year. As the cover story in this week's Newsweek graphically illustrates children all across America are being irrevocably harmed by lead and we must take action now.

By Mr. SPECTER (for himself and Mr. WOFFORD):

S.J. Res. 175. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

DISAPPROVAL OF RECOMMENDATIONS OF THE BASE CLOSURE AND REALIGNMENT COMMISSION

Mr. SPECTER. Mr. President, today I propose a joint resolution of disapproval of the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on July 10, 1991. I urge my colleagues to join me in approving this resolution so that we may send a strong signal to the Department of Defense, and the Navy in particular, that Congress will no longer tolerate the blatant disregard of congressional intent as exhibited by the Navy's non-compliance with the base closure statute.

I am confident that almost all of us in this body support the objectives of

the base closure process—to reduce our defense infrastructure to levels sufficient to support the present and future composition of our Armed Forces. More importantly, we realize that these reductions must be made in accordance with a defense outlook and force structure plan which will prepare us to meet the security challenges of the 1990's and beyond.

For this reason, and to avoid the appearance of bias as exhibited often by the 1988 Base Closure Commission, the Congress enacted a base closure law in the fiscal year 1991 Defense Authorization Act which would ensure a fair and objective process. While undoubtedly few of us are completely content with all the recommendations to close specific facilities, I am not here to discuss my displeasure with the closing of facility X or Y. This resolution deals with much more fundamental issues, issues of due process and procedural fairness. The Commission, and the Navy in particular, in many instances appeared to blatantly disregard the procedures and requirements set forth in the base closure statute. As a result, both the Commission and the Navy engaged in activities contrary to both the letter and the spirit of the base closure law.

The Commission based its decisions on a significant amount of information supplied by the Navy which, in violation of the Base Closure Act, was not evaluated or even made available to the General Accounting Office or to Congress. Key documents were withheld—some continue to be withheld—by the Navy and were not provided in some cases until several weeks after the last opportunity for public testimony. In many instances these documents were revealed only hours before the Commission cast its final votes on these facilities.

One memo prepared by the Naval Sea Systems Command and signed by Adm. Claman—the memo which constituted the principal input by the Navy command responsible for planning and oversight of Navy shipyards—was deliberately concealed because it contained information which contradicted the Navy's recommendations.

The Commission decided to adopt key portions of the Navy's list even though the GAO had found that the Navy: First, had not treated all bases equally, as required by the Base Closure Act; second, had not complied with the Secretary of Defense's first four selection criteria, as required by the Base Closure Act; and third, had not complied with the Secretary of Defense's "recordkeeping" and "internal control" requirements. GAO could not determine the basis for the Committee's military value ratings for Navy installations. GAO also identified inconsistencies within the Committee's internal rating process. Explanations of these inconsistencies were never pro-

vided by the Navy nor explained by the Base Closure Commission. These inconsistencies obviously prejudiced the results of the Navy's analyses and in the case of shipyards led to the exclusion from further review all naval shipyards except for Philadelphia. The Navy's response to the GAO concerns about their rating system was a glib "not all yellows are equal" and "not all greens are equal" on the Navy's own rating system which used those colors.

In addition, both the Navy and the Commission failed to consider all naval installations inside the United States equally, without regard to whether installations had been previously considered or proposed for closure or realignment. In the case of the Philadelphia Naval Yard we learned from a memo prepared by Adm. Peter Hekman dated December 19, 1990, that the Navy had decided to close Philadelphia even prior to the convening of the Base Structure Committee, the Navy's review panel. The Navy's failure to consider such facilities without prejudice represents yet another violation of the Base Closure Act.

As indicated by the Commission's own findings presented in its final report, the Commission exceeded its statutory authority to make base closure recommendations by considering the "availability" of privately owned shipyards to fulfill requirements for capacity to meet emergency repair needs. The memo signed by Admiral Claman states that:

"This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have Newport News provide a dedicated dock under contract is considered prohibitive.

The Commission also clearly exceeded its authority in voting to accept the Army Corps of Engineers proposal for reorganization. The Commission didn't decide to review the corps' proposal until May 25, 1991. A brief interlude was provided for members to prepare public testimony on June 5, 1991. However, members didn't have the benefit of a GAO evaluation of the corps' proposal. Moreover, although corps' analyses seemed fairly comprehensive, they provided no justification for their closure recommendations. It was also learned that the Oversight Committee—the group responsible for actually deciding which offices to close—kept no record of its deliberations on which facilities should be realigned.

Further, the Commission acted inappropriately in accepting recommendations made by the Navy for the consolidation of its research and development facilities. The comprehensive lab consolidation plan was presented to the Commission on Friday, June 28, 1991, prior to the final votes that were taken on Sunday, June 30, 1991. The report included no detail about cost assumptions relating to individual facilities, much of which is known to be flawed.

This late presentation violated due process in that Members of Congress were not provided an opportunity to respond to the erroneous conclusions presented by the Commission staff.

Therefore, I maintain that if I—and other Members from affected districts in which naval facilities and Army Corps of Engineers offices were recommended for closure—can honestly go before the thousands of men and women who will be losing their jobs as a result of our actions and say the system was fair but unfortunately your facility must close; then I could say with confidence that the system worked. This, however, is not the case. The process was not fair, the Navy's analyses was fatally flawed, and it appears there may have been deliberate attempts on the part of Navy officials to deceive the Base Closure Commission and the Congress. Beyond the issue of unfair and illegal process, DOD and the Navy Department excluded evidence which would have demonstrated, for example, the importance of a facility like the Philadelphia Naval Yard for national security. For these reasons, I urge my colleagues to support this resolution of disapproval.

By Mr. DIXON (for himself and Mr. BURNS):

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; to the Committee on the Judiciary.

NATIONAL WOMEN IN AGRICULTURE DAY

● Mr. DIXON. Mr. President, I rise today to introduce a joint resolution designating March 19, 1992, as "National Women in Agriculture Day."

America's economic health and well-being rests upon the agricultural sector's ability to effectively produce and distribute our abundant food supply. Time and time again, the American farmer has proven to be the most productive farmer in the world. Our farmers have succeeded in providing our Nation, and the rest of the world, with an abundance of high quality, low cost, and safe food.

The most basic unit of our agricultural system—the family farm—offers insurance that the Nation's natural resources are protected. In addition, the family farm guarantees continued American success and advances in the agriculture field.

Women, as full working partners on the family farm and in agribusinesses, play a vital role in the agricultural community. The leadership that women provide in all aspects of farming has elevated the American agricultural system to leader status in the world and has set the standard of agricultural production for future generations throughout the world.

Mr. President, it is indeed my pleasure today to pay tribute to the contributions and successes of women in the field of agriculture. Their hard

work and dedication ensure health and prosperity for each and every American.

"National Women in Agriculture Day" brings to the forefront these women and their achievements, and asks that each one of us take time on May 19, 1992, to salute them.●

#### ADDITIONAL COSPONSORS

S. 250

At the request of Mr. FORD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 267

At the request of Mr. REID, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 280

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such act, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 474

At the request of Mr. LUGAR, his name was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 481

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 481, a bill to authorize research into the desalting of water and water reuse.

S. 544

At the request of Mr. HEFLIN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 567

At the request of Mr. SANFORD, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 614

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 775

At the request of Mr. CRANSTON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 775, 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.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 860

At the request of Mr. HATCH, his name was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 878

At the request of Mr. DODD, the names of the Senator from South Da-

kota [Mr. DASCHLE] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 972

At the request of Mr. BRADLEY, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 974

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 974, a bill to improve the Older Americans act of 1965, and for other purposes.

S. 985

At the request of Mr. SIMON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag.

S. 1102

At the request of Mr. MOYNIHAN, the names of the Senator from Kansas [Mr. DOLE] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1104

At the request of Mr. DURENBERGER, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1104, a bill to amend title II of the Social Security Act to provide for a waiver of the 5-month waiting period for disability insurance benefits for certain terminally ill individuals.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to commu-

nities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and federal lands elsewhere; and for other purposes.

S. 1185

At the request of Mr. GARN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Arizona [Mr. DECONCINI], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1185, a bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

S. 1232

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1232, a bill to provide for medical injury compensation reform for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes.

S. 1269

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1269, a bill to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use, and for other purposes.

S. 1335

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1335, a bill to establish a rural crime prevention strategy, to address the problem of crime against the elderly, to combat child abuse, sexual violence, and violence against women, to enhance the rights of law enforcement officers, to enhance the rights of crime victims, to address the problem of gangs and serious juvenile offenders, to restore an enforceable Federal death penalty, to impose minimum mandatory sentences without release, to establish mandatory judicial reforms, to reform the lives of prisoners and the prison system, and for other purposes.

S. 1351

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1351, a bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, and environment, and scientific and technological competitiveness.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1402

At the request of Mr. ADAMS, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. FOWLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1402, a bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes.

S. 1426

At the request of Mr. BUMPERS, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1426, a bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.

## SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

## SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

## SENATE JOINT RESOLUTION 156

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 156, a joint resolution to designate the week of October 6, 1991 through October 12, 1991, as "Mental Illness Awareness Week."

## SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from New Mexico [Mr. BINGAMANI], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

## SENATE CONCURRENT RESOLUTION 51—AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. DOLE (for himself, Mr. MITCHELL, Mr. SPECTER, Mr. CRANSTON, and Mr. KERRY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 51

*Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridian until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.*

## AMENDMENTS SUBMITTED

## VIOLENT CRIME CONTROL ACT

## BIDEN AMENDMENT NOS. 579 THROUGH 581

(Ordered to lie on the table.)

Mr. BIDEN submitted three amendments intended to be proposed by him to amendments to the bill (S. 1241) to control and reduce violent crime; as follows:

Strike everything after the word "Sec." and replace with the following:

AMENDMENT No. 579

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) ASSISTANCE FOR THE ESTABLISHMENT OF BOYS' AND GIRLS' CLUBS.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

"(1) To prevent juvenile gang-related activity in public housing by establishing boys' and girls' clubs, under the auspices of the Boys and Girls Club of America, in public housing projects."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291(a)(2)(A) of the Juvenile Justice

and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting “, and to carry out section 281(11), \$4,000,000 for each of fiscal years 1992, 1993, and 1994.”.

AMENDMENT NO. 580

Strike everything after the term “Sec.” and insert the following:

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) ASSISTANCE FOR THE ESTABLISHMENT OF BOYS' AND GIRLS' CLUBS.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

“(1) To prevent juvenile gang-related activity in public housing by establishing youth activities under the auspices of the Boys and Girls Club of America and similar organizations, in public housing projects.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291(a)(2)(A) of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting “, and to carry out section 281(11), \$12,000,000 for each of fiscal years 1992, 1993, and 1994.”.

AMENDMENT NO. 581

Strike everything after the term “Sec.” and insert the following:

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) ASSISTANCE FOR THE ESTABLISHMENT OF BOYS' AND GIRLS' CLUBS.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

“(1) To prevent juvenile gang-related activity in public housing by establishing youth activities under the auspices of the Boys and Girls Club of America and similar organizations, in public housing projects.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291(a)(2)(A) of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting “, and to carry out section 281(11), \$12,000,000 for each of fiscal years 1992, 1993, and 1994.”.

BIDEN AMENDMENT NO. 582

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 556 proposed by Mr. SYMMS to the bill S. 1241, supra; as follows:

At the end of the amendment, add the following:

SEC. 1227. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out “(a)(6).”; and

(2) in subsection (a)(2), by inserting “(a)(6).” after “subsections”.

BIDEN AMENDMENT NO. 583

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to

amendment No. 552 proposed by Mr. SYMMS to the bill S. 1241, supra; as follows:

Strike everything after the term “Sec.”

BIDEN AMENDMENT NO. 584

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 553 proposed by Mr. SYMMS to the bill S. 1241, supra; as follows:

Strike everything after the term “Sec.”

BIDEN AMENDMENT NO. 585

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 548 proposed by Mr. DOLE to the bill S. 1241, supra; as follows:

Strike everything after the term “(e)(1)(F)”.

BIDEN AMENDMENT NO. 586

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 548 proposed by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term “(u)(1)(F)”.

BIDEN AMENDMENT NO. 587

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 527 proposed by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term “Section”.

BIDEN AMENDMENT NO. 588

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 527 proposed by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term “Sec.”.

BIDEN AMENDMENT NO. 589

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment proposed by Mr. GRAMM to the bill S. 1241, supra, as follows:

Strike everything after the term “Sec. 2404.”

BIDEN AMENDMENT NO. 590

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 429 proposed by Mr. STEVENS to the bill S. 1241, supra, as follows:

Strike everything after the word “Sec.” and replace with the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

“(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided as paragraphs (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

“(A) after the most recent proposal of such transfer by the transferee—

“(i) the transferor has—

“(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

“(II) verified the identification of the transferee by examining the identification document presented; and

“(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt for possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

“(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

“(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

“(C)(i) the transferee has presented to the transferor a permit that—

“(I) allows the transferee to possess a handgun; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

“(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the trans-

feror to communicate with the chief law enforcement officer because of the remote location and absence of telecommunication facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(D) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful use of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(1) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction shall, within 5 days after the date the transferee made such statement, destroy and record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public."

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) The Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunication facilities in the remote location of the licensee premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the

transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than \$5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section."

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both."

**SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.**

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date

of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (C).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General

information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991."

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of \$100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

#### BIDEN AMENDMENTS NOS. 591 THROUGH 630

(Ordered to lie on the table.)

Mr. BIDEN submitted 40 amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

##### AMENDMENT No. 591

Strike everything after the word "Sec." and replace with the following:

#### TITLE I—SAFER STREETS AND NEIGHBORHOODS

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

##### SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated \$1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title."

##### SEC. 103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

Strike everything after the word "Sec." and replace with the following:

#### TITLE II—DEATH PENALTY

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

##### SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

**"CHAPTER 228—DEATH SENTENCE**

"Sec.

"3591. Sentence of death.

"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.

"3595. Review of a sentence of death.

"3596. Implementation of a sentence of death.

"3597. Use of State facilities.

"3598. Special provisions for Indian country.

**"§ 3591. Sentence of death**

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act, shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

**"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified**"(a) **MITIGATING FACTORS.**—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:"(1) **IMPAIRED CAPACITY.**—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge."(2) **DURESS.**—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge."(3) **MINOR PARTICIPATION.**—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether

the participation was so minor as to constitute a defense to the charge.

"(4) **FORSEEABILITY.**—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person."(5) **YOUTH.**—The defendant was youthful, even though not under the age of 18."(6) **NO PRIOR CRIMINAL RECORD.**—The defendant did not have a significant prior criminal record."(7) **DISTURBANCE.**—The defendant committed the offense under severe mental or emotional disturbance."(8) **OTHER DEFENDANTS.**—Another defendant or defendants, equally culpable in the crime, will not be punished by death."(9) **VICTIM'S CONSENT.**—The victim consented to the criminal conduct that resulted in the victim's death."(10) **OTHER FACTORS.**—Other factors in the defendant's background or character that mitigate against imposition of the death sentence."(b) **AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.**—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:"(1) **PRIOR ESPIONAGE OR TREASON OFFENSE.**—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law."(2) **GRAVE RISK TO NATIONAL SECURITY.**—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security."(3) **GRAVE RISK OF DEATH.**—In the commission of the offense the defendant knowingly created a grave risk of death to another person. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists."(c) **AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.**—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:"(1) **DEATH DURING COMMISSION OF ANOTHER CRIME.**—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy)."(2) **PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.**—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute."(3) **PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.**—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person."(4) **GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.**—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense."(5) **HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.**—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim."(6) **PROCUREMENT OF OFFENSE BY PAYMENT.**—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value."(7) **PECUNIARY GAIN.**—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value."(8) **SUBSTANTIAL PLANNING AND PREMEDITATION.**—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism."(9) **CONVICTION FOR TWO FELONY DRUG OFFENSES.**—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance."(10) **VULNERABILITY OF VICTIM.**—The victim was particularly vulnerable due to old age, youth, or infirmity."(11) **CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.**—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise."(12) **CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.**—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act."(13) **HIGH PUBLIC OFFICIALS.**—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

“(ii) because of the performance of his official duties; or

“(iii) because of his status as a public servant.

For purposes of this subparagraph, a ‘law enforcement officer’ is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

**“§3593. Special hearing to determine whether a sentence of death is justified**

“(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

“(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

“(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

“(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

“(1) before the jury that determined the defendant’s guilt;

“(2) before a jury impaneled for the purpose of the hearing if—

“(A) the defendant was convicted upon a plea of guilty;

“(B) the defendant was convicted after a trial before the court sitting without a jury;

“(C) the jury that determined the defendant’s guilt was discharged for good cause; or

“(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

“(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

“(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravat-

ing factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor, subject to the Federal Rules of Evidence and Federal Rules of Criminal Procedure. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

“(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

“(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

“(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

“(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

“(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether

a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

**“§3594. Imposition of a sentence of death**

“Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

**“§3595. Review of a sentence of death**

“(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

“(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

“(1) the evidence submitted during the trial;

“(2) the information submitted during the sentencing hearing;

“(3) the procedures employed in the sentencing hearing; and

“(4) the special findings returned under section 3593(d).

“(c) DECISION AND DISPOSITION.—

“(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

“(2) Whenever the court of appeals finds that—

“(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

“(B) the admissible evidence adduced does not support the special finding of the existence of the required aggravating factor; or

“(C) other legal error requires reversal of the sentence of death,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

“(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

**§3596. Implementation of a sentence of death**

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

**§3597. Use of State facilities**

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participation in executions" includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

**§ 3598. Special provisions for Indian country**

"Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction."

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

**"228. Death sentence ..... 3591".**  
**SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.**

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting " , except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy."

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;"

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and"

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life."

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than \$50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than \$250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than \$250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than \$250,000, or both;"

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than \$1,000,000 or imprisonment for life," and inserting " , where death results, a fine of not more than \$1,000,000, or imprisonment for life or a sentence of death,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

**SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.**

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

**SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.**

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1118. Murder by a Federal prisoner**

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title."

(c) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner."

**SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.**

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting " , or may be sentenced to death."

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting " , or may be sentenced to death."

(c) **FEDERALLY PROTECTED ACTIVITIES.**—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting “, or may be sentenced to death” after “or for life”.

(d) **DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.**—Section 247(c)(1) of title 18, United States Code, is amended by inserting “, or may be sentenced to death” after “or both”.

**AMENDMENT NO. 593**

Strike everything after the word “Sec.” and replace with the following:

**TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT**

**SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.**

Section 1114(a) of title 18, United States Code, is amended by striking “punished as provided under sections 1111 and 1112 of this title,” and inserting “punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title.”

**SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.**

(a) **IN GENERAL.**—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

**“§ 1119. Killing persons aiding Federal investigations**

“Whoever intentionally kills—  
“(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

“(A) while the victim is engaged in the performance of official duties;

“(B) because of the performance of the victim’s official duties; or

“(C) because of the victim’s status as a public servant; or

“(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it, shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

“1119. Killing persons aiding Federal investigations.”

**AMENDMENT NO. 594**

Strike everything after the word “Sec.” and replace with the following:

**TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Death Penalty for Drug Criminals Act of 1991”.

**SEC. 402. DEATH PENALTY FOR CERTAIN DRUG CRIMINALS.**

The Controlled Substances Act (21 U.S.C. sec. 401 et seq.) is amended by adding after section 408 the following:

**“SEC. 409. DEATH PENALTY AUTHORIZED FOR CERTAIN DRUG CRIMINALS.”**

**SEC. 403. DRUG DISTRIBUTION CONSPIRACIES.**  
Section 409 of the Controlled Substances Act is amended by adding subsection (a) as follows:

“(a) **DRUG DISTRIBUTION CONSPIRACIES.**—Whoever, during the course of a conspiracy prohibited by section 406, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.”

**SEC. 404. DRUG IMPORT AND EXPORT CONSPIRACIES.**

Section 409 of the Controlled Substances Act is amended by adding subsection (b) as follows:

“(b) **DRUG IMPORT AND EXPORT CONSPIRACIES.**—Whoever, during the course of a conspiracy prohibited by section 1013 of the Controlled Substances Import and Export Act, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.”

**SEC. 405. DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR BY EMPLOYING MINORS.**

Section 409 of the Controlled Substances Act is amended by adding subsection (c) as follows:

“(c) **DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR WHILE EMPLOYING PERSONS UNDER 18 YEARS OF AGE.**—Whoever, during the course of an offense punishable under section 418, 419, and 420, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or imprisonment for life.”

**SEC. 406. EXPORT AND IMPORT OF MAJOR DRUG QUANTITIES.**

Section 409 of the Controlled Substances Act is amended by adding subsection (d) as follows:

“(d) **DRUG IMPORT AND EXPORT.**—Whoever, during an offense prohibited by section 1010(b)(1) of the Controlled Substances Import and Export Act, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.”

**SEC. 407. DISTRIBUTION OF MAJOR DRUG QUANTITIES.**

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (e) as follows:

“(e) **DRUG DISTRIBUTION.**—Whoever, during the course of an offense punishable under section 401(b)(1)(A), commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.”

**AMENDMENT NO. 595**

Strike everything after the word “Sec.” and replace with the following:

**TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS**

**Subtitle A—Aviation Terrorism**

**SEC. 501. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.**

(a) **OFFENSE.**—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**“§ 36. Violence at international airports**

“(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

“(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

“(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in serv-

ice located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisonment for any term of years or for life.

“(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States, or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.”

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

“36. Violence at international airports.”

(c) **EFFECTIVE DATE.**—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

**SEC. 502. AMENDMENT TO FEDERAL AVIATION ACT.**

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

**SEC. 503. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.**

(a) **IN GENERAL.**—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**“§ 37. Violations of Federal aviation security regulations**

“Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.”

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

“37. Violation of Federal aviation security regulations.

**Subtitle B—Maritime Terrorism**

**SEC. 511. SHORT TITLE FOR SUBTITLE B.**

This subtitle may be cited as the “Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms”.

**SEC. 512. FINDINGS.**

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

#### SEC. 513. STATEMENT OF PURPOSE.

The purpose of this subtitle is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify Federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish Federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

#### SEC. 514. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

##### “§ 2280. Violence against maritime navigation

“(a) Whoever unlawfully and intentionally—

“(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

“(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

“(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

“(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

“(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

“(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

“(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

“(8) attempts to do any act prohibited under paragraphs (1)–(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

“(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe

navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

“(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

“(1) in the case of a covered ship, if—

“(A) such activity is committed—

“(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

“(ii) in the United States; or

“(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

“(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

“(C) the offender is later found in the United States after such activity is committed;

“(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

“(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

“(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

“(e) As used in this section, the term—

“(1) ‘ship’ means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

“(2) ‘covered ship’ means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

“(3) ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(4) ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

“(5) ‘United States’, when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the

Northern Marianas Islands and all territories and possessions of the United States.

##### “§ 2281. Violence against maritime fixed platforms

“(a) Whoever unlawfully and intentionally—

“(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

“(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

“(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

“(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

“(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

“(6) attempts to do anything prohibited under paragraphs (1)–(5),

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

“(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

“(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

“(1) such activity is committed against or on board a fixed platform—

“(A) that is located on the continental shelf of the United States;

“(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

“(C) in an attempt to compel the United States to do or abstain from doing any act;

“(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

“(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

“(d) As used in this section, the term—

“(1) ‘continental shelf’ means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

“(2) ‘fixed platform’ means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

“(3) ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(4) ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States."

**SEC. 515. CLERICAL AMENDMENTS.**

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.  
"2281. Violence against maritime fixed platforms."

**SEC. 516. EFFECTIVE DATES.**

Section 514 of this subtitle shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

**SEC. 517. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.**

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

**SEC. 518. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.**

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States."

**SEC. 519. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.**

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States."

**Subtitle C—Terrorism Offenses and Sanctions**

**SEC. 521. TORTURE.**

(a) **IN GENERAL.**—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

**"CHAPTER 113B—TORTURE**

**"Sec.**

"2340. Definitions.

"2340A. Torture.

"2340B. Exclusive remedies.

**"§ 2340. Definitions**

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

**"§ 2340A. Torture**

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

**"§ 2340B. Exclusive remedies**

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding."

(b) **CLERICAL AMENDMENT.**—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture ..... 2340."

**SEC. 522. WEAPONS OF MASS DESTRUCTION.**

(a) **FINDINGS.**—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) **OFFENSE.**—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

**"§ 2339. Use of weapons of mass destruction**

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—  
"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life."

(c) **CLERICAL AMENDMENT.**—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction."

**SEC. 523. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.**

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title."

**SEC. 524. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.**

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting "ten".

**SEC. 525. TERRORIST DEATH PENALTY ACT.**

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under

this title, punished by death or imprisonment for any term of years or for life, or both;”.

**Subtitle D—Preventing Domestic and International Terrorist Acts**

**PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS**

**SEC. 531. PROVIDING MATERIAL SUPPORT TO TERRORISTS.**

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

**“§ 2339A. Providing material support to terrorists**

“Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

**“2339A. Providing material support to terrorists.”.**

**SEC. 532. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.**

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

“(F) Any property, real or personal—

“(i) used or intended for use for; or

“(ii) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses.”; and

(2) in section 982(a) by inserting at the end thereof the following:

“(5) Any property, real or personal—

“(A) used or intended for use for; or

“(B) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses.”.

**PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS**

**SEC. 541. SHORT TITLE.**

This part may be cited as the “Alien Witness Cooperation Act of 1991”.

**SEC. 542. ALIEN WITNESS COOPERATION.**

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

“As used in section 3528, the terms ‘alien’ and ‘United States’ shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(3) inserting after section 3527 the following new section:

**“§ 3528. Aliens; waiver of admission requirements**

“(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien’s admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

“(d) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien’s obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

“(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.”.

**SEC. 543. CONFORMING AMENDMENT.**

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

“3528. Aliens; waiver of admission requirements.”.

**Subtitle E—Preventing Economic Terrorism**  
**SEC. 551. COUNTERFEITING U.S. CURRENCY ABROAD.**

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

**“§ 470. Counterfeit acts committed outside the United States**

“Whoever, outside the United States, engages in the act of—

“(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

“(2) making, dealing, or possessing any plate, stone, or other thing, or any part

thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

“471. Counterfeit acts committed outside the United States.”.

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

**“25. Counterfeiting and forgery ..... 470”.**

**SEC. 552. ECONOMIC TERRORISM TASK FORCE.**

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

**Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies**

**SEC. 561. AUTHORIZATIONS OF APPROPRIATIONS.**

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, \$25,000,000;

(2) for the Department of State, \$10,000,000;

(3) for the United States Customs Service, \$7,500,000;

(4) for the United States Secret Service, \$2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, \$2,500,000;

(6) for the Federal Aviation Administration, \$2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, \$25,000,000.

#### AMENDMENT No. 596

Strike everything after the word "Sec." and replace with the following:

#### TITLE VI—DRIVE-BY SHOOTING ACT

##### SEC. 601. SHORT TITLE.

This title may be cited as the "Drive-By Shooting Prevention Act of 1991".

##### SEC. 602. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

#### "§36. Drive-by shooting

##### "(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1))."

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting."

#### AMENDMENT No. 597

Strike everything after the word "Sec." and replace with the following:

#### TITLE VII—ASSAULT WEAPONS

##### SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

##### SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(t)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent."

##### SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(29) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12."

##### SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

#### "§931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons."

##### SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

##### SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

##### SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

##### SEC. 708. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING AN ASSAULT WEAPON IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than \$1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both."

##### SEC. 709. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 707, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 707, shall be repealed.

#### AMENDMENT No. 598

Strike everything after the word "Sec." and replace with the following:

#### TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

##### SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

##### SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

**SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.**

(a) **ESTABLISHMENT.**—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) **APPOINTMENT OF DIRECTOR.**—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **RESPONSIBILITIES OF DIRECTOR.**—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

**SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.**

(a) **LEAD AGENCY.**—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) **STATE PLANS.**—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

**Subtitle A—Police Corps Program**

**SEC. 811. DEFINITIONS.**

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

**SEC. 812. SCHOLARSHIP ASSISTANCE.**

(a) **SCHOLARSHIPS AUTHORIZED.**—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) \$10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed \$13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed \$40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) **REIMBURSEMENT AUTHORIZED.**—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) \$10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed \$13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed \$40,000.

(c) **USE OF SCHOLARSHIP.**—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) **AGREEMENT.**—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having aris-

en sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) **DEPENDENT CHILD.**—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) **GROSS INCOME.**—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) **APPLICATION.**—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) **DEFINITION.**—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

**SEC. 813. SELECTION OF PARTICIPANTS.**

(a) **IN GENERAL.**—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) **SELECTION CRITERIA AND QUALIFICATIONS.**—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

#### SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion

of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of \$250 a week during training.

#### SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

#### SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants

assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

#### SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle \$400,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

#### Subtitle B—Law Enforcement Scholarship Program

#### SEC. 821. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree, including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State

or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

#### SEC. 822. ALLOTMENT.

From amounts appropriated under the authority of section 829, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

#### SEC. 823. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 822 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

#### SEC. 824. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

#### SEC. 825. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

#### SEC. 826. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 823.

#### SEC. 827. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

#### SEC. 828. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

#### SEC. 829. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle \$30,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

**Subtitle C—Reports**  
**SEC. 831. REPORTS TO CONGRESS.**

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

**AMENDMENT No. 599**

Strike everything after the word "Sec." and replace with the following:

**TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991**

**SEC. 901. SHORT TITLE.**

This title may be cited as the "Police Officers' Bill of Rights Act of 1991".

**SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.**

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

**"RIGHTS OF LAW ENFORCEMENT OFFICERS**

"SEC. 819. (a) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"(b) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards shall apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the com-

mencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(c) OPPORTUNITY FOR A HEARING.—(1) Except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(3) A penalty greater than that which was recommended by the trial board cannot be imposed upon the officer.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State shall have not more than 2 legislative sessions to enact a Law Enforcement Officers' Bill of Rights that provides rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(2) After the expiration of the time limit described in paragraph (1), a law enforce-

ment officer shall have a cause of action in State court for the recovery of pecuniary and other damages and full reinstatement against a law enforcement agency that materially violates the rights afforded by this section.

"(3) The sovereign immunity of a State shall not apply in the case of a violation of the rights afforded by this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section."

AMENDMENT No. 600

Strike everything after the word "Sec." and replace with the following:

**TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES**

**SEC. 1001. SHORT TITLE.**

This title may be cited as the "Federal Law Enforcement Act of 1991".

**SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.**

There is authorized to be appropriated for fiscal year 1992, \$345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, \$100,500,000, which shall include:

(A) not to exceed \$45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed \$25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed \$5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, \$98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, \$45,000,000, to be further allocated as follows:

(A) \$25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) \$20,000,000 to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, \$45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, \$10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, \$15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, \$20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, \$12,000,000 for the defense of persons pros-

ecuted for drug trafficking and related crimes.

AMENDMENT No. 601

Strike everything after the word "Sec." and replace with the following:

**TITLE XI—HABEAS CORPUS REFORM ACT**  
**SEC. 1101. SHORT TITLE.**

This title may be cited as the "Habeas Corpus Reform Act of 1991".

**SEC. 1102. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.**

Part VI of title 28 of the United States Code is amended by inserting following chapter 153 the following new chapter:

**"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES**

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Counsel in capital cases; trial and post-conviction; standards.

"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort or in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, a prisoner described in paragraph (1), the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive

counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner.

"(3) Nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence;

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

**"§2256. Filing of habeas corpus petition; time requirements; tolling rules**

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction and if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

**"§2259. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

Upon the development of a complete evidentiary record under this subsection, the district court shall rule on the merits of the claims properly before it.

"(b)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

**"§2260. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§2261. Counsel in capital cases; trial and post-conviction; standards**

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection."

**SEC. 1103. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.**

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

**"§2255A. Law applicable**

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable."

**AMENDMENT NO. 602**

Strike everything after the word "Sec." and replace with the following:

**TITLE XII—PUNISHMENT OF GUN CRIMINALS**

**SEC. 1201. SHORT TITLE.**

This title may be cited as the "Gun Criminals Punishment Act of 1991".

**Subtitle A—Increased Penalties for Gun Offenses**

**SEC. 1211. DEATH PENALTY FOR GUN MURDERS.**

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both."

**SEC. 1212. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.**

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses, carries, or otherwise possesses a firearm shall, in addition to the

penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries, or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years."; and

(2) striking subparagraph (B), as designated by section 1211 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a short-barreled rifle, a short-barreled shotgun, a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment."

(b) **SENTENCING GUIDELINES FOR NEW PENALTIES.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

**Subtitle B—Firearms and Related Amendments**

**SEC. 1221. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.**

(a) **POSSESSION OF EXPLOSIVES.**—Section 844(h) of title 18, United States Code, is amended by—

(1) striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) **PENALTY.**—Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

**SEC. 1222. CLARIFICATION OF DEFINITION OF CONVICTION.**

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights."

**SEC. 1224. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.**

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both."

**SEC. 1225. THEFT OF FIREARMS AND EXPLOSIVES.**

(a) **FIREARMS.**—Section 924 of title 18, United States Code, is amended by adding at the end thereof:

"(j) whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title, or both."

(b) **EXPLOSIVES.**—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both."

**SEC. 1226. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.**

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) **MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.**—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision."

**SEC. 1228. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.**

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

**SEC. 1229. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.**

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

**SEC. 1230. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.**

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing

officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

**SEC. 1253. DEFINITION OF AMMUNITION FEEDING DEVICE.**

Section 921(a) of title 18, United States Code, is amended by adding a new paragraph at the end thereof as follows:

"(30) The term 'ammunition feeding device' means a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily restored or converted to accept, more than 15 rounds of ammunition. The term also includes any combination of parts from which such device can be assembled. Notwithstanding the foregoing, such term shall not include any attached tubular device designed to accept and capable of operating with only .22 rim-fire caliber ammunition."

**SEC. 1254. PROHIBITIONS APPLICABLE TO AMMUNITION FEEDING DEVICES.**

Section 922 of title 18, United States Code, is amended by adding new subsections (v), (w), and (x), as follows:

"(v) It shall be unlawful for any person to import, manufacture, transport, ship, transfer, receive, or possess an ammunition feeding device, except that this subsection shall not apply to—

"(1) any importation or manufacture of such a device for sale or distribution by a licensed importer or licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) any possession, shipment, transportation or transfer (in accordance with the provisions of subsections (w) and (x)) of such a device that was lawfully possessed before this subsection takes effect; or

"(3) any manufacture of such a device for the purpose of exportation.

"(w) The Secretary shall maintain a central registry of all ammunition feeding devices transferred after the effective date of this subsection which, after such transfer, are not in the possession or under the control of the United States, or any department or agency thereof or any department, agency, or political subdivision thereof. This registry shall be known as the National Ammunition Feeding Device Registry. The registry shall include—

"(1) identification of the device;

"(2) date of registration;

"(3) identification and address of the person entitled to possess the device; and

"(4) such other information as may be required by regulations promulgated by the Secretary.

"(x) Each transferor of an ammunition feeding device that was lawfully possessed before the effective date of subsection (v) shall (except in the case of a transfer to the United States, or any department or agency thereof or any State or any department, agency, or political subdivision thereof) register the device to the transferee in accordance with regulations promulgated by the Secretary. Any information or evidence required to be provided in the course of such registration by a natural person shall be subject to the use-restriction provisions of section 5848 of title 26, United States Code. The

transferor shall, contemporaneously with the registration of the device, pay a fee of \$25 to the Secretary. A transferee of an ammunition feeding device required to be registered as required by this subsection shall retain proof of such registration which shall be made available to the Secretary upon request."

**SEC. 1255. IDENTIFICATION MARKINGS FOR AMMUNITION FEEDING DEVICES.**

Section 923(i) of title 18, United States Code, is amended by adding at the end thereof a new sentence as follows: "An ammunition feeding device shall be identified by a serial number and such other identification as the Secretary may by regulations prescribe."

**SEC. 1256. CRIMINAL PENALTIES.**

Subsection 924(a)(2) of title 18, United States Code, is amended by striking out "or (o)" and inserting in lieu thereof "(o), or (v)".

**SEC. 1257. NONINTERRUPTION OF BUSINESS FOR PERSONS IN THE BUSINESS OF IMPORTING OR MANUFACTURING AMMUNITION FEEDING DEVICES.**

Any person engaging in the business of manufacturing or importing ammunition feeding devices requiring a license under the provisions of chapter 44 of title 18, United States Code, who was engaged in such business on the date of enactment of this Act, and who files an application for a license under the provisions of section 923 of title 18, United States Code, within 30 days after the date of enactment, may continue such business pending final action on the application. All provisions of chapter 44 of title 18, United States Code, shall apply to such applicant in the same manner and to the same extent as if the applicant were a holder of a license under chapter 44.

**AMENDMENT NO. 603**

Strike everything after the word "Sec." and replace with the following:

**TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS**

**SEC. 1301. REGIONAL PRISONS.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) \$600,000,000 for the construction of 10 regional prisons; and

(2) \$100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of National Drug Control Policy, after consulting with the Director of the Bureau of Prisons, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

**AMENDMENT NO. 604**

Strike everything after the word "Sec." and replace with the following:

**TITLE XIV—BOOT CAMPS**

**SEC. 1401. BOOT CAMPS.**

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of National Drug Control Policy, after consultation with the Director of the Bureau of Prisons, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 9 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release."

(d) STATE PRISONERS.—(1) Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by counsel for the applicant that at the time of sentencing the applicant is likely to be eligible for assignment to a

boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 14 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Each State that refers a prisoner to a boot camp shall reimburse the Bureau of Prisons for—

(A) 80 percent of the cost incurred by the Bureau of Prisons for incarceration and treatment and other services to such prisoner that successfully completes the program; and

(B) 100 percent of such costs for each prisoner that enters a boot camp but does not successfully complete the program.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$150,000,000 for fiscal year 1992 of which not more than \$12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than \$2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

#### AMENDMENT No. 605

Strike everything after the word "Sec." and replace with the following:

#### TITLE XV—YOUTH VIOLENCE ACT

##### Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

##### SEC. 1501. STRENGTHENING FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official, is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.;"

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

#### Subtitle B—Antigang Grants

##### SEC. 1511. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

##### "FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

##### "SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply- and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

##### "AUTHORIZATION

"SEC. 233. There is authorized to be appropriated \$100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

##### "ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) \$400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

##### "APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants)

and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

#### "REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart."

#### SEC. 1512. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—  
(A) in paragraph (1) by striking "(other than part D)";  
(B) and by striking paragraph (2) in its entirety; and  
(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

#### Subtitle C—Juvenile Penalties

#### SEC. 1521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959,".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";  
(2) by striking "intellectual development and psychological maturity;" and inserting

"level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status."

#### SEC. 1522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:  
"(iii) any act of juvenile delinquency that is committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and"

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

#### AMENDMENT NO. 606

Strike everything after the word "Sec." and replace with the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Crime and Drug Control Act of 1991".

#### TITLE I—FIGHTING DRUG TRAFFICKING IN RURAL AREAS

#### SEC. 101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated \$50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title."

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "\$100,000" and inserting in lieu thereof "\$250,000".

#### SEC. 102. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The

task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

#### SEC. 103. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 102(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

#### SEC. 104. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a).

#### TITLE II—FEDERAL LAW ENFORCEMENT AGENCIES

#### SEC. 201. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, in addition to any other appropriations for the Drug Enforcement Administration, \$45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas.

#### TITLE III—INCREASING PENALTIES FOR CERTAIN DRUG TRAFFICKING OFFENSES

#### SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

#### SEC. 302. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding at the end thereof the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form."

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding at the end thereof the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form."

## TITLE IV—RURAL DRUG TREATMENT

## SEC. 401. RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

## \*SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

“(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

“(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

“(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

“(2) operate, or have a plan to operate, an approved substance abuse treatment program;

“(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

“(4) prepare and submit an application in accordance with subsection (c).

## “(c) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

“(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

“(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

“(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

“(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

“(3) projects that are designed to serve areas that have no available existing treatment facilities.

“(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

“(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

“(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated \$25,000,000 for each of the fiscal years 1992, 1993, and 1994.”

## TITLE V—RURAL DRUG PREVENTION

## SEC. 501. RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

## \*SEC. 509L. RURAL SUBSTANCE ABUSE PREVENTION.

“(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

“(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

“(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

“(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

“(3) prepare and submit an application in accordance with subsection (c).

## “(c) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator as such time, in such manner, and containing such information as the Administrator shall require.

“(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

“(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

“(1) applications from community based organizations with experience serving nonmetropolitan areas;

“(2) projects that are designed to serve areas that have no available existing treatment facilities.

“(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

“(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

“(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$25,000,000 for each of the fiscal years 1992, 1993, and 1994.”

## SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking “and” at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

“(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

“(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons.”

## TITLE VI—RURAL LAND RECOVERY ACT

## SEC. 601. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 102(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities described in section 102.

## SEC. 602. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) INCLUSION OF INDICTMENTS OF ADDITIONAL COUNTS FOR VIOLATION OF ENVIRONMENTAL LAW.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) SUITS FOR ENVIRONMENTAL AND HEALTH-RELATED DAMAGES.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health-related damages caused by the operators in their manufacture of illicit substances.

## AMENDMENT NO. 607

Strike everything after the word “Sec.” and replace with the following:

## TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

## SEC. 1701. SHORT TITLE.

This title may be cited as the “Drug Emergency Areas Act of 1991”.

## SEC. 1702. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

## “(c) DECLARATION OF DRUG EMERGENCY AREAS.—

“(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

“(B) For the purposes of this subsection, the term ‘major drug-related emergency’ means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

“(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

“(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.”

“(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

“(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

“(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

“(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

“(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

“(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

“(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, \$50,000,000.

“(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

“(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

“(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

“(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

“(A) direct any Federal agency, with or without reimbursement, to utilize 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; and

“(B) provide technical and advisory assistance, including communications support and

law enforcement-related intelligence information.

“(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

“(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than \$100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, \$300,000,000 to carry out the purposes of this subsection.”

#### AMENDMENT No. 608

Strike everything after the word “Sec.” and replace with the following:

#### TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

##### SEC. 1801. SHORT TITLE.

This title may be cited as the “Drunk Driving Child Protection Act of 1991”.

##### SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking “For purposes” and inserting “(1) Subject to paragraph (2) and for purposes”; and

(2) adding at the end thereof the following new paragraph:

“(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than \$1,000, or both, if—

“(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

“(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

“(B) For the purposes of subparagraph (A), the term ‘minor’ means a person less than 18 years of age.”

##### SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting “(a)” before “Whoever”; and

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

“(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than \$1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

“(2) For the purposes of paragraph (1), the term ‘minor’ means a person less than 18 years of age.”

#### SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

#### AMENDMENT No. 609

Strike everything after the word “Sec.” and replace with the following:

#### TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

##### SEC. 1901. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the “National Commission on Crime and Violence in America”. The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

##### SEC. 1902. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a “blueprint” for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State and Federal crime control efforts.

##### SEC. 1903. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(4) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(5) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(6) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

##### SEC. 1904. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) **COMPOSITION OF MEMBERSHIP.**—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

**SEC. 1905. ADMINISTRATIVE PROVISIONS.**

(a) **FEDERAL AGENCY SUPPORT.**—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) **EXECUTIVE DIRECTOR AND STAFF.**—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) **DETAILED FEDERAL EMPLOYEES.**—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) **TEMPORARY AND INTERMITTENT EMPLOYEES.**—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

**SEC. 1906. REPORT.**

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

**SEC. 1907. TERMINATION.**

The Commission shall terminate 30 days after submitting the report required under section 1806.

**AMENDMENT No. 610**

Strike everything after the word "Sec." and replace with the following:

**TITLE XX—PROTECTION OF CRIME VICTIMS**

**SEC. 2001. SHORT TITLE.**

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

**SEC. 2002. AVAILABILITY OF FUNDS.**

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respectively; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) Of the first \$100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(B) The next \$5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next \$4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) The next \$2,200,000 deposited in the Fund in a particular fiscal year shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

(F) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (E) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.

**SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.**

(a) **ORDER OF RESTITUTION.**—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

“(ii) restitution of all victims; and  
 “(iii) all other fines, penalties, costs, and other payments required under the sentence; and

“(3) the offender shall advise the clerk of the court of any change in the offender’s address during the term of the restitution order.

“(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

“(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant’s employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant’s ability to comply with the restitution order.

“(k) An order of restitution may be enforced—

“(1) by the United States—

“(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

“(B) in the same manner as a judgment in a civil action; and

“(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

“(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.”

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

“(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.”; and

(4) by adding at the end thereof the following new subsection:

“(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”.

#### AMENDMENT No. 611

Strike everything after the word “Sec.” and replace with the following:

#### TITLE XXI—CRACK HOUSE EVICTION ACT

##### SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end thereof the following:

“(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to \$100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.”.

##### SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

#### AMENDMENT No. 612

Strike everything after the word “Sec.” and replace with the following:

#### TITLE XXII—ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION

Subtitle A—Establishment of an Organized Crime and Dangerous Drugs Division in the Department of Justice

##### SEC. 2201. SHORT TITLE.

This title may be cited as the “Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1991”.

##### SEC. 2202. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives significant weight to—

(A) the prosecution of drug related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and groups;

(3) the structure of the Department of Justice Criminal Division is inadequate to address such drug-related problems; and

(4) the prosecutorial resources devoted to such problems have been inadequately organized.

##### SEC. 2203. PURPOSES.

The purposes of this title are to—

(1) establish a new division in the Department of Justice by combining the resources of the Criminal Division and the United States Attorneys offices used for the eradication of organized crime, narcotics, and dangerous drugs with additional resources needed to pursue civil sanctions;

(2) enhance the ability of the Department of Justice to deal with international criminal activity;

(3) enhance the ability of the Department of Justice to maintain a vigorous criminal and equally important civil assault upon organized criminal groups and narcotics traffickers both domestic and international;

(4) enhance the ability of the Department of Justice to attack money laundering activities, both domestic and international; and

(5) maintain the level of effort of the Department of Justice against traditional organized crime activity through the maintenance of independent strike forces.

##### SEC. 2204. ESTABLISHMENT OF ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.

(a) ESTABLISHMENT.—There is established within the Department of Justice, the Organized Crime and Dangerous Drugs Division, which shall consist initially of the following units and programs of the Department of Justice as they were organized and were functioning on September 30, 1989:

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program.

(b) TRANSFER.—(1) There are transferred to the Organized Crime and Dangerous Drugs Division—

(A) all functions of each office and program described under subsection (a) (1), (2), (3), and (4) exercised on September 30, 1989; and

(B) all personnel and available funds of each such office and program.

(2) For the purposes of paragraph (1)(A) the term “functions” means all duties, obligations, powers, authorities, responsibilities, rights, privileges, activities, and programs.

##### SEC. 2205. ASSISTANT ATTORNEY GENERAL FOR ORGANIZED CRIME AND DANGEROUS DRUGS.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Organized Crime and Dangerous Drugs Division established by this title, an Assistant Attorney General of the Department of Justice for the Organized Crime and Dangerous Drugs Division, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) coordinate all activities and policies of the Division with the Director of National Drug Control Policy; and

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of organized criminal and narcotics enterprises.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

“Assistant Attorneys General (10).”

and inserting in lieu thereof:

“Assistant Attorneys General (11).”

(2) The Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

**SEC. 2206. DEPUTY ASSISTANT ATTORNEY GENERAL.**

(a) **ESTABLISHMENT.**—There is established the position of Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division, who shall report directly and be responsible to the Assistant Attorney General of the Organized Crime and Dangerous Drugs Division.

(b) **COMPENSATION.**—The Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid the rate of basic pay payable for level V of the Executive Schedule.

**SEC. 2207. ADMINISTRATIVE ORGANIZATION OF THE DIVISION.**

There shall be established within the Organized Crime and Dangerous Drugs Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the following areas:

(1) **Criminal Racketeering** (including of all activities and personnel transferred from the Organized Crime and Racketeering Section dealing with criminal investigation and prosecution of traditional organized crime, other than civil proceedings or forfeiture);

(2) **Criminal Narcotics Trafficking** (including all activities and personnel transferred from the Criminal Division and the Organized Crime Drug Enforcement Task Force Program dealing with large scale drug trafficking);

(3) **Money laundering** (including all activities transferred from the Criminal Division and Organized Crime Drug Enforcement Task Force Program dealing with money laundering investigations and the negotiation of international agreements on financial crimes);

(4) **Asset Forfeiture** (including all activities and personnel transferred from the Criminal Division dealing with asset forfeiture);

(5) **International Crime** (indicating the activities and functions set forth in Subtitle B of this title); and

(6) **Civil Enforcement** (including activities and personnel currently engaged in civil enforcement of the drug and racketeering laws and such additional personnel as may be added pursuant to this Act).

**SEC. 2208. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.**

(a) **ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.**—The Attorney General shall establish no fewer than 20 field offices of the Organized Crime and Dangerous Drug Division. All such field offices of the Division shall be known as Organized Crime and Dangerous Drug Strike Forces.

(b) **OFFICES IN SAME AREA.**—If two or more sections of the Division establish field offices in the same metropolitan area, such offices shall—

- (A) be in the same location;
- (B) coordinate activities; and
- (C) be organized as separate sections of a strike force.

(c) **TRANSITION.**—(1) Consistent with the provisions of this title—

(A) the Organized Crime and Racketeering Section of the Criminal Division is redesignated as the Criminal Racketeering Section of the Organized Crime and Dangerous Drug Division; and

(B) the Organized Crime Strike Forces are redesignated as the field offices of the Division.

(2) Not later than 180 days after the date of the enactment of this subtitle, the Attorney General shall transfer all attorneys and support staff assigned to the Organized Crime

Drug Enforcement Task Forces before such date to the Organized Crime and Dangerous Drug Division and designated the Criminal Narcotics Section. The Assistant Attorney General for such Division shall assign such personnel to the field offices of the Division, with the initial assignments being made to the cities where units of such Task Forces were located before the date of enactment of this subtitle.

(3)(A) Consistent with the provisions of this title, the Asset Forfeiture Office of the Criminal Division is redesignated as the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division.

(B) Not later than 180 days after the date of the enactment of this subtitle, the Assistant Attorney General shall establish field offices of the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division which shall include—

(i) agents from the United States Drug Enforcement Administration, the Federal Bureau of Investigation, the Internal Revenue Service, and United States Marshals Office; and

(ii) other individuals experienced, trained and expert in complex financial transactions involving cash, notes, securities, and similar negotiable instruments, with a special expertise in banking matters and business dealings.

(d) **DIFFERENT ORGANIZATIONAL STRUCTURE.**—Nothing in subsection (c) shall prevent the Attorney General, consistent with the purposes of this title and the provisions of section 2107, from instituting a different organizational structure within the Organized Crime and Dangerous Drug Division as the Attorney General shall deem appropriate following a period of transition.

(e) **STRIKE FORCES PLANS.**—(1) The agents assigned to the Organized Crime and Dangerous Drug Strike Forces (including all agents assigned to the Organized Crime Drug Enforcement Task Forces program before the date of enactment of this title) shall be dedicated exclusively to and located with the Strike Forces so that the Strike Forces personnel may develop expertise and function as a working unit.

(2) The agents assigned to the Strike Forces from the various participating agencies shall be given credit for the work of the Strike Forces, regardless of the statutory authority used to prosecute Strike Forces cases.

(f) **REPORT.**—Not later than 1 year after the date of the enactment of this title, the Assistant Attorney General for Organized Crime and Dangerous Drugs in consultation with the Director of National Drug Control Policy, shall report to the Congress on the areas of the United States (especially the southwest border of the United States) that may require increased assistance from the Department of Justice through the establishment of additional strike forces.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated \$45,000,000 for salaries and expenses of the Organized Crime and Dangerous Drug Division of the Department of Justice for fiscal year 1992.

(2) Any appropriation of funds authorized under paragraph (1) shall be in addition to any appropriations requested by the President in the 1992 fiscal year budget submitted by the President to the Congress for fiscal year 1992, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1992.

**Subtitle B—International Prosecution Teams**  
**SEC. 2211. INTERNATIONAL PROSECUTION TEAMS.**

(a) **FINDINGS.**—The Congress finds that—

(1) Drug trafficking, organized crime, and money laundering are problems that are international in scope.

(2) The traditional focus of United States law enforcement agencies on domestic criminal activity has restricted the development of the necessary expertise and coordination to address the international aspects of these problems adequately.

(3) The Justice Department must expand its resources and reorganize its component to engage in new responsibilities and activities involving international crime.

(b) **INTERNATIONAL DRUG ENFORCEMENT TEAMS.**—In addition to the components and functions otherwise specified in this chapter, the Organized Crime and Dangerous Drug Division shall include no fewer than 10 International Drug Enforcement Teams devoted exclusively to investigating, prosecuting and supporting the investigation and prosecution of international drug cases. Such teams shall be responsible for developing expertise in handling civil and criminal cases involving extradition, money laundering, drug-related corruption, and other complex cases relating to international drug trafficking.

(c) **RELATIONSHIP OF TEAM MEMBERS.**—Organized Crime and Dangerous Drug Division personnel assigned to the International Drug Enforcement Teams shall work closely with, and where practical be co-located with, agents and liaison personnel of the various law enforcement, diplomatic, intelligence, and military agencies who shall be assigned as necessary to the enforcement teams.

(d) **GOALS.**—The teams shall be organized to—

(1) increase the expertise of the Department of Justice in matters relating to international law enforcement and foreign policy;

(2) improve coordination among United States and foreign agencies responsible for law enforcement, foreign policy, and international banking;

(3) target resources toward cases with maximum impact on international narcotics trafficking;

(4) gain the cooperation of private entities in the United States and foreign countries whose cooperation in cases involving money laundering and other drug-related financial crimes is essential; and

(5) assist other countries to enact laws and negotiate treaties to assist in the suppression of international money laundering and narcotics trafficking.

**AMENDMENT No. 613**

Strike everything after the word "Sec." and replace with the following:

**TITLE XXIII—EXCLUSIONARY RULE**  
**SEC. 2301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.**

(a) **IN GENERAL.**—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

**“§ 2237. Evidence obtained by invalid warrant**

“Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

“(1) the judicial officer in issuing the warrant was materially misled by information

in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid."

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following.

"2237. Evidence obtained by invalid warrant."

#### AMENDMENT No. 614

Strike everything after the word "Sec." and replace with the following:

#### TITLE—FEDERAL PRISONER DRUG TESTING

##### SEC. 91. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4)."

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive,

the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test."

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test."

#### AMENDMENT No. 615

Strike everything after the word "Sec." and replace with the following:

#### TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

##### SEC. 2501. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended by—

(1) striking "not more than \$5,000" and inserting "under this title";

(2) inserting ", or inflicts bodily injury," after "weapon"; and

(3) striking "not more than \$10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c) by—

(A) striking "of not more than \$1,000" and inserting "under this title"; and

(B) striking "five" and inserting "ten"; and

(2) in subsection (e) by—

(A) striking "of not more than \$300" and inserting "under this title"; and

(B) striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended by—

(1) striking "not more than \$5,000," and inserting "under this title,";

(2) inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) striking "not more than \$10,000" and inserting "under this title"; and

(4) striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended by—

(1) striking "not more than \$10,000," both places it appears and inserting "under this title,";

(2) striking "not more than \$5,000," and inserting "under this title,"; and

(3) inserting "the assault involved the use of a dangerous weapon, or" after "if".

##### SEC. 2502. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b) by—

(A) inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years"

(2) by striking "not more than \$1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

##### SEC. 2503. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than \$10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended by—

(1) striking "more than \$1,000" and inserting "under this title";

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results"; and

(4) striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by—

(1) striking "not more than \$1,000" and inserting "under this title";

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) striking "not more than \$10,000" and inserting "under this title";

(4) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) inserting ", or both" after "life".

(d) **DAMAGE TO RELIGIOUS PROPERTY.**—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2), by—

(A) striking "serious"; and

(B) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property."

(e) **FAIR HOUSING ACT.**—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death";

(2) by striking "not more than \$1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than \$10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

**SEC. 2504. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.**

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

**SEC. 2505. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.**

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

**SEC. 2598. REPEALING SURCHARGE ON EQUITABLE SHARING CASES.**

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended

by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses."

**AMENDMENT NO. 616**

Strike everything after the word "Sec." and replace with the following:

**TITLE XXVI—OBSTRUCTION OF JUSTICE**  
**SEC. 2601. PROTECTION OF COURT OFFICERS AND JURORS.**

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than \$5,000 or imprisoned not more than five years, or both," and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

**SEC. 2602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.**

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years."

**AMENDMENT NO. 617**

Strike everything after the word "Sec." and replace with the following:

**TITLE XXVII—FELON FIREARM PURCHASE PREVENTION**

**SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.**

(a) **INTERIM PROVISION.**—Section 922 of title 18, United States Code, as amended by sec-

tion 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided as paragraphs (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(i)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt for possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunication facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a

reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful use of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(1) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction shall, within 5 days after the date the transferee made such statement, destroy and record containing information derived from such statement.

"(i) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public."

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) The Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunication facilities in the remote location of the licensee premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such

other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than \$5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section."

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both."

#### SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after

the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (C).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) **NOTIFICATION OF LICENSEES.**—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) **ADMINISTRATIVE PROVISIONS.**—

(1) **AUTHORITY TO OBTAIN OFFICIAL INFORMATION.**—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922 (g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) **OTHER AUTHORITY.**—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) **CORRECTION OF ERRONEOUS SYSTEM INFORMATION.**—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such transferee and give notice of the error to any Federal

department or agency or any State that was the source of such erroneous records.

(h) **REGULATIONS.**—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) **PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.**—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) **DEFINITIONS.**—As used in this section:

(1) **LICENSEE.**—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) **OTHER TERMS.**—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

**SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.**

(a) **IMPROVEMENTS IN STATE RECORDS.**—

(1) **USE OF FORMULA GRANTS.**—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991."

(2) **ADDITIONAL FUNDING.**—

(A) **GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.**—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under subparagraph (A) a total of \$100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) **WITHHOLDING STATE FUNDS.**—Effective on the date of enactment of this Act the At-

torney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) **WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.**—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

**AMENDMENT NO. 618**

Strike everything after the term "Sec."

**AMENDMENT NO. 619**

Strike everything after the word "Sec."

**AMENDMENT NO. 620**

Strike the words "This section shall not be construed to require or authorize the exclusion of evidence in any proceeding."

**AMENDMENT NO. 621**

Strike everything from the word "Strike" in the 1st degree amendment.

**AMENDMENT NO. 622**

Strike everything from the word "Strike" and add the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

**AMENDMENT NO. 623**

Strike everything after the term "Sec." and insert the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

**AMENDMENT NO. 624**

Strike the following from the amendment: "Nothing in this section shall be construed to alter or change current law or to inhibit the courts of the United States from expanding exceptions to the exclusion of evidence from criminal trials."

**AMENDMENT NO. 625**

Strike the following from the amendment: "Nothing in this section shall be construed to alter or change current law or to inhibit the courts of the United States from expanding exceptions to the exclusion of evidence from criminal trials."

And replace with:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly

adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 626**

Add at the end of the amendment and at the appropriate place in the bill:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 627**

Add at the end of the amendment and at the appropriate place in the bill:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 628**

Add at the end of the amendment and at the appropriate place in the bill:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 629**

Strike everything after the term “Sec.” and insert the following:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 630**

Strike everything after the term “Sec.” and insert the following:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992**

**SPECTER (AND WOFFORD)  
AMENDMENT NO. 631**

Mr. JOHNSTON (for Mr. SPECTER, for himself and Mr. WOFFORD) proposed an amendment to the bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes, as follows:

Insert at the end of line 17, page 8, the following: “*Provided further*, That of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide \$850,000 to undertake plan-

ning of the Wyoming Valley Levee Raising project in Luzerne County, Pennsylvania.”

**NICKLES (AND BOREN)  
AMENDMENT NO. 632**

Mr. JOHNSTON (for Mr. NICKLES, for himself and Mr. BOREN) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, add the following before the period: “*Provided further*, That the Secretary of the Army is directed to use \$450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront development to be located along the North Canadian River in Oklahoma.”

**CHAFEE (AND PELL) AMENDMENT  
NO. 633**

Mr. JOHNSTON (for Mr. CHAFEE, for himself and Mr. PELL) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, insert the following before the period: “*Provided further*, That using \$500,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the Definite Project Report for the Cranston, Rhode Island Wastewater Conveyance System as authorized by section 117 of Public Law 101-640.”

**KENNEDY (AND KERRY)  
AMENDMENT NO. 634**

Mr. JOHNSTON (for Mr. KENNEDY, for himself and Mr. KERRY) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, before the period insert the following: “*Provided further*, That with \$250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaissance level study to assess the water resource needs of the Muddy River in Massachusetts.”

**BIDEN AMENDMENTS NOS. 635  
THROUGH 668**

(Ordered to lie on the table.)

Mr. BIDEN submitted 34 amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

**AMENDMENT No. 635**

Add at the end of the amendment and at the appropriate place in the bill the following:

**SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.**

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

**§ 2255A. Law applicable**

“(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

“(b) In determining whether to apply a new rule, the court shall consider—

“(1) the purpose to be served by the new rule;

“(2) the extent of the reliance by law enforcement authorities on a different rule; and

“(3) the effect on the administration of justice of the application of the new rule.

“(c) For purposes of this section, the term ‘new rule’ means a sharp break from precedent announced by the Supreme court of the United States that explicitly and substantially changes the law from that governing at the time the claimant’s sentence became final. A rule is not new merely because, based on precedent existing before the rule’s announcement, it was susceptible to debate among reasonable minds.”

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

“2255A. Law applicable.”

**TITLE XII—PUNISHMENT OF GUN CRIMINALS**

**SEC. 1201. SHORT TITLE.**

This title may be cited as the “Gun Criminals Punishment Act of 1991.”

**Subtitle A—Increased Penalties for Gun Offenses**

**SEC. 1211. DEATH PENALTY FOR GUN MURDERS.**

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting “(A)” after “(1)”;

(2) designating the second sentence as subparagraph (B);

**AMENDMENT No. 636**

Add at the end of the amendment and at the appropriate place in the bill:

“A right that is ‘retroactively applicable’ within the meaning of Title XI, as amended, is any right provided by the law existing on the date the court determines the claim except in cases involving a new rule as provided in subsection (b).

(b) In determining whether to apply a new rule, the court shall consider—

(1) the purpose to be served by the new rule;

(2) the extent of the reliance by law enforcement authorities on a different rule; and

(3) the effect on the administration of justice of the application of the new rule.

(c) For purposes of this section, the term ‘new rule’ means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant’s sentence became final. A rule is not new merely because, based on precedent existing before the rule’s announcement, it was susceptible to debate among reasonable minds.”

**AMENDMENT No. 637**

Strike everything after the word “Sec.” and insert the following:

**SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.**

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

**§ 2255A. Law applicable**

“(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

“(b) In determining whether to apply a new rule, the court shall consider—

“(1) the purpose to be served by the new rule;

“(2) the extent of the reliance by law enforcement authorities on a different rule; and

“(3) the effect on the administration of justice of the application of the new rule.

“(c) For purposes of this section, the term ‘new rule’ means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant’s sentence became final. A rule is not new merely because, based on precedent existing before the rule’s announcement, it was susceptible to debate among reasonable minds.”

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

“2255A. Law applicable.”

**TITLE XII—PUNISHMENT OF GUN CRIMINALS**

**SEC. 1201. SHORT TITLE.**

This title may be cited as the “Gun Criminals Punishment Act of 1991”.

Subtitle A—Increased Penalties for Gun Offenses

**SEC. 1211. DEATH PENALTY FOR GUN MURDERS.**

Section 924(c) of title 18, United States Code, is amended by—

- (1) inserting “(A)” after “(1)”; and
- (2) designating the second sentence as subparagraph (B);

**AMENDMENT No. 638**

Add at the end of the amendment, the following:

“For the purpose of title XI, the term ‘counsel’ means:

“(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years’ experience in the trial of felony prosecutions in that court.

“(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years’ experience in the handling of appeals in that State courts in felony cases.

“(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant’s request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.”

**AMENDMENT No. 639**

Strike everything after the word “Sec.” and insert the following:

“(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years’ experience in the trial of felony prosecutions in that court.

“(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years’ experience in the handling of appeals in that State courts in felony cases.

“(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause

and upon the defendant’s request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.”

**AMENDMENT No. 640**

Add at the end of the amendment and at the appropriate place in the bill:

“Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 641**

Add at the end of the amendment the following:

A right that is retroactively applicable within the meaning of subsection 3599(c) is any right provided by the law existing on the date the court determines the claim, except a new rule, as provided in subsection (b) below.

(b) In determining whether to apply a new rule, the court shall consider—

- (1) the purpose to be served by the new rule;
- (2) the extent of the reliance by law enforcement authorities on a different rule; and
- (3) the effect on the administration of justice of the application of the new rule.

(c) For purposes of this section, the term “new rule” means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant’s sentence became final. A rule is not new merely because, based on precedent existing before the rule’s announcement, it was susceptible to debate among reasonable minds.

**AMENDMENT No. 642**

Strike everything after the word “Sec.”

**AMENDMENT No. 643**

Strike everything beginning with the terms “section 2254” and insert the following at the appropriate place in the bill: “Notwithstanding any other provision of law, a prisoner’s claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law.”

**AMENDMENT No. 644**

Strike everything after the term “Sec.”

**AMENDMENT No. 645**

Strike everything after the term “Sec.” and insert the following:

For purposes of title XI, as amended, the term “full and fair” should be construed as follows:

“(i) An adjudication of a claim in state proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of Federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of Federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.”

**AMENDMENT No. 646**

Add at the end of the amendment the following:

For purposes of title XI, as amended, the term “full and fair” should be construed as follows:

“(i) An adjudication of a claim in state proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of Federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of Federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.”

**AMENDMENT No. 647**

Strike everything after the term “Sec.” and insert the following:

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim’s gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws

as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

#### AMENDMENT NO. 648

Add at the end of the amendment the following:

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

#### AMENDMENT NO. 649

At the appropriate place, add the following:

#### SECS. TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSE FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for ac-

quired 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 months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) 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 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 counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (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 date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(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.

(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 order 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, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the

offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

**AMENDMENT No. 650**

Strike everything after the word "Sec." and insert the following:

**SEC. . TESTING OF INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) **HIV RELATED SERVICES FOR VICTIMS.**—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, 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 months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) **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 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 counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) **FOLLOW-UP TESTING.**—The court shall order follow-up tests and counseling under paragraph (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 date of the initial test.

(4) **TERMINATION OF TESTING REQUIREMENTS.**—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(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.

(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 order 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, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) **CONTEMPT FOR DISCLOSURE.**—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) **EFFECT ON PENALTY.**—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

**AMENDMENT No. 651**

Strike everything after the term "Section."

**AMENDMENT No. 652**

Strike everything after the term "Sec." and insert the following:

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) **RIGHTS, PRIVILEGES AND IMMUNITIES.**—All persons within the United States shall have the same rights, privileges and immuni-

ties in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) **CAUSE OF ACTION.**—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991,".

**AMENDMENT No. 653**

Strike everything after the term "Sec."

**AMENDMENT No. 654**

Strike everything after the term "Sec." and insert the following:

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

**AMENDMENT No. 655**

Strike everything after the term "Sec."

**AMENDMENT No. 656**

Strike everything after the term "Sec."

**AMENDMENT No. 657**

Strike section 2(a) and (b) of the underlying amendment.

**AMENDMENT No. 658**

Strike everything after the term "Sec."

**AMENDMENT No. 659**

Strike everything after the term "Section."

**AMENDMENT No. 660**

Strike everything after the term "Sec."

**AMENDMENT No. 661**

Add a new section at the end of the amendment as follows:

"(b) DEFINITION OF "EVIDENCE OF THE DEFENDANT'S COMMISSION OF ANOTHER OFFENSE OR OFFENSES."—For the purposes of Rules 413, 414, and 415, the term "evidence of the defendant's commission of another offense or offenses" means any evidence that is not otherwise inadmissible under any other Federal Rule of Evidence.

**AMENDMENT No. 662**

Strike everything after the term "Sec."

Strike everything after the term "Sec." and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States, local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991."

**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 thereof the following new section:

**“§2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”

(b) **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:

“2247. Repeat offenders.”

**SEC. 112. FEDERAL PENALTIES.**

(a) **RAPE AND AGGRAVATED RAPE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) **EFFECT OF AMENDMENT.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

**(c) STATUTORY RAPE.**

(1) Section 2243(b) of title 18, United States Code, is amended by striking “one year,” and inserting “two years.”

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) **IN GENERAL.**—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**“§2248. Mandatory restitution**

“(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 lump-sum 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

“(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 his 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 on camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women****SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

**“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN****“SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) **DEFINITION.**—For purposes of this part, a '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 1412.

**"SEC. 1412. 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.

"(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) **DISBURSEMENT.**—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) **GRANTEE REPORTING.**—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women**

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) **GENERAL GRANTS.**—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise

consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) **GENERAL GRANTS.**—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) **AMOUNTS.**—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$500,000.

"(c) **QUALIFICATION.**—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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 part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. 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 reimburse-

ment, 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$160,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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 Service 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-9) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national

advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

**SEC. 144. REPORTS.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

**SEC. 145. EXECUTIVE DIRECTOR AND STAFF.**

(a) **EXECUTIVE DIRECTOR.**—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 148. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim's past behavior in other criminal cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.**

**“(3) If the court determines, on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”**

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

**“(b) ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

**“(e) INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

**“(f) RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”;

and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

**“Rule 413. Evidence of victim's clothing as inciting violence**

“Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of

title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

**Subtitle F—Assistance to Victims of Sexual Assault**

**SEC. 131. 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 as follows:

(1) by adding at the end thereof the following new section:

**"§1910A. Use of allotments for rape prevention education**

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

- (2) striking section 1901(b); and
- (3) striking section 1904(a)(1)(G).

**SEC. 162. RAPE EXAM PAYMENTS.**

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

**TITLE II—SAFE HOMES FOR WOMEN**

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Safe Homes for Women Act of 1990".

**Subtitle A—Interstate Enforcement**

**SEC. 211. INTERSTATE ENFORCEMENT.**

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

“(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

“(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, 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 lump-sum 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) 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

“(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

“§ 2265. Full faith and credit given to protection orders

“(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

“(1) such court has jurisdiction over the parties and matter under the law of such State; and

“(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

“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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

“(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

“(3) the term ‘act that injures’ includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

“(4) the term ‘State’ includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

“(5) the term ‘travel across State lines’ includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.”

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

“110A. Violence against spouses ..... 2261.”

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

“SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

“(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.—(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS"

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

**SEC. 248. SHELTER AND RELATED ASSISTANCE.**

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violent crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge of 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The

other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence****SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.**—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) **RIGHTS, PRIVILEGES AND IMMUNITIES.**—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) **CAUSE OF ACTION.**—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) **IN GENERAL.**—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) **GENERAL RAPE PREVENTION AND EDUCATION GRANTS.**—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) **MODEL GRANTS.**—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) **ELIGIBILITY.**—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

“(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

“(2) Each such application shall—

“(A) set forth the activities and programs to be carried out with funds granted under this part;

“(B) contain an estimate of the cost for the establishment and operation of such programs;

“(C) explain how the program intends to address the issue of acquaintance rape;

“(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

“(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

“(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

“(2) For purposes of this subchapter, the following terms have the following meanings:

“(A) The term ‘rape education and prevention’ includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

“(B) The term ‘Secretary’ means the Secretary of Education.

“(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

“(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

“(A) the amount of grants made under this section;

“(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

“(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

“(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.”

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

“(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- “(i) murder;
- “(ii) rape or sexual assault;
- “(iii) robbery;
- “(iv) aggravated assault;
- “(v) burglary; and
- “(vi) motor vehicle theft.

#### TITLE V.—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the “Equal Justice for Women in the Courts Act of 1991”.

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

##### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 non-strangers, 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT NO. 664**

Strike everything after the term "Sec." and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**"§ 2247. Repeat offenders**

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) 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:

"2247. Repeat offenders."

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years."

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**"§ 2248. Mandatory restitution**

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 lump-sum 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

“(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 his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

“SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.

“(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the ‘Director’) shall make grants to areas of ‘high intensity crime’ against women.

“(b) DEFINITION.—For purposes of this part, a ‘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 1412.

“SEC. 1412. 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.

“(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be

qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) **REGULATIONS.**—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) **GENERAL PURPOSE.**—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-9) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

#### SEC. 143. MEMBERSHIP.

##### (a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national

efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

##### (a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable

under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

“Rule 412A. Evidence of victim's past behavior in other criminal cases

“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

“**Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) **INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) **RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

“**Rule 413. Evidence of victim's clothing as inciting violence**

“Notwithstanding any other provision of law, in a criminal case in which a person is

accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.”

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### “§ 1910A. Use of allotments for rape prevention education

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

“(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) 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) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1905, and subject to the conditions provided in this section and sections 1904 through 1909.”;

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Safe Homes for Women Act of 1990”.

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) **IN GENERAL.**—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses  
 "Sec. 2261. Traveling to commit spousal abuse.  
 "Sec. 2262. Interstate violation of protection orders.  
 "Sec. 2263. Restitution.  
 "Sec. 2264. Full faith and credit given to protection orders.  
 "Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**§2265. Full faith and credit given to protection orders**

"(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses ..... 2261".

Subtitle B—Arrest in Spousal Abuse Cases  
**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

##### "SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(i) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

##### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

##### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

##### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

##### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

“(B) implement model projects that include either—

“(i) a ‘no-drop’ prosecution policy; or  
“(ii) a vertical prosecution policy; and

“(C) limit diversion to extraordinary cases, and then only after an admission before a judge to ‘dual’ arrests;

“(3) statewide prosecution policies that—

“(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

“(B) implement model projects that include either—

“(i) a ‘no-drop’ prosecution policy; or  
“(ii) a vertical prosecution policy; and

“(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

“(4) statewide laws, policies, or guidelines for judges that—

“(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

“(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

“(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

“(5) develop and disseminate methods to improve the criminal justice system’s response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

“(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

“(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

“(3) The Secretary shall delegate to the Attorney General the Secretary’s responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.”

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### “SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

“(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The

other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

“(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

“(2) child custody issues in domestic violence cases;

“(3) use of the self-defense plea by domestic violence victims;

“(4) health care response and access to health care resources for domestic violence victims;

“(5) victims’ access to, and quality of, effective legal assistance, including civil litigation; and

“(6) the response of child protective service agencies to battered mothers of abused children.

“(o) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

“(1) focus primarily on domestic violence;

“(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

“(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

“(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

“(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

“(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.”

#### Subtitle E—Youth Education and Domestic Violence

##### SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the “Secretary”. The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

#### Subtitle F—Confidentiality for Abused Persons

##### SEC. 271. CONFIDENTIALITY OF ABUSED PERSONS’ ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons’ addresses or otherwise prohibit the disclosure of an abused person’s address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim’s gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

#### TITLE IV—SAFE CAMPUSES FOR WOMEN

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

##### SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

##### SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

#### "PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

##### SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

**SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.**

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(i) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990****SECTION 501. SHORT TITLE.**

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts****SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT NO. 665**

Add at the end of the amendment the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

- Sec. 161. Education and prevention grants to reduce sexual assaults against women.
- Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

- Sec. 201. Short title.

Subtitle A—Interstate Enforcement

- Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

- Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

- Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

- Sec. 241. Expansion of purpose.
- Sec. 242. Expansion of State demonstration grant program.
- Sec. 243. Grants for public information campaigns.
- Sec. 244. State commissions on domestic violence.
- Sec. 245. Indian tribes.
- Sec. 246. Funding limitations.
- Sec. 247. Grants to entities other than States; local share.
- Sec. 248. Shelter and related assistance.
- Sec. 249. Law enforcement training and technical assistance grants.
- Sec. 250. Report on recordkeeping.
- Sec. 251. Model State leadership incentive grants for domestic violence intervention.
- Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

- Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

- Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

- Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Grants for campus rape education.
- Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

- Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

- Sec. 511. Grants authorized.
- Sec. 512. Training provided by grants.
- Sec. 513. Cooperation in developing programs in making grants under this title.

- Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

- Sec. 521. Education and training grants.
- Sec. 522. Cooperation in developing programs.
- Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**“§ 2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”.

(b) 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:

“2247. Repeat offenders.”.

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking “one year,” and inserting “two years.”.

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**“§ 2248. Mandatory restitution**

“(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim the full amount of the victim's losses as deter-

mined 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; and

“(E) 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 lump-sum 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

“(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 his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"248. Mandatory restitution."

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

- (1) redesignating part N as part O;
- (2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

**"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**"SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

**"SEC. 1412. 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.

"(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 1401(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 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; and
- "(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

#### "SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for

at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

#### "SUBPART 3—GENERAL TERMS AND CONDITIONS

##### "SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

##### "SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under sub-

parts 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

#### Subtitle C—Safety for Women in Public Transit and Public Parks

##### SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

#### "GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national

advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(d)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) **EXECUTIVE DIRECTOR.**—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

“Rule 412A. Evidence of victim's past behavior in other criminal cases

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

“Rule 412B. Evidence of past sexual behavior in civil cases

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of

title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### "§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

#### "Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

#### "§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

#### "§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

#### "§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

“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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

“(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

“(3) the term ‘act that injures’ includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

“(4) the term ‘State’ includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

“(5) the term ‘travel across State lines’ includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.”

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

“110A. Violence against spouses ..... 2261.”

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

“SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

“(3) 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; and

“(B) certify that their laws or official policies—

“(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

“(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

“(C) demonstrate that their laws, policies, practices and training programs discourage ‘dual’ arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

“(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

“(2) For purposes of this section, the term ‘protection order’ includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

“(3) For purposes of this section, the term ‘spousal or spouse abuse’ 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

“(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

“(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

“SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

“(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

“(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

“(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

“(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.”

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking “to prevent” and inserting “to increase public awareness about and prevent” and by striking “demonstrate the effectiveness of assisting” and inserting “assist”.

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking “to prevent” and inserting “to increase public awareness about and prevent”.

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking “alcohol and drug abuse treatment”.

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

“GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

“SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

“(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

“(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

#### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

#### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

#### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

#### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

#### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

#### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

#### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

#### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \* (B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge of 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers,

and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) **ELIGIBILITY.**—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) **REPORTING.**—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) **REGULATIONS.**—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence**

**SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) **GENERAL PURPOSE.**—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.**—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSONS' ADDRESSES.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) **RIGHTS, PRIVILEGES AND IMMUNITIES.**—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) **CAUSE OF ACTION.**—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions; experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

**SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.**

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(d) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

**SECTION 501. SHORT TITLE.**

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts**

**SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT No. 666**

Add at the end of the amendment the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**“§2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”

(b) **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:

“2247. Repeat offenders.”

**SEC. 112. FEDERAL PENALTIES.**

(a) **RAPE AND AGGRAVATED RAPE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) **EFFECT OF AMENDMENT.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) **STATUTORY RAPE.**—

(1) Section 2243(b) of title 18, United States Code, is amended by striking “one year,” and inserting “two years.”

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) **IN GENERAL.**—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**“§2248. Mandatory restitution**

“(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim the full amount of the victim’s losses as deter-

mined 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; and

“(E) 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 lump-sum 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

**“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**“SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the "Director") shall make grants to areas of "high intensity crime" against women.

"(b) **DEFINITION.**—For purposes of this part, a "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 1412.

**"SEC. 1412. 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.

"(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

**"(f) DISBURSEMENT.**

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) **GRANTEE REPORTING.**—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women**

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) **GENERAL GRANTS.**—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) **GENERAL GRANTS.**—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) **AMOUNTS.**—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) **QUALIFICATION.**—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

#### "SUBPART 3—GENERAL TERMS AND CONDITIONS

##### "SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

##### "SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

#### Subtitle C—Safety for Women in Public Transit and Public Parks

##### SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

##### "GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

##### "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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national

efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

**SEC. 144. REPORTS.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

**SEC. 145. EXECUTIVE DIRECTOR AND STAFF.**

(a) **EXECUTIVE DIRECTOR.**—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable

under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 144. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim's past behavior in other criminal cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) **INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) **RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

**“Rule 413. Evidence of victim's clothing as inciting violence**

“Notwithstanding any other provision of law, in a criminal case in which a person is

accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

**Subtitle F—Assistance to Victims of Sexual Assault**

**SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.**

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

**“§1910A. Use of allotments for rape prevention education**

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

“(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) 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) 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.”

- (2) striking section 1901(b); and
- (3) striking section 1904(a)(1)(G).

**SEC. 162. RAPE EXAM PAYMENTS.**

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

**TITLE II—SAFE HOMES FOR WOMEN**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Safe Homes for Women Act of 1990”.

**Subtitle A—Interstate Enforcement**

**SEC. 211. INTERSTATE ENFORCEMENT.**

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

**“Chapter 110A—Violence Against Spouses**

“Sec. 2261. Traveling to commit spousal abuse.

“Sec. 2262. Interstate violation of protection orders.

“Sec. 2263. Restitution.

“Sec. 2264. Full faith and credit given to protection orders.

“Sec. 2265. Definitions for chapter.

**“§2261. Traveling to commit spousal abuse**

“(a) IN GENERAL.—Any person who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

“(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**“§2262. Interstate violation of protection orders**

“(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

“(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

**“(c) PENALTIES.—**

“(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

“(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**“§2263. Interim protections**

“In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

**“§2264. Restitution**

“(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses ..... 2261."

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

“(B) certify that their laws or official policies—

“(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

“(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

“(C) demonstrate that their laws, policies, practices and training programs discourage ‘dual’ arrests of abuser and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

“(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

“(2) For purposes of this section, the term ‘protection order’ includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

“(3) For purposes of this section, the term ‘spousal or spouse abuse’ 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

“(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

“(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

“SEC. 310. AUTHORIZATION OF APPROPRIATIONS. (a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

“(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

“(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

“(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.”

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking “to prevent” and inserting “to increase public awareness about and prevent” and by striking “demonstrate the effectiveness of assisting” and inserting “assist”.

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking “to prevent” and inserting “to increase public awareness about and prevent”.

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking “alcohol and drug abuse treatment”.

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### “GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

“SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

“(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

“(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

“(2) include a complete description of the plan of the application for the development of a public information campaign;

“(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

“(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

“(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

“(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

“(7) contain such other information as the Secretary may require.

“(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

“(e) The criteria for awarding grants shall ensure that an applicant—

“(1) will conduct activities that educate communities and groups at greatest risk;

“(2) has a record of high quality campaigns of a comparable type; and

“(3) has a record of high quality campaigns that educate the population groups identified as most at risk.”

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking “\$50,000” and inserting “\$500,000”.

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking “is authorized” and inserting “from sums appropriated shall make no less than 10 percent available for”.

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking “, and” and all that follows through “fiscal years”; and

(2) striking “\$50,000” and inserting “\$75,000”.

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: “No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.”

**SEC. 248. SHELTER AND RELATED ASSISTANCE.**

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION"**

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge or 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The

other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence****SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

“(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

“(2) Each such application shall—

“(A) set forth the activities and programs to be carried out with funds granted under this part;

“(B) contain an estimate of the cost for the establishment and operation of such programs;

“(C) explain how the program intends to address the issue of acquaintance rape;

“(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

“(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

“(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

“(2) For purposes of this subchapter, the following terms have the following meanings:

“(A) The term ‘rape education and prevention’ includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

“(B) The term ‘Secretary’ means the Secretary of Education.

“(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

“(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

“(A) the amount of grants made under this section;

“(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

“(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

“(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.”

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

“(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- “(i) murder;
- “(ii) rape or sexual assault;
- “(iii) robbery;
- “(iv) aggravated assault;
- “(v) burglary; and
- “(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the “Equal Justice for Women in the Courts Act of 1991”.

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

###### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT NO. 667**

Strike everything after the term "Sec." and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**"§ 2247. Repeat offenders**

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) 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:

"2247. Repeat offenders."

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**"§ 2248. Mandatory restitution**

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 lump-sum 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 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 his delegatee), 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 his delegatee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegatee) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegatee) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegatee) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

**Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

“SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.

“(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the ‘Director’) shall make grants to areas of ‘high intensity crime’ against women.

“(b) **DEFINITION.**—For purposes of this part, a ‘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 1412.

“SEC. 1412. 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.

“(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be

qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1851 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**“SEC. 1432. 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; and

“(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

“(c) **REGULATIONS.**—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2.”

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**“GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

“**SEC. 24. (a) GENERAL PURPOSE.**—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**“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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

“(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

“(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

“(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

“(A) increase lighting within or adjacent to public parks and recreation areas;

“(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

“(C) increase security personnel within or adjacent to public parks and recreation areas; and

“(D) any other project intended to increase the security and safety of public parks and recreation areas.

“(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

“(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as “the Commission”).

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

#### SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national

efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable

under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following: **"Rule 412A. Evidence of victim's past behavior in other criminal cases**

**"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—**Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

##### "Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is

accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

##### "§1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$55,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

##### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

“Chapter 110A—Violence Against Spouses  
“Sec. 2261. Traveling to commit spousal abuse.

“Sec. 2262. Interstate violation of protection orders.

“Sec. 2263. Restitution.

“Sec. 2264. Full faith and credit given to protection orders.

“Sec. 2265. Definitions for chapter.

“§ 2261. Traveling to commit spousal abuse

“(a) IN GENERAL.—Any person who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

“(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

“§ 2262. Interstate violation of protection orders

“(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

“(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

“(c) PENALTIES.—

“(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

“(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

“§ 2263. Interim protections

“In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

“§ 2264. Restitution

“(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

“(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

“(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, 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 lump-sum 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) 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

“(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

"§2265. Full faith and credit given to protection orders

"(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses ..... 2261."

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

##### "SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking "and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

##### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

##### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

##### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

##### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or  
 "(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge of 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or  
 "(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The

other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

#### Subtitle E—Youth Education and Domestic Violence

##### SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 program.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

#### Subtitle F—Confidentiality for Abused Persons

##### SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991."

#### TITLE IV—SAFE CAMPUSES FOR WOMEN

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

##### SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

##### SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

#### "PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

##### SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

**SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.**

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(i) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990****SECTION 501. SHORT TITLE.**

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts****SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT NO. 668**

Strike everything after the term "Sec." and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

Sec. 121. Grants To Combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

**Subtitle E—New Evidentiary Rules**

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**"§ 2247. Repeat offenders**

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) 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:

"2247. Repeat offenders."

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years."

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**"§ 2248. Mandatory restitution**

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim 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; and

"(E) 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 lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitution 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 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 his delegatee), 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 his delegatee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegatee) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution."

**Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

- (1) redesignating part N as part O;
- (2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

**"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**"SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

**"SEC. 1412. 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.

"(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 1401(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 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; and
- "(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

**"(f) DISBURSEMENT.—**

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women**

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be

qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**"SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national

efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph 1)(A)(i) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

##### (a) EXECUTIVE DIRECTOR.—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable

under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

##### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

“Rule 412A. Evidence of victim's past behavior in other criminal cases

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

“Rule 412B. Evidence of past sexual behavior in civil cases

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 163. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is

accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### "§1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

- (2) striking section 1901(b); and
- (3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

#### "§2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures

his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be en-

tered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

**"110A. Violence against spouses ..... 2261."**

**Subtitle B—Arrest in Spousal Abuse Cases**

**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters**

**SEC. 231. AUTHORIZATION.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

**"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

**Subtitle D—Family Violence Prevention and Services Act Amendments**

**SEC. 241. EXPANSION OF PURPOSE.**

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

**SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.**

(a) **INCREASING PUBLIC AWARENESS.**—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) **EXPANSION OF PROGRAM.**—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

**SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.**

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

**"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS**

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

#### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

#### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

#### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

#### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

#### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

#### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

#### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

#### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"Sec. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge of 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The

other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

#### Subtitle E—Youth Education and Domestic Violence

##### SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

#### Subtitle F—Confidentiality for Abused Persons

##### SEC. 271. CONFIDENTIALITY OF ABUSED PERSONS' ADDRESSES.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

##### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991."

#### TITLE IV—SAFE CAMPUSES FOR WOMEN

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

##### SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

##### SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

**SEC. 107L. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(g) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

**SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.**

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

**SECTION 501. SHORT TITLE.**

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts**

**SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic

violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992**

**STEVENS (AND MURKOWSKI) AMENDMENT NO. 669**

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 2427, supra, as follows:

Insert at the appropriate place: "Provided further, That with \$12,225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and continue until completion, construction of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel Alaska Bank Stabilization Project."

**JOHNSTON AMENDMENT NO. 670**

Mr. JOHNSTON proposed an amendment to amendment No. 669 proposed by Mr. STEVENS (and Mr. MURKOWSKI) to the bill H.R. 2427, supra, as follows:

In lieu of the language proposed to be inserted, insert the following: "*Provided further*, That with \$5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake emergency construction of aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662 including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on pipe piles, toe protection from the West end of First Avenue to the city dock, and toe protection to Mission Road bulkhead and in other areas vulnerable to collapse. *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project."

**DOLE AMENDMENT NO. 671**

Mr. JOHNSTON (for Mr. DOLE) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 25, line 13, insert after the "...": "*Provided further*, That using \$900,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to rehabilitate recreation facilities at Wilson Lake."

**D'AMATO (AND MOYNIHAN) AMENDMENT NO. 672**

Mr. JOHNSTON (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 19 strike the proviso beginning on line 24 through line 3 on page 20.

On page 8, line 17, add the following before the period: "*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$1,000,000 appropriated herein to carry out the purposes of section 401 of Public Law 101-596

**NICKLES AMENDMENT NO. 673**

Mr. NICKLES proposed an amendment to the bill H.R. 2427, supra, as follows:

At the appropriate place in the bill, insert the following section:

Sec. . . None of the funds in this Act shall be used to implement the final rule for the Army Corps of Engineers shoreline management regulation fee schedule which was published in the Federal Register, Vol. 56, No. 123, Friday, June 28, 1991.

**VIOLENT CRIME CONTROL ACT**

**DOLE AMENDMENT NOS. 674 AND 675**

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

**AMENDMENT NO. 674**

On page 2, line 2, strike through page 5, line 14, and insert in lieu the following:

**SEC. . SUITS IN FEDERAL COURT**

Chapter 85 of title 28, United States Code, is amended—

(a) by inserting at the end the following: "\$1367. Sexual Violence and Gender-Based Violence

"(a) The district courts shall have original jurisdiction of all civil actions where—

"(1) a claim for damages or other relief is premised on the commission of a Federal or State crime involving conduct proscribed by chapter 109A of title 18, United States Code, or a Federal or State crime of violence that was committed because of animosity or bias based on gender; and

"(2) in case the crime on which the claim is premised was not a Federal crime, the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the crime or in furtherance of the crime.

"(b) For purposes of this section, 'State' has the meaning given in section 513 of title 18, United States Code, and 'crime of violence' has the meaning given in section 16 of title 18, United States Code."; and

(b) by inserting at the end of the chapter analysis the following:  
 "1367. Sexual Violence and Gender-Based Violence."

AMENDMENT NO. 675

On page 2, line 2, strike through page 5, line 14, and insert in lieu the following:  
**SECTION 301. DAMAGE REMEDY FOR SEX OFFENSES.**

(a) CAUSE OF ACTION.—Any person who violates a provision of chapter 109A of title 18, United States Code, and any person who violates the law of a State (as defined in section 513 of that title) through conduct proscribed by chapter 109A if one of the circumstances described in subsection (b) exists, shall be liable to the victim in an action for compensatory and punitive damages, whether or not the violation has been charged or prosecuted and whether or not a trial of the person for such violation results in conviction.

(b) CIRCUMSTANCES RELATING TO VIOLATIONS OF STATE LAW.—The circumstances referred to in subsection (a) are:

(1) that the violation was committed under color of any statute, ordinance, regulation, custom, or usage of any State; or

(2) that the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the violation or in furtherance of the violation.

(c) LIMITATIONS.—Any action brought under subsection (a) shall be commenced within three years of the date of the offense, the date on which the victim attains the age of 18 years, or the date on which a judgment of conviction for the offense is entered, whichever is the latest.

(d) JURISDICTION.—An action under subsection (a) may be brought in any appropriate United States District Court without regard to the amount in controversy.

**SECTION 302. SPECIAL DIVERSITY JURISDICTION FOR STATE TORT CLAIMS AGAINST SEX OFFENDERS.**

The district courts shall have original jurisdiction, concurrent with the courts of the States, of all civil actions arising out of violations of the law of a State (as defined in section 513 of title 18, United States Code) through conduct proscribed by chapter 109A of that title, if the victim and the defendant or defendants have diversity of citizenship as set forth in section 1332(a) of title 28, United States Code. Jurisdiction under this section shall be without regard to the amount in controversy.

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992**

BYRD AMENDMENT NO. 676

Mr. JOHNSTON (for Mr. BYRD) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 18, line 10, insert the following after "1991": "Provided further: That the April 1977, contract for Recreational Development at Stonewall Jackson Lake, West Virginia is amended to include such elements as proposed by the State on March 28, 1990, except a golf course."

WALLOP (AND SIMPSON)  
 AMENDMENT NO. 677

Mr. JOHNSTON (for Mr. WALLOP, for himself and Mr. SIMPSON) proposed an

amendment to the bill H.R. 2427, supra, as follows:

On page 37, line 22, insert the following: "Provided further, That within the funds appropriated under this head the Secretary is directed to make available \$1,200,000 for the rehabilitation and betterment of the Shoshone Irrigation Project, Cody, Wyoming."

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NOS. 678  
 THROUGH 681

(Ordered to lie on the table.)

Mr. BIDEN submitted four amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 678

Add at the appropriate place in the bill the following:

**SEC. . 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.

**(b) LIMITED TESTING OF DEFENDANTS.—**

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and 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.

(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.

**SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

AMENDMENT NO. 679

Strike everything after the word "Sec." and insert the following:

**SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any State or Federal offense of the type described in chapter 109A of title 18, United States Code, shall, 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 3, 6, and 12 months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) 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 must be accompanied by appropriate counseling to the victim on the risk of transmission of the virus to the victim as the result of the assault.

(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; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (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 3, 6, and 12 months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(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.

(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 order 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, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who discloses the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

#### SEC. . PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the

following: "the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions 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".

#### Subtitle E—National Task Force on Violence Against Women

##### SEC. 241. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this subtitle, the Attorney General shall establish a task force to be known as the "National Task Force on Violence against Women" (referred to in this subtitle as the "task force").

#### AMENDMENT NO. 680

Strike Section 239.

#### AMENDMENT NO. 681

Add at the appropriate place in the bill the following:

#### SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME

(a) HIV RELATED SERVICES FOR VICTIMS.—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.

(b) 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 victims or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(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.

#### SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: "the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

#### BIDEN AMENDMENT NO. 682

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Strike subtitle C from Title XVI and replace with the following:

#### SUBTITLE C—RURAL DRUG TREATMENT

##### SEC. . RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

#### "SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section

1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated \$25,000,000 for each of the fiscal years 1992, 1993, and 1994."

#### Subtitle D—Rural Drug Prevention

#### SEC. . RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

#### "SEC. 509I. RURAL SUBSTANCE ABUSE PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

"(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

"(3) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator as such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) applications from community based organizations with experience serving nonmetropolitan areas;

"(2) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$25,000,000 for each of the fiscal years 1992, 1993, and 1994."

#### SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

"(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons."

#### VIOLENT CRIME CONTROL ACT

#### BIDEN AMENDMENT NOS. 683 AND 684

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, Supra, as follows:

#### AMENDMENT NO. 683

Add at the appropriate place in the bill the following:

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.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and 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.

(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.

**SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: "the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault."

**AMENDMENT NO. 684**

Add at the appropriate place in the bill the following:

**SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) HIV RELATED SERVICES FOR VICTIMS.—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.

**(b) LIMITED TESTING OF DEFENDANTS.—**

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and 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 al-

leged 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.

(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.

**SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: "the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault"

**BIDEN AMENDMENT NO. 685**

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Add at the appropriate place in the bill:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

## TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

## TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

## TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

## TITLE I—SAFE STREETS FOR WOMEN

## SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

## 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 thereof the following new section:

## "§2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) 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:

"2247. Repeat offenders."

## SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and dura-

tion of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years."

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

## SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

## "§2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim 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; and

"(E) 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 lump-sum 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution."

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

- (1) redesignating part N as part O;
- (2) redesignating section 1401 as section 1501; and
- (3) adding after part M the following:

**"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**"SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

**"SEC. 1412. 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 vio-

lent 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.

"(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 1401(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 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; and
- "(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

- "(A) equitably distribute funds on a geographic basis;
- "(B) determine the amount of subgrants based on the population to be served; and
- "(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women**

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and
- "(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

“(B) determine the amount of subgrants based on the population and geographic area to be served; and

“(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

“(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**“SEC. 1422. GENERAL GRANTS TO TRIBES.**

“(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

“(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

“(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

“(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

“(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

“(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“(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 given to such term by section 1151 of title 18, United States Code.

**“SUBPART 3—GENERAL TERMS AND CONDITIONS**

**“SEC. 1431. GENERAL DEFINITIONS.**

“As used in this part—

“(1) the term ‘victim services program’ means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

“(2) 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; and

“(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**“SEC. 1432. 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; and

“(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

“(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2.”

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**“GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

“SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women****SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.****(a) NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

##### (a) EXECUTIVE DIRECTOR.—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim's past behavior in other criminal cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such 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 evi-**

dentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

**“(b) ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

**“(1) admitted in accordance with the procedures specified in subdivision (c); and**

**“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### "§1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

#### "Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

#### "§2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course of or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course of 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) of this section.

#### "(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**"§2263. Interim protections**

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

**"§2264. Restitution**

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his 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 his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(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 his 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**"§2265. Full faith and credit given to protection orders**

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

**"110A. Violence against spouses ..... 2261."**

**Subtitle B—Arrest in Spousal Abuse Cases**  
**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters**

**SEC. 231. AUTHORIZATION.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

**"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

**Subtitle D—Family Violence Prevention and Services Act Amendments**

**SEC. 241. EXPANSION OF PURPOSE.**

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

**SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.**

(a) **INCREASING PUBLIC AWARENESS.**—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) **EXPANSION OF PROGRAM.**—Section 303(a)(2)(B)(i) is amended by striking "alcohol and drug abuse treatment".

**SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.**

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

**"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS**

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public infor-

mation campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

#### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

#### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

#### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

#### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

#### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

#### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

#### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Ac-

counting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

#### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciary 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to

victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a re-

port to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence**

**SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary

policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(i) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

#### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session

by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

(a) **HIV RELATED SERVICES FOR VICTIMS.**—Victims of any State or Federal 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.

(b) **LIMITED TESTING OF DEFENDANTS.**—

(1) **COURT ORDER.**—The victim of an offense of the type referred to in subsection (a) may obtain and 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 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 victims 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.

(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 re-

sults 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.

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992**

**BUMPERS (AND CONRAD) AMENDMENT NO. 686**

Mr. BUMPERS (for himself and Mr. CONRAD) proposed an amendment to the bill H.R. 2427, *supra*, as follows:

On page 49, strike line 6 and insert "\$398,789,000, except that none of the funds appropriated in this Act may be used for the superconducting super collider."

**VIOLENT CRIME CONTROL ACT**

**BIDEN AMENDMENT NOS. 687 THROUGH 699**

(Ordered to lie on the table.)

Mr. BIDEN submitted 13 amendments intended to be proposed by him to the bill S. 1241, *supra*, as follows:

**AMENDMENT No. 687**

At the appropriate place in the bill add the following: "Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

**AMENDMENT No. 688**

At the appropriate place in the bill add the following: "Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

**AMENDMENT No. 689**

At the appropriate place in the bill add the following:

**SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.**

(a) **IN GENERAL.**—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

**"§ 2255A. Law applicable**

"(a) Except as provided in subsection (b) of this section, each claim under this chapter

shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 38, United States Code, is amended by adding at the end thereof of the following:

"2255A. Law applicable."

#### TITLE XII—PUNISHMENT OF GUN CRIMINALS

##### SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

##### SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

#### AMENDMENT No. 690

At the appropriate place in the bill add the following:

"A right that is 'retroactively applicable' within the meaning of title XI, as amended, is any right provided by the law existing on the date the court determines the claim except in cases involving a new rule as provided in subsection (b).

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

#### AMENDMENT No. 691

Add at the appropriate place in the bill add the following:

A right that is retroactively applicable within the meaning of subsection 3599(c) is any right provided by the law existing on the date the court determines the claim, except a new rule as provided in subsection (b) below.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

#### AMENDMENT No. 692

Add at the appropriate place in the bill add the following:

For the purpose of title XII, the term "counsel" means:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation."

#### AMENDMENT No. 693

Add at the appropriate place in the bill the following:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation."

#### AMENDMENT No. 694

Add at the appropriate place in the bill the following:

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender, and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under

subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (c).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: " , or title III of the Violence Against Women Act of 1991."

**AMENDMENT No. 695**

Add at the appropriate place in the bill add the following:

**SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: " , the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions 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. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) **HIV RELATED SERVICES FOR VICTIMS.**—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, 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 months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) **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 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 counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) **FOLLOW-UP TESTING.**—The court shall order follow-up tests and counseling under paragraph (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 date of the initial test.

(4) **TERMINATION OF TESTING REQUIREMENTS.**—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(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.

(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 order 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, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) **CONTEMPT FOR DISCLOSURE.**—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) **EFFECT ON PENALTY.**—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

**AMENDMENT No. 696**

At the appropriate place in the bill add the following:

**SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) **HIV RELATED SERVICES FOR VICTIMS.**—Victims of any State or Federal offense of the type described in chapter 109A of title 18, United States Code, shall, 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 six months, six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) **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 must be accompanied by appropriate counseling to the victim on the risk of transmission and accuracy of the test.

(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; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) **FOLLOW-UP TESTING.**—The court shall order follow-up tests and counseling under paragraph (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 three, six months and twelve months following the date of the initial test.

(4) **TERMINATION OF TESTING REQUIREMENTS.**—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(c) **CONFIDENTIALITY OF TEST.**—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court seems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(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 order 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, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) **CONTEMPT FOR DISCLOSURE.**—A victim who discloses the results of a test in violation of this section may be held in contempt of court.

(f) **EFFECT ON PENALTY.**—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

**SEC. . PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: " , the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions by a medically trained professional on the accuracy of such tests and the risk of trans-

mission of the human immunodeficiency virus to the victim as the result of the assault.”.

AMENDMENT NO. 697

At the appropriate place in the bill add the following:

**SECTION I. SHORT TITLE.**

This Act may be cited as the “Violence Against Women Act of 1991”.

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Safe Streets for Women Act of 1991”.

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 thereof the following new section:

**“§ 2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”.

(b) 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:

“2247. Repeat offenders.”.

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United

States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking “one year,” and inserting “two years.”.

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**“§ 2248. Mandatory restitution**

“(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 lump-sum 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution."

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

"SEC. 1412. 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.

"(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 1401(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 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 certification 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women  
"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and  
"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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 Service 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence

and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

#### SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chair-

man from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim's past behavior in other criminal cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—**Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence.**

Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

##### "Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim"; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

##### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

##### "§1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

##### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

##### "§2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less

than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

**"(b) CAUSING THE CROSSING OF STATE LINES.**—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

**"(c) NO STATE LAW.**—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

**"(2)** If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

**"(3)** If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

**"(4)** If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

**"(d) CRIMINAL INTENT.**—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

**"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.**—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**"§2262. Interstate violation of protection orders**

**"(a) IN GENERAL.**—Any person against whom a valid protection order has been entered who travels across State lines—

**"(1)** and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

**"(2)** for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

**"(b) CAUSING THE CROSSING OF STATE LINES.**—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

**"(c) PENALTIES.**—

**"(1)** If permanent disfigurement or life-threatening bodily injury results, by impris-

onment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

**"(2)** If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

**"(3)** If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

**"(4)** If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

**"(5)** If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

**"(d) CRIMINAL INTENT.**—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

**"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.**—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**"§2263. Interim protections**

**"In** furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

**"§2264. Restitution**

**"(a) IN GENERAL.**—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

**"(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)** 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

**"(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, 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 lump-sum 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)** 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

**"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

**"(4)** In the event that the victim's losses are not ascertainable 10 days prior to sen-

tencing as provided in subsection (c)(1), the United States Attorney (or his delegate) 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**"§2265. Full faith and credit given to protection orders**

"(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

**"110A. Violence against spouses ..... 2261."**

**Subtitle B—Arrest in Spousal Abuse Cases**

**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse

has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters**

**SEC. 231. AUTHORIZATION.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

**"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

"(a) There are authorized to be appropriated to carry out the provisions of this

title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

**Subtitle D—Family Violence Prevention and Services Act Amendments**

**SEC. 241. EXPANSION OF PURPOSE.**

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

**SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.**

(a) **INCREASING PUBLIC AWARENESS.**—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) **EXPANSION OF PROGRAM.**—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

**SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.**

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

**"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS**

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and

give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

**SEC. 244. FUND DISTRIBUTION TO STATES.**

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

**SEC. 245. INDIAN TRIBES.**

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

**SEC. 246. FUNDING LIMITATIONS.**

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking "and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

**SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.**

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

**SEC. 248. SHELTER AND RELATED ASSISTANCE.**

(a) **CHANGE OF PERCENTAGES.**—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) **DEFINITION OF RELATED ASSISTANCE.**—Section 308(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment),

and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

#### Subtitle E—Youth Education and Domestic Violence

##### SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

#### Subtitle F—Confidentiality for Abused Persons

##### SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

#### TITLE III—CIVIL RIGHTS

##### SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991."

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions; experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geo-

graphic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts**  
**SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 socio-economic 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense at-

torneys, and recognized experts on gender bias in the courts.

**SEC. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**AMENDMENT No. 698**

At the appropriate place in the bill add the following:

“For the purposes of title XI, as amended, an adjudication of a claim in state proceedings is “full and fair,” unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.”

**AMENDMENT No. 699**

At the appropriate place in the bill add the following:

“For the purposes of title XI, as amended an adjudication of a claim in state proceedings is “full and fair,” unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.”

**HELMS AMENDMENT NOS. 700 AND 701**

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

**AMENDMENT No. 700**

At the end of the amendment add the following:

“SEC. . Section 703(j) of title VII of the Civil Rights Act of 1964 is to be amended by adding the following at the end thereof:

It shall be an unlawful employment practice for any local, state, or federal law enforcement agency or law enforcement labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment with respect to selection, compensation, terms, conditions, discharge, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) of this section, nothing in this section prohibits any local, state, or federal law enforcement agency, or law enforcement labor organization or joint labor-management committee subject to this title, from establishing affirmative action programs designed to recruit qualified minorities and women to expand its applicant pool.”

**AMENDMENT No. 701**

At the end of the amendment, add the following:

“Title 18, United States Code, is amended by adding at the appropriate place the fol-

lowing new section: "Section . Deliberate Transmission of the AIDS Virus

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than \$10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—

(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure."

#### HATCH AMENDMENT NOS. 702 AND 703

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

##### AMENDMENT No. 702

On page 2, line 9, of the amendment insert after the word "prosecution" the following language: "and (C) there exists an independent source for the witness's personal knowledge apart from the immunized testimony."

##### AMENDMENT No. 703

At the appropriate place in the amendment, insert the following:

#### TITLE —SEXUAL VIOLENCE AND CHILD ABUSE

#### SEC. . ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION 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 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 that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5)

##### "Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

#### SPECTER AMENDMENT NOS. 704 THROUGH 707

(Ordered to lie on the table.)

Mr. SPECTER submitted four amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

##### AMENDMENT No. 704

At the end of the amendment inserting the following:

#### SEC. . FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3711 et seq.) is amended by adding the following new section:

"Sec. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to federal appropriation, in the same fiscal year."

##### AMENDMENT No. 705

(1) On Page 6, line 12, replace "\$10,000" with "\$8,000"; on line 18, replace "\$13,333" with "\$10,666"; on line 21, replace "\$40,000" with "\$32,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$8,000"; on line 25, replace "\$13,333" with "\$10,666"; on Page 8, line 3, replace "\$40,000" with "\$32,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17–20 and insert the following in lieu thereof: efforts to seek and recruit applicant from among members of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

##### AMENDMENT No. 706

(1) On Page 6, line 12, replace "\$10,000" with "\$7,500"; on line 18, replace "\$13,333" with "\$10,000"; on line 21, replace "\$40,000" with "\$30,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$7,500"; on line 25, replace "\$13,333" with "\$10,000"; on Page 8, line 3, replace "\$40,000" with "\$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education"

(5) On Page 14, strike lines 17–20 and insert the following in lieu thereof: efforts to seek and recruit applicants from among members

of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

#### AMENDMENT NO. 707

(1) On Page 6, line 12, replace "\$10,000" with "\$7,000"; on line 18, replace "\$13,333" with "\$9,333"; on line 21, replace "\$40,000" with "\$28,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$7,000"; on line 25, replace "\$13,333" with "\$9,333"; on Page 8, line 3, replace "\$40,000" with "\$28,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

#### DECONCINI AMENDMENT NO. 708

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place add the following: *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 "Outlaw Gang Control Act of 1991".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) outlaw gangs pose an ever-increasing threat of violent crime;

(2) such gangs are a force that can be contained only through law enforcement efforts coordinated at the Federal level; and

(3) such gangs are a national epidemic, and they must be the subject of a national strategy for interdiction and control.

(b) PURPOSE.—It is the purpose of this Act to—

(1) expand seizure and forfeiture authority of the Bureau of Alcohol, Tobacco and Firearms; and

(2) authorize the establishment of a National Center for Outlaw Gang Analysis.

#### SEC. 3. DEFINITION.

For the purposes of this Act, the term "outlaw gang" or "gang" means a criminal syndicate composed of 5 or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in Federal felony offenses involving firearms, physical injury, or threats of physical injury.

#### TITLE I—SEIZURE AND FORFEITURE

##### SEC. 101. EXPANDED AUTHORITY OF THE SECRETARY OF THE TREASURY.

(a) FIREARMS AND AMMUNITION.—Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraphs:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section, and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury."

(b) EXPLOSIVE MATERIALS.—Section 844(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) The following shall be subject to forfeiture to the United States and their former owner shall have no property right in them:

"(A) Any explosive material that is involved, used, or intended to be used in connection with a violation of the provisions of this chapter or any rule or regulation promulgated thereunder or a violation of any criminal law of the United States.

"(B) Any real or personal property that is involved, used, or intended to be used in any manner or part in connection with a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(C) Any real or personal property that constitutes or is derived from proceeds traceable to a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(2) No property shall be forfeited under this subsection to the extent of the interest of an owner or lienholder by reason of a violation committed without the knowledge of that owner or lienholder.

"(3)(A) The Secretary may seize any property subject to civil forfeiture under this subsection—

"(i) upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over such property; or

"(ii) without such process when—

"(I) the seizure is pursuant to a lawful arrest or search;

"(II) the Secretary has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(III) the Secretary has probable cause to believe that the property is subject to civil forfeiture under this section.

"(B) Proceedings under paragraph (4) shall be instituted promptly in the case of a seizure pursuant to subparagraph (A)(i)(II) or (III).

"(C) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this subsection in the same manner as is provided

for the issuance of a search warrant under the Federal Rules of Criminal Procedure.

"(4)(A) Subject to subparagraph (B), the law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition and transfer of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this subsection, insofar as that law is applicable and is not inconsistent with this subsection.

"(B) In carrying out the law described in subparagraph (A) for the purposes of this subsection, such duties as are imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under that law shall be performed with respect to seizures and forfeitures of property under this subsection by such officers, agents, or other persons as the Secretary designates for that purpose.

"(5) All right, title, and interest in property described in paragraph (1) shall vest in the United States upon commission of the violation that gives rise to forfeiture under this subsection.

"(6) The filing of an indictment alleging a violation of subsection (d), (e), (f), (g), (h), or (i) of section 842(h), or of the State or local law that could have been charged under such Federal laws which is also related to a civil forfeiture proceeding under this subsection shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding."

#### TITLE II—FUNDS FOR UNDERCOVER PURCHASES

##### SEC. 201. RECOVERY AND REDEPOSIT OF UNDERCOVER FUNDS.

Section 3302 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Moneys expended from appropriations for the Bureau of Alcohol, Tobacco and Firearms for the purchase of alcohol, tobacco, firearms, and explosives for evidentiary purposes and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit."

#### TITLE III—NATIONAL CENTER FOR OUTLAW GANG ANALYSIS

##### SEC. 301. ESTABLISHMENT OF CENTER.

(a) GENERAL.—There shall be established in the Bureau of Alcohol, Tobacco and Firearms a National Center for Outlaw Gang Analysis.

(b) PURPOSES.—The purposes of the Center shall be—

(1) to identify the outlaw gangs that engage in drug-related and other violent crime by—

(A) types of illegal activity;

(B) methods of operation; and

(C) geographic distribution;

(2) to gather intelligence on illegal activities undertaken by violent outlaw gangs from law enforcement sources;

(3) to increase public awareness of outlaw gang identification and threat to the public and to solicit information and evidence, under the assurance of confidentiality, from persons who possess information that may assist law enforcement investigations;

(4) to establish a national hotline for the public to report unlawful gang activity;

(5) to share intelligence information pertaining to illegal gang activity with the appropriate Federal, State, and local law enforcement and correction agencies;

(6) to conduct seminars and conferences for Federal, State, and local law enforcement

and correction agencies and community leaders, to assist in identification of gang activities and methods to curtail and control such activities; and

(7) to publish an annual report that includes significant findings pertaining to—

(A) gang identification;  
(B) incidence of gang use of explosive devices and firearms; and  
(C) the results of Federal outlaw gang eradication efforts.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 402. AUTHORITY OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.**

The Director of the Bureau of Alcohol, Tobacco and Firearms shall be responsible for providing—

(1) national oversight in the accumulation and dissemination of gang-related information; and

(2) coordination of gang-related investigations by Federal law enforcement agencies.

**ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, FISCAL YEAR 1992**

**FOWLER (AND OTHERS)  
AMENDMENT NO. 709**

Mr. FOWLER (for himself, Mr. DASCHLE, and Mr. JEFFORDS) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 47, line 11, before the period, insert “; and of which \$60,400,000 shall be for photovoltaic energy systems (of which \$58,900,000 shall be for operating expenses and \$1,500,000 shall be for capital equipment), \$29,100,000 shall be for solar thermal energy systems (of which \$28,650,000 shall be for operating expenses and \$450,000 shall be for capital equipment), \$39,300,000 shall be for biofuels energy systems (of which \$35,000,000 shall be for operating expenses and \$4,300,000 shall be for capital equipment), \$21,400,000 shall be for wind energy systems (of which \$21,200,000 shall be for operating expenses and \$200,000 shall be for capital equipment)”.

**WIRTH AMENDMENT NO. 710**

Mr. WIRTH proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 46, line 16, strike “\$2,940,916,000” and insert “\$2,940,516,000.”

On page 57, line 23, strike “\$415,976,000” and insert “\$416,476,000.”

On page 58, line 15, before the period, insert the following: “Provided further, That of the sum herein appropriated, \$1,300,000 shall be used for the Reduced Enrichment in Research and Test Reactors Program under the Office of International Affairs and Energy Emergencies.”

**VIOLENT CRIME CONTROL ACT**

**BIDEN AMENDMENT NO. 711**

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to an amendment to the bill S. 1241, supra, as follows:

Add at the appropriate place in the amendment:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Violence Against Women Act of 1991”.

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Safe Streets for Women Act of 1991”.

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 thereof the following new section:

**“§ 2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”

(b) 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:

“2247. Repeat offenders.”

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990,

or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

#### SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

##### “§2248. Mandatory restitution

“(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 lump-sum 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including,

in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

#### Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

##### SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

##### “PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

##### “SEC. 1401. 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 I—High Intensity Crime Area Grants

##### “SEC. 1411. HIGH INTENSITY GRANTS.

“(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

“(b) DEFINITION.—For purposes of this part, a ‘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 1412.

**“SEC. 1412. 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.

“(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 1401(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 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; and

“(C) expected results from the use of grant funds; and

“(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

“(f) DISBURSEMENT.—

“(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application

does not conform to the terms of section 513 of this title or to the requirements of this section.

“(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

“(A) equitably distribute funds on a geographic basis;

“(B) determine the amount of subgrants based on the population to be served; and

“(C) give priority to areas with the greatest showing of need.

“(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**“SEC. 1421. GENERAL GRANTS TO STATES.**

“(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

“(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

“(3) at least 25 percent of the amount granted shall be allocated 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; and

“(C) expected results from the use of grant funds; 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 dis-

burse 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

“(B) determine the amount of subgrants based on the population and geographic area to be served; and

“(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

“(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**“SEC. 1422. GENERAL GRANTS TO TRIBES.**

“(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

“(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

“(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

“(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

“(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

“(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**"SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994,

\$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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, require-

ments, and provisions applicable to grants and loans made under section 2(a)."

**SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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 Service 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

“(D) any other project intended to increase the security and safety of public parks and recreation areas.

“(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

“(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as “the Commission”).

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the

Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

**SEC. 144. REPORTS.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

**SEC. 145. EXECUTIVE DIRECTOR AND STAFF.**

(a) **EXECUTIVE DIRECTOR.**—

(1) **APPOINTMENT.**—The Commission shall name an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

**SEC. 146. POWERS OF COMMISSION.**

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the

Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

**SEC. 148. TERMINATION.**

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

**Subtitle E—New Evidentiary Rules**

**SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.**

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim’s past behavior in other criminal cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that

the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

**SEC. 152. SEXUAL HISTORY IN CIVIL CASES.**

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff’s past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff’s past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”.

**SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.**

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) **INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) **RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

**SEC. 154. EVIDENCE OF CLOTHING.**

The Federal Rules of Evidence are amended by adding after rule 412 the following:

**“Rule 413. Evidence of victim’s clothing as inciting violence**

“Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 106A of title 18, United States Code, evidence of an alleged victim’s clothing is not admissible to show that the alleged victim incited or invited the offense charged.”.

**Subtitle F—Assistance to Victims of Sexual Assault**

**SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.**

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

**“§1910A. Use of allotments for rape prevention education**

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies

are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

##### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

##### "Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

##### "§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more

than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

##### "§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

##### "(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

##### "§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

##### "§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

“§2265. Full faith and credit given to protection orders

“(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

“(1) such court has jurisdiction over the parties and matter under the law of such State; and

“(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

“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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

“(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, peti-

tion or motion of an abused spouse or intimate partner;

“(3) the term ‘act that injures’ includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

“(4) the term ‘State’ includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

“(5) the term ‘travel across State lines’ includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.”

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

“110A. Violence against spouses ..... 2261.”

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

“SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

“(3) 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; and

“(B) certify that their laws or official policies—

“(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

“(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

“(C) demonstrate that their laws, policies, practices and training programs discourage ‘dual’ arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

“(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

“(2) For purposes of this section, the term ‘protection order’ includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by

filing an independent action or as a pendent lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

##### "SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent

shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the

current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

##### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(E) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence pro-

grams who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence****SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 program.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons****SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

Not later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS****SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under

subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

#### TITLE IV—SAFE CAMPUSES FOR WOMEN

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

##### SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions; experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

##### SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

#### "PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

##### SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

(1) to provide training for campus security and college personnel, including campus

disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault; *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) Each such application shall—

(A) set forth the activities and programs to be carried out with funds granted under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of acquaintance rape;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(f) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an ap-

proved application if an applicant fails to submit an annual performance report.

“(F) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

“(2) For purposes of this subchapter, the following terms have the following meanings:

“(A) The term ‘rape education and prevention’ includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

“(B) The term ‘Secretary’ means the Secretary of Education.

“(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

“(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

“(A) the amount of grants made under this section;

“(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

“(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

“(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.”

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

“(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- “(i) murder;
- “(ii) rape or sexual assault;
- “(iii) robbery;
- “(iv) aggravated assault;
- “(v) burglary; and
- “(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the “Equal Justice for Women in the Courts Act of 1991”.

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

##### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 spontaneous 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

##### SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

#### SPECTER AMENDMENT NOS. 712 THROUGH 714

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to amendment No. 514 to the bill S. 1241, supra; as follows:

AMENDMENT NO. 712

(1) On Page 6, line 12; replace "\$10,000" with "\$8,000"; on line 18, replace "\$13,333" with "\$10,666"; on line 21, replace "\$40,000" with "\$32,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$8,000"; on line 25, replace "\$13,333" with "\$10,666"; on Page 8, line 3, replace "\$40,000" with "\$32,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses."

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—"

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike Lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 713

(1) On Page 6, line 12; replace "\$10,000" with "\$7,000"; on line 18, replace "\$13,333" with "\$9,333"; on line 21, replace "\$40,000" with "\$28,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$7,000"; on line 25, replace "\$13,333" with "\$9,333"; on Page 8, line 3, replace "\$40,000" with "\$28,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses."

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—"

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence."

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 714

(1) On Page 6, line 12, replace "\$10,000" with "\$7,500"; on line 18, replace "\$13,333" with "\$10,000"; on line 21, replace "\$40,000" with "\$30,000".

(2) On Page 7, line 19, replace "\$10,000" with "\$7,500"; on line 25, replace "\$13,333" with "\$10,000"; on Page 8, line 3, replace "\$40,000" with "\$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses."

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17 through 20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—"

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence."

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

BIDEN AMENDMENT NO. 715

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 549 submitted by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.  
 Subtitle B—Education and Training for  
 Judges and Court Personnel in Federal  
 Courts

Sec. 521. Education and training grants.  
 Sec. 522. Cooperation in developing pro-  
 grams.

Sec. 523. Authorization of appropriations.

#### TITLE I—SAFE STREETS FOR WOMEN

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Safe  
 Streets for Women Act of 1991".

##### 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 thereof the following new section:

###### "§2247. Repeat offenders

"Any person who violates a provision of  
 this chapter, after one or more prior convic-  
 tions for an offense punishable under this  
 chapter, or after one or more prior convic-  
 tions under the laws of any State or foreign  
 country relating to aggravated sexual abuse,  
 sexual abuse, or abusive sexual contact, is  
 punishable by a term of imprisonment up to  
 twice that otherwise authorized."

(b) TABLE OF SECTIONS.—The table of sec-  
 tions for chapter 109A of title 18, United  
 States Code, is amended by adding at the end  
 thereof the following:

###### "2247. Repeat offenders."

##### SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant  
 to its authority under section 994(p) of  
 title 28, United States Code, the United  
 States Sentencing Commission shall amend  
 its sentencing guidelines to provide that a  
 defendant convicted of aggravated sexual  
 abuse under section 2241 of title 18, United  
 States Code, or sexual abuse under section  
 2242 of title 18, United States Code, shall be  
 assigned a base offense level under chapter 2  
 of the sentencing guidelines that is at least  
 4 levels greater than the base offense level  
 applicable to criminal sexual abuse under  
 the guidelines in effect on November 1, 1990,  
 or otherwise shall amend the guidelines ap-  
 plicable to such offenses so as to achieve a  
 comparable minimum guideline sentence. In  
 amending such guidelines, the Sentencing  
 Commission shall review the appropriateness  
 of existing specific offense characteristics or  
 other adjustments applicable to such of-  
 fenses, and make such changes as it deems  
 appropriate, taking into account the severity  
 of rape offenses, with or without aggra-  
 vating factors; the unique nature and dura-  
 tion of the mental injuries inflicted on the  
 victims of such offenses; and any other rel-  
 evant factors.

(b) EFFECT OF AMENDMENT.—If the sentenc-  
 ing guidelines are amended after the effec-  
 tive date of this section, the Sentencing  
 Commission shall implement the instruc-  
 tions set forth in subsection (a) so as to  
 achieve a comparable result.

##### (c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States  
 Code, is amended by striking "one year,"  
 and inserting "two years,"

(2) Pursuant to its authority under section  
 994(p) of title 28, United States Code, the  
 United States Sentencing Commission shall  
 promulgate guidelines or amend existing  
 guidelines to incorporate the increase in  
 maximum penalties provided by this section  
 for section 2243(b) of title 18, United States  
 Code.

##### SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18,  
 United States Code, is amended by adding at  
 the end thereof the following:

###### "§2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the  
 terms of section 3663 of this title, and in ad-  
 dition to any other civil or criminal penalty  
 authorized by law, the court shall order res-  
 titution 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 the  
 full amount of the victim's losses as deter-  
 mined 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' in-  
 cludes 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; and

"(E) any other losses suffered by the vic-  
 tim 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 de-  
 fendant; or

"(B) the fact that a victim has, or is enti-  
 tled to, receive compensation for his or her  
 injuries from the proceeds of insurance or  
 any other source.

"(4)(A) Notwithstanding the terms of para-  
 graph (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 as-  
 sets of the defendant;

"(ii) projected earnings, earning capacity,  
 and other income of the defendant; and

"(iii) any financial obligations of the de-  
 fendant, including obligations to dependents.

"(C) An order under this section may di-  
 rect the defendant to make a single lump-  
 sum payment or partial payments at spec-  
 ified intervals. The order shall also provide  
 that the defendant's restitutionary obliga-  
 tion takes priority over any criminal fine or-  
 dered.

"(D) In the event that the victim has re-  
 covered 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 pro-  
 vided the compensation, but that restitution  
 shall be paid to the victim before any res-  
 titution is paid to any other provider of com-  
 pensation.

"(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 ex-  
 tent 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 his delegee), after con-  
 sulting 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 his delegee) and  
 the victim. Should the victim object to any

of the information included in the affidavit,  
 the United States Attorney (or his delegee)  
 shall advise the victim that the victim may  
 file a separate affidavit.

"(2) If no objection is raised by the defend-  
 ant, the amounts attested to in the affidavit  
 filed pursuant to subsection (1) shall be en-  
 tered in the court's restitution order. If ob-  
 jection is raised, the court may require the  
 victim or the United States Attorney (or his  
 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 consider-  
 ing the defendant's objections, that there is  
 a substantial reason for doubting the au-  
 thenticity or veracity of the records submit-  
 ted, the court may require additional docu-  
 mentation or hear testimony on those ques-  
 tions. Any records filed, or testimony heard,  
 pursuant to this section, shall be in camera  
 in the judge's chambers. Notwithstanding  
 any other provision of law, this section does  
 not entitle the defendant to discovery of the  
 contents of, or matters related to, any sup-  
 porting documentation, including medical,  
 psychological, or psychiatric records.

"(4) In the event that the victim's losses  
 are not ascertainable 10 days prior to sen-  
 tencing as provided in subsection (c)(1), the  
 United States Attorney (or his delegee) shall  
 so inform the court, and the court shall set  
 a date for the final determination of the vic-  
 tim's losses, not to exceed 90 days after sen-  
 tencing. 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 restitu-  
 tion 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 sec-  
 tion, the term 'victim' includes any person  
 who has suffered direct physical, emotional,  
 or pecuniary harm as a result of a commis-  
 sion of a crime under this chapter, including,  
 in the case of a victim who is under 18 years  
 of age, incompetent, incapacitated, or de-  
 ceased, the legal guardian of the victim or  
 representative of the victim's estate, an-  
 other family member, or any other person  
 appointed as suitable by the court: *Provided*,  
 That in no event shall the defendant be  
 named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sec-  
 tions for chapter 109A of title 18, United  
 States Code, is amended by adding at the end  
 thereof the following:

###### "2248. Mandatory restitution."

##### Subtitle B—Law Enforcement and Prosecu- tion Grants to Reduce Violent Crimes Against Women

##### SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus  
 Crime Control and Safe Streets Act of 1968  
 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;  
 (2) redesignating section 1401 as section  
 1501; and

(3) adding after part M the following:

###### "PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

##### "SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The  
 purpose of this part is to assist States, In-  
 dian tribes, cities, and other localities to de-  
 velop effective law enforcement and prosecu-  
 tion 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. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the "Director") shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

"SEC. 1412. 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.

"(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 Di-

rector 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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. 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 pro-

grams on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

**SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

“(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

“(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

“(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

“(A) increase lighting within or adjacent to public parks and recreation areas;

“(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

“(C) increase security personnel within or adjacent to public parks and recreation areas; and

“(D) any other project intended to increase the security and safety of public parks and recreation areas.

“(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

“(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as “the Commission”).

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the

House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

**SEC. 144. REPORTS.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and adminis-

trative action as the Commission considers appropriate.

**SEC. 145. EXECUTIVE DIRECTOR AND STAFF.**

**(a) EXECUTIVE DIRECTOR.—**

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

**SEC. 146. POWERS OF COMMISSION.**

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

**SEC. 148. TERMINATION.**

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

**Subtitle E—New Evidentiary Rules**

**SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.**

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim’s past behavior in other criminal cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such 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. (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

**SEC. 152. SEXUAL HISTORY IN CIVIL CASES.**

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff’s past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff’s past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”

**SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.**

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) **INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) **RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B)

why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

“Rule 413. Evidence of victim’s clothing as inciting violence

“Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim’s clothing is not admissible to show that the alleged victim incited or invited the offense charged.”

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### “§1910A. Use of allotments for rape prevention education

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

“(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) 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) 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.”

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Safe Homes for Women Act of 1990”.

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

#### “Chapter 110A—Violence Against Spouses

“Sec. 2261. Traveling to commit spousal abuse.

“Sec. 2262. Interstate violation of protection orders.

“Sec. 2263. Restitution.

“Sec. 2264. Full faith and credit given to protection orders.

“Sec. 2265. Definitions for chapter.

#### “§2261. Traveling to commit spousal abuse

“(a) IN GENERAL.—Any person who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

“(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a

spouse or intimate partner and not the specific intent to violate the law of a State.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### “§2262. Interstate violation of protection orders

“(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

“(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

#### “(c) PENALTIES.—

“(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

“(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### “§2263. Interim protections

“In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case

under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

**\*§ 2264. Restitution**

“(a) **IN GENERAL.**—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

“(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

“(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**\*§ 2265. Full faith and credit given to protection orders**

“(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

“(1) such court has jurisdiction over the parties and matter under the law of such State; and

“(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

“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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

“(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

“(3) the term ‘act that injures’ includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

“(4) the term ‘State’ includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

“(5) the term ‘travel across State lines’ includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.”

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

“110A. Violence against spouses ..... 2261.”

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

“SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent life order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 vic-

tim 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

##### "SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities

to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking “, and” and all that follows through “fiscal years”; and  
 (2) striking “\$50,000” and inserting “\$75,000”.

**SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.**

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: “No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.”

**SEC. 248. SHELTER AND RELATED ASSISTANCE.**

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking “not less than 60 percent” and inserting “not less than 75 percent”.

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

“(5) The term ‘related assistance’ includes any, but does not require all, of the following—

“(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

“(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

“(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

“(D) child care services for children who are victims of family violence or the dependents of such victims.”.

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**“MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

“SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

“(1) increase the number of prosecutions for domestic violence crimes;

“(2) encourage the reporting of incidences of domestic violence;

“(3) facilitate ‘arrests and aggressive’ prosecution policies; and

“(4) provides court advocacy for victims of domestic violence.

“(b) To be designated as a model State under subsection (a), a State shall have in effect—

“(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

“(2) a law or policy that discourages \* \* \*“(B) implement model projects that include either—

“(i) a ‘no-drop’ prosecution policy; or  
 “(ii) a vertical prosecution policy; and

“(C) limit diversion to extraordinary cases, and then only after an admission before a judiciary ‘dual’ arrests;

“(3) statewide prosecution policies that—

“(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

“(B) implement model projects that include either—

“(i) a ‘no-drop’ prosecution policy; or

“(ii) a vertical prosecution policy; and

“(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

“(4) statewide laws, policies, or guidelines for judges that—

“(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

“(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

“(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

“(5) develop and disseminate methods to improve the criminal justice system’s response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

“(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

“(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

“(3) The Secretary shall delegate to the Attorney General the Secretary’s responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.”.

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**“SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

“(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other profes-

sionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

“(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

“(2) child custody issues in domestic violence cases;

“(3) use of the self-defense plea by domestic violence victims;

“(4) health care response and access to health care resources for domestic violence victims;

“(5) victims’ access to, and quality of, effective legal assistance, including civil litigation; and

“(6) the response of child protective service agencies to battered mothers of abused children.

“(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

“(1) focus primarily on domestic violence;

“(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

“(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

“(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

“(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

“(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.”.

**Subtitle E—Youth Education and Domestic Violence**

**SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the “Secretary”. The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.**—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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-mo-

tivated 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) **RIGHTS, PRIVILEGES AND IMMUNITIES.**—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) **CAUSE OF ACTION.**—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) **IN GENERAL.**—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) **GENERAL RAPE PREVENTION AND EDUCATION GRANTS.**—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) **MODEL GRANTS.**—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) **ELIGIBILITY.**—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—  
 "(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(i) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

###### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 socio-economic 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing

ing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**BIDEN AMENDMENT NO. 716**

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 550 submitted by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec." and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Violence Against Women Act of 1991".

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

**TITLE II—SAFE HOMES FOR WOMEN**

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

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 thereof the following new section:

**“§2247. Repeat offenders**

“Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.”

(b) **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:

“2247. Repeat offenders.”

**SEC. 112. FEDERAL PENALTIES.**

(a) **RAPE AND AGGRAVATED RAPE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) **EFFECT OF AMENDMENT.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) **STATUTORY RAPE.**—

(1) Section 2243(b) of title 18, United States Code, is amended by striking “one year,” and inserting “two years.”

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section

for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) **IN GENERAL.**—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**“§ 2248. Mandatory restitution**

“(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim 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; and

“(E) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

**“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN**

**“SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

“(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the ‘Director’) shall make grants to areas of ‘high intensity crime’ against women.

“(b) **DEFINITION.**—For purposes of this part, a ‘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 1412.

**“SEC. 1412. 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.

“(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shel-

ters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) **REGULATIONS.**—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) **GENERAL PURPOSE.**—From funds authorized under section 21, and 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 subsections (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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—  
(I) the Attorney General;  
(II) the Secretary of Health and Human Services; and  
(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority

and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

**SEC. 144. REPORTS.**

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional

committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

**SEC. 145. EXECUTIVE DIRECTOR AND STAFF.**

(a) **EXECUTIVE DIRECTOR.**—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

**SEC. 146. POWERS OF COMMISSION.**

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

**SEC. 148. TERMINATION.**

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

**Subtitle E—New Evidentiary Rules**

**SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.**

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim’s past behavior in other criminal cases**

“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of 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 provision of 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 such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

**SEC. 152. SEXUAL HISTORY IN CIVIL CASES.**

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff’s past sexual behavior is not admissible.

“(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff’s past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”

**SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.**

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”

**SEC. 154. EVIDENCE OF CLOTHING.**

The Federal Rules of Evidence are amended by adding after rule 412 the following:

**“Rule 413. Evidence of victim’s clothing as inciting violence**

“Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim’s clothing is not admissible to show that the alleged victim incited or invited the offense charged.”

**Subtitle F—Assistance to Victims of Sexual Assault**

**SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.**

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

**“§ 1910A. Use of allotments for rape prevention education**

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

“(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) 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) 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.”;

- (2) striking section 1901(b); and  
 (3) striking section 1904(a)(1)(G).

**SEC. 162. RAPE EXAM PAYMENTS.**

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

**TITLE II—SAFE HOMES FOR WOMEN****SEC. 201. SHORT TITLE.**

This title may be cited as the "Safe Homes for Women Act of 1990".

**Subtitle A—Interstate Enforcement****SEC. 211. INTERSTATE ENFORCEMENT.**

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses  
 "Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

**"§ 2261. Traveling to commit spousal abuse**

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**"§ 2262. Interstate violation of protection orders**

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

**"(c) PENALTIES.—**

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense pro-

vided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

**"§ 2263. Interim protections**

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

**"§ 2264. Restitution**

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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) **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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**"§ 2265. Full faith and credit given to protection orders**

"(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.**—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) **TABLE OF CHAPTERS.**—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

**"110A. Violence against spouses ..... 2261."**

**Subtitle B—Arrest in Spousal Abuse Cases  
SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters

##### SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

##### "SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

#### Subtitle D—Family Violence Prevention and Services Act Amendments

##### SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

##### SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Preven-

tion and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

##### SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

##### "GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"Sec. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

##### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

##### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

##### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking "and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

##### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

##### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

##### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

##### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judge to 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence****SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons****SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS****SEC. 301. 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; and

(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 vic-

tims 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 or 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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

#### SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318," and

(2) by adding after "1964," the following: " or title III of the Violence Against Women Act of 1991."

#### TITLE IV—SAFE CAMPUSES FOR WOMEN

##### SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

##### SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

##### SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

##### "PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

##### SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about

victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus

awareness of the facts about, or to help prevent, sexual assault.

“(B) The term ‘Secretary’ means the Secretary of Education.

“(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

“(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

“(A) the amount of grants made under this section;

“(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

“(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

“(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.”

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

“(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

“(i) murder;

“(ii) rape or sexual assault;

“(iii) robbery;

“(iv) aggravated assault;

“(v) burglary; and

“(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the “Equal Justice for Women in the Courts Act of 1991”.

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

##### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the pur-

poses of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

##### SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

#### BIDEN AMENDMENT NOS. 717 AND 718

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

##### AMENDMENT NO. 717

Add at the end of the amendment, the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the “Violence Against Women Act of 1991”.

##### SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—SAFE STREETS FOR WOMEN**

- Sec. 101. Short title.
- Subtitle A—Federal Penalties for Sex Crimes
- Sec. 111. Repeat offenders.
- Sec. 112. Federal penalties.
- Sec. 113. Mandatory restitution for sex crimes.
- Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women
- Sec. 121. Grants to combat violent crimes against women.
- Subtitle C—Safety for Women in Public Transit and Public Parks
- Sec. 131. Grants for capital improvements to prevent crime in public transportation.
- Sec. 132. Grants for capital improvements to prevent crime in national parks.
- Sec. 133. Grants for capital improvements to prevent crime in public parks.
- Subtitle D—National Commission on Violent Crime Against Women
- Sec. 141. Establishment.
- Sec. 142. Duties of commission.
- Sec. 143. Membership.
- Sec. 144. Reports.
- Sec. 145. Executive Director and staff.
- Sec. 146. Powers of commission.
- Sec. 147. Authorization of appropriations.
- Sec. 148. Termination.
- Subtitle E—New Evidentiary Rules
- Sec. 151. Sexual history in all criminal cases.
- Sec. 152. Sexual history in civil cases.
- Sec. 153. Amendments to rape shield law.
- Sec. 154. Evidence of clothing.
- Subtitle F—Assistance to Victims of Sexual Assault
- Sec. 161. Education and prevention grants to reduce sexual assaults against women.
- Sec. 162. Rape exam payments.
- TITLE II—SAFE HOMES FOR WOMEN**
- Sec. 201. Short title.
- Subtitle A—Interstate Enforcement
- Sec. 211. Interstate enforcement.
- Subtitle B—Arrest in Spousal Abuse Cases
- Sec. 221. Encouraging arrest policies.
- Subtitle C—Funding for Shelters
- Sec. 231. Authorization.
- Subtitle D—Family Violence Prevention and Services Act Amendments
- Sec. 241. Expansion of purpose.
- Sec. 242. Expansion of State demonstration grant program.
- Sec. 243. Grants for public information campaigns.
- Sec. 244. State commissions on domestic violence.
- Sec. 245. Indian tribes.
- Sec. 246. Funding limitations.
- Sec. 247. Grants to entities other than States; local share.
- Sec. 248. Shelter and related assistance.
- Sec. 249. Law enforcement training and technical assistance grants.
- Sec. 250. Report on recordkeeping.
- Sec. 251. Model State leadership incentive grants for domestic violence intervention.
- Sec. 252. Funding for technical assistance centers.
- Subtitle E—Youth Education and Domestic Violence
- Sec. 261. Educating youth about domestic violence.

**Subtitle F—Confidentiality for Abused Persons**

- Sec. 271. Confidentiality for abused persons.

**TITLE III—CIVIL RIGHTS**

- Sec. 301. Civil rights.

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Grants for campus rape education.
- Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

- Sec. 501. Short title.
- Subtitle A—Education and Training for Judges and Court Personnel in State Courts
- Sec. 511. Grants authorized.
- Sec. 512. Training provided by grants.
- Sec. 513. Cooperation in developing programs in making grants under this title.
- Sec. 514. Authorization of appropriations.
- Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts
- Sec. 521. Education and training grants.
- Sec. 522. Cooperation in developing programs.
- Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN****SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**"§2247. Repeat offenders**

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) 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:

"2247. Repeat offenders."

**SEC. 112. FEDERAL PENALTIES.**

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or

other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

**(c) STATUTORY RAPE.—**

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years."

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**"§2248. Mandatory restitution**

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim 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; and

"(E) 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 lump-sum payment or partial payments at speci-

fied 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person

appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution."

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

**"SEC. 1401. 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. 1411. HIGH INTENSITY GRANTS.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a '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 1412.

**"SEC. 1412. 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.

"(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 1401(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 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; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**"SEC. 1421. GENERAL GRANTS TO STATES.**

"(a) GENERAL GRANTS.—The Director is authorized to 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 1401(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 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated 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; and

"(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**"SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry

out the purposes of section 1422 of subpart 2.”

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**“GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

“SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**“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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

“(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

“(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

“(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

“(A) increase lighting within or adjacent to public parks and recreation areas;

“(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

“(C) increase security personnel within or adjacent to public parks and recreation areas; and

“(D) any other project intended to increase the security and safety of public parks and recreation areas.

“(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

“(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as “the Commission”).

**SEC. 142. DUTIES OF COMMISSION.**

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;  
(II) the Secretary of Health and Human Services; and  
(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim’s past behavior in other criminal cases**

“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of 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 provision of 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 such 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 evi-

dentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

**SEC. 152. SEXUAL HISTORY IN CIVIL CASES.**

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff’s past sexual behavior is not admissible.

“(b) **ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff’s past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991.”.

**SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.**

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

“(e) **INTERLOCUTORY APPEAL.**—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) **RULE OF RELEVANCE AND PRIVILEGE.**—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

**SEC. 154. EVIDENCE OF CLOTHING.**

The Federal Rules of Evidence are amended by adding after rule 412 the following:

“Rule 413. Evidence of victim’s clothing as inciting violence

“Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim’s clothing is not admissible to show that the alleged victim incited or invited the offense charged.”.

**Subtitle F—Assistance to Victims of Sexual Assault**

**SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.**

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

**“§ 1910A. Use of allotments for rape prevention education**

“(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

“(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

“(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) 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) 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.”.

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

**SEC. 162. RAPE EXAM PAYMENTS.**

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

**TITLE II—SAFE HOMES FOR WOMEN**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Safe Homes for Women Act of 1990”.

**Subtitle A—Interstate Enforcement**

**SEC. 211. INTERSTATE ENFORCEMENT.**

(a) **IN GENERAL.**—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

**“Chapter 110A—Violence Against Spouses**

“Sec. 2261. Traveling to commit spousal abuse.

“Sec. 2262. Interstate violation of protection orders.

“Sec. 2263. Restitution.

“Sec. 2264. Full faith and credit given to protection orders.

“Sec. 2265. Definitions for chapter.

**“§ 2261. Traveling to commit spousal abuse**

“(a) **IN GENERAL.**—Any person who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

“(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(b) **CAUSING THE CROSSING OF STATE LINES.**—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

“(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

“§2262. Interstate violation of protection orders

“(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

“(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

“(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

“(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course of 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) of this section.

“(c) PENALTIES.—

“(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

“(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

“(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

“(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

“§2263. Interim protections

“In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

“§2264. Restitution

“(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

“(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

“(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

“(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

“(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 his delegate) 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

**"§ 2265. Full faith and credit given to protection orders**

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter**

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

**"110A. Violence against spouses ..... 2261."**

**Subtitle B—Arrest in Spousal Abuse Cases**  
**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters**

**SEC. 231. AUTHORIZATION.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

**"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

**Subtitle D—Family Violence Prevention and Services Act Amendments**

**SEC. 241. EXPANSION OF PURPOSE.**

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

**SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.**

(a) **INCREASING PUBLIC AWARENESS.**—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) **EXPANSION OF PROGRAM.**—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

**SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.**

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

**"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS**

"Sec. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public infor-

mation campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

**SEC. 244. FUND DISTRIBUTION TO STATES.**

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

**SEC. 245. INDIAN TRIBES.**

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

**SEC. 246. FUNDING LIMITATIONS.**

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking "and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

**SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.**

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

**SEC. 248. SHELTER AND RELATED ASSISTANCE.**

(a) **CHANGE OF PERCENTAGES.**—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) **DEFINITION OF RELATED ASSISTANCE.**—Section 303(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

**SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

**SEC. 250. REPORT ON RECORDKEEPING.**

Not later than 120 days after the date of enactment of this Act, the Government Ac-

counting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

**SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.**

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

**"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION**

"Sec. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a

judicial officer 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to

victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

**SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.**

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

**"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.**

"(a) **PURPOSE.**—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) **ELIGIBILITY.**—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) **REPORTING.**—Each grantee receiving funds under this section shall submit a re-

port to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) **REGULATIONS.**—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence**

**SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) **GENERAL PURPOSE.**—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.**—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) **RIGHTS, PRIVILEGES AND IMMUNITIES.**—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) **CAUSE OF ACTION.**—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 392. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**  
**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions; experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary

policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) 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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

**SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.**

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

**SECTION 501. SHORT TITLE.**

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

**Subtitle A—Education and Training for Judges and Court Personnel in State Courts**

**SEC. 511. GRANTS AUTHORIZED.**

The State Justice Institute is authorized to 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 non-strangers, 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

#### SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

#### AMENDMENT NO. 718

Strike everything after the term "Sec." and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

#### SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.

Sec. 112. Federal penalties.

Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.

Sec. 132. Grants for capital improvements to prevent crime in national parks.

Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.

Sec. 142. Duties of commission.

Sec. 143. Membership.

Sec. 144. Reports.

Sec. 145. Executive Director and staff.

Sec. 146. Powers of commission.

Sec. 147. Authorization of appropriations.

Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.

Sec. 152. Sexual history in civil cases.

Sec. 153. Amendments to rape shield law.

Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

#### TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

- Sec. 271. Confidentiality for abused persons.  
**TITLE III—CIVIL RIGHTS**  
 Sec. 301. Civil rights.  
**TITLE IV—SAFE CAMPUSES FOR WOMEN**  
 Sec. 401. Short title.  
 Sec. 402. Findings.  
 Sec. 403. Grants for campus rape education.  
 Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

**TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990**

- Sec. 501. Short title.  
 Subtitle A—Education and Training for Judges and Court Personnel in State Courts  
 Sec. 511. Grants authorized.  
 Sec. 512. Training provided by grants.  
 Sec. 513. Cooperation in developing programs in making grants under this title.  
 Sec. 514. Authorization of appropriations.  
 Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts  
 Sec. 521. Education and training grants.  
 Sec. 522. Cooperation in developing programs.  
 Sec. 523. Authorization of appropriations.

**TITLE I—SAFE STREETS FOR WOMEN**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Safe Streets for Women Act of 1991".

**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 thereof the following new section:

**"§2247. Repeat offenders**

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) **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:

"2247. Repeat offenders."

**SEC. 112. FEDERAL PENALTIES.**

(a) **RAPE AND AGGRAVATED RAPE.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or

other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) **EFFECT OF AMENDMENT.**—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) **STATUTORY RAPE.**—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

**SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.**

(a) **IN GENERAL.**—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

**"§2248. Mandatory restitution**

"(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim 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; and

"(E) 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 lump-sum payment or partial payments at speci-

fied 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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 any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person

appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

**Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women**

**SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

- (1) redesignating part N as part O;
- (2) redesignating section 1401 as section 1501; and
- (3) adding after part M the following:

“PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

**“SEC. 140L. 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. 141L. HIGH INTENSITY GRANTS.**

“(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the ‘Director’) shall make grants to areas of ‘high intensity crime’ against women.

“(b) DEFINITION.—For purposes of this part, a ‘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 1412.

**“SEC. 141Z. 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.

“(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 140L(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 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; and
- “(C) expected results from the use of grant funds; and

“(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

“(f) DISBURSEMENT.—

“(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

“(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

“(A) equitably distribute funds on a geographic basis;

“(B) determine the amount of subgrants based on the population to be served; and

“(C) give priority to areas with the greatest showing of need.

“(g) GRANTEE REPORTING.—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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

**“SEC. 142L. GENERAL GRANTS TO STATES.**

“(a) GENERAL GRANTS.—The Director is authorized to 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 140L(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 140L(b);

“(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

“(3) at least 25 percent of the amount granted shall be allocated 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; and
- “(C) expected results from the use of grant funds; 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) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(D) 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

**"SEC. 1422. GENERAL GRANTS TO TRIBES.**

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) 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 as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(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 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. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(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 given to such term by section 1151 of title 18, United States Code.

**"SUBPART 3—GENERAL TERMS AND CONDITIONS**

**"SEC. 1431. GENERAL DEFINITIONS.**

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) 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; and

"(3) 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, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

**"SEC. 1432. 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; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 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 fiscal year 1992, 1993, and 1994, \$100,000,000 to carry out the purposes of subpart 1, and \$190,000,000 to carry out the purposes of subpart 2, and \$10,000,000 to carry

out the purposes of section 1422 of subpart 2."

**Subtitle C—Safety for Women in Public Transit and Public Parks**

**SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.**

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

**"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION**

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and 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, 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.**

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

**"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, and not to exceed \$10,000,000, the Secretary of the Interior is authorized to 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; and

"(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 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to 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 Violent Crime Against Women**

**SEC. 141. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

**SEC. 142. DUTIES OF COMMISSION.**

(a) **GENERAL PURPOSE OF THE COMMISSION.**—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crimes against women.

(b) **FUNCTIONS.**—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

**SEC. 143. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) **CONGRESSIONAL COMMITTEE RECOMMENDATIONS.**—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) **REQUIREMENTS OF APPOINTMENTS.**—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) **TERM OF MEMBERS.**—Members of the Commission (other than members appointed under paragraph 1(A)(i)) shall serve for the life of the Commission.

(5) **VACANCY.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) **CHAIRMAN.**—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) **QUORUM.**—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) **MEETINGS.**—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least six times.

(e) **PAY.**—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) **PER DIEM.**—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) **DEADLINE FOR APPOINTMENT.**—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

#### SEC. 144. REPORTS.

(a) **IN GENERAL.**—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

#### SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

##### (a) EXECUTIVE DIRECTOR.—

(1) **APPOINTMENT.**—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

#### SEC. 146. POWERS OF COMMISSION.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) **DELEGATION.**—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, \$500,000 to carry out the purposes of this subtitle.

#### SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

#### Subtitle E—New Evidentiary Rules

#### SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

**“Rule 412A. Evidence of victim's past behavior in other criminal cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of 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 provision of 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 such 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 evi-

dentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

#### SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

**“Rule 412B. Evidence of past sexual behavior in civil cases**

**“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

**“(b) ADMISSIBLE EVIDENCE.**—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

**“(1)** admitted in accordance with the procedures specified in subdivision (c); and

**“(2)** the probative value of such 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 such 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 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 evidence which 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, but is not limited to, sex harassment or 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 1991."

#### SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences."

#### SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged."

#### Subtitle F—Assistance to Victims of Sexual Assault

#### SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

#### "§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, 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.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, \$65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) 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) 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."

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

#### SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 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.

#### TITLE II—SAFE HOMES FOR WOMEN

#### SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

#### Subtitle A—Interstate Enforcement

#### SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

#### "§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner.

shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than \$1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating 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; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

#### "(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

#### "§2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

#### "§2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an 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 the full amount of the victim's losses as determined by the court, pursuant to subsection (3); 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; and

"(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) 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 victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(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, 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 lump-sum 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) 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 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 his delegate), 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 his delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegate) shall advise the victim that the victim may file a separate affidavit.

"(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 his delegate) 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. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(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 his delegate) 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) 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 any person who has suffered direct physical, emotional, or pecuniary harm 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.

#### "§2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one 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.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) 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. In the case of ex parte orders, notice and opportunity to be heard must 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 for chapter

"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 the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by 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 any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands."

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses ..... 2261."

**Subtitle B—Arrest in Spousal Abuse Cases**  
**SEC. 221. ENCOURAGING ARREST POLICIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

**"SEC. 312. 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 is authorized to 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 and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) 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; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' 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 cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one 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 to the Attorney General. 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 application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, 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 C—Funding for Shelters**

**SEC. 231. AUTHORIZATION.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

**"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

"(a) There are authorized to be appropriated to carry out the provisions of this title, \$85,000,000 for fiscal year 1992, \$100,000,000, for fiscal year 1993, and \$125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A."

**Subtitle D—Family Violence Prevention and Services Act Amendments**

**SEC. 241. EXPANSION OF PURPOSE.**

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

**SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.**

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

**SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.**

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

**"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS**

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) 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, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public infor-

mation campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk."

#### SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "\$50,000" and inserting "\$500,000".

#### SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

#### SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking "and" and all that follows through "fiscal years"; and

(2) striking "\$50,000" and inserting "\$75,000".

#### SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant."

#### SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims."

#### SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)) is repealed.

#### SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Ac-

counting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

#### SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

##### "MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION"

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages \* \* \*

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases,

and then only after an admission before a judiciary 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases,

and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to

victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than \$2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section."

#### SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

##### "SEC. 308A. TECHNICAL ASSISTANCE CENTERS."

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a re-

port to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section."

**Subtitle E—Youth Education and Domestic Violence**

**SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four 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 four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input 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 these 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 24 months after the date of enactment of this Act, 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.—There are authorized to be appropriated under this section for fiscal year 1992, \$400,000 to carry out the purposes of this section.

**Subtitle F—Confidentiality for Abused Persons**

**SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.**

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) 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.

**TITLE III—CIVIL RIGHTS**

**SEC. 301. 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; and

(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) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any 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 rights, privileges or immunities secured by the Constitution or laws as enumerated 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 the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

**SEC. 302. CONFORMING AMENDMENT.**

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: "or title III of the Violence Against Women Act of 1991."

**TITLE IV—SAFE CAMPUSES FOR WOMEN**

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Safe Campuses for Women Act of 1990".

**SEC. 402. FINDINGS.**

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions; experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

**SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.**

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

**"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."**

**SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.**

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary

policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) **MODEL GRANTS.**—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) **ELIGIBILITY.**—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) **APPLICATIONS.**—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) **GRANTEE REPORTING.**—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) **DEFINITIONS.**—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) **GENERAL TERMS AND CONDITIONS.**—(1) **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.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated \$20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995."

#### SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

- "(i) murder;
- "(ii) rape or sexual assault;
- "(iii) robbery;
- "(iv) aggravated assault;
- "(v) burglary; and
- "(vi) motor vehicle theft.

#### TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

##### SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

##### Subtitle A—Education and Training for Judges and Court Personnel in State Courts

#### SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to 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 for fiscal year 1992, \$600,000 to carry out the purposes of this subtitle. 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. EDUCATION AND TRAINING GRANTS.**

(a) **STUDY.**—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) **MODEL PROGRAMS.**—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

**SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.**

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs 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. 523. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for fiscal year 1992, \$400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

**EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA**

**KERREY AMENDMENT NO. 719**

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, as follows:

At the appropriate place, insert the following new section:

**SEC. . SANCTIONS BY OTHER COUNTRIES.**

If, pursuant to this Act, the People's Republic of China is denied nondiscriminatory (most-favored-nation) treatment, or such treatment is terminated, the President shall immediately undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

**VIOLENT CRIME CONTROL ACT**

**RIEGLE AMENDMENT NOS. 720 AND 721**

(Ordered to lie on the table.)

Mr. RIEGLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

**AMENDMENT No. 720**

At the appropriate place in the bill, insert the following:

**SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.**

(a) **AUTHORIZATION OF GRANTS.**—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) **CONSIDERATIONS IN AWARDING GRANTS.**—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) **AMOUNT OF GRANTS.**—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed \$10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) **NONMONETARY ASSISTANCE.**—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize 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 law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) **ISSUANCE OF IMPLEMENTING REGULATIONS.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than \$100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

**AMENDMENT No. 721**

At the appropriate place in the bill, insert the following:

**SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.**

(a) **AUTHORIZATION OF GRANTS.**—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) **CONSIDERATION IN AWARDING GRANTS.**—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) **AMOUNT OF GRANTS.**—(1) The amount of a grant that may be made with respect to an application relating to any region of a State

described in subsection (a) shall not exceed \$10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) **NONMONETARY ASSISTANCE.**—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize 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 law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) **ISSUANCE OF IMPLEMENTING REGULATIONS.**—Not later than days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than \$100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

#### RUDMAN AMENDMENT NO. 722

Mr. MITCHELL (for Mr. RUDMAN) proposed an amendment to the bill S. 1241, *supra*, as follows:

On page 160, line 5, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 160, line 6, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

On page 162, lines 20 and 21, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 162, line 22, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

#### D'AMATO AMENDMENT NO. 723

Mr. MITCHELL (for Mr. D'AMATO) proposed an amendment to the bill S. 1241, *supra*, as follows:

Strike amendment No. 387 and insert in lieu thereof:

**"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.**

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"(4)(A) Whoever, during and in relation to any crime of violence or drug trafficking

crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this paragraph, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this paragraph shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime)."

"(D) For purpose of this paragraph, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this paragraph the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this paragraph shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subparagraph shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

"(G) **JURISDICTION.**—There is federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

#### DOLE AMENDMENT NO. 724

Mr. MITCHELL (for Mr. DOLE) proposed an amendment to the bill S. 1241, *supra*, as follows:

Section 922(u) of title 18, United States Code, as added by section 2701 of the amendment, is amended—

(1) in paragraph (1) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) adding after subparagraph (C) the following:

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of the Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

(2) in paragraph (7)(B)(i) by striking "destroy and record" and inserting "destroy the statement and any record".

Section 922(v)(1)(A) of title 18, United States Code, as added by section 2701 of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" and inserting "Violent Crime Control Act of 1991" and section 922(v)(5) of such title 18 is amended by inserting "or a political subdivision of a state or employee thereof" after the word "employee".

Section 2702(d)(1)(B) of the amendment is amended by striking "(C)" and inserting "(c)".

Section 509(b)(4) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2703(a)(1) of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" both places it appears and inserting "Violent Crime Control Act of 1991".

## SEYMOUR AMENDMENT NO. 725

Mr. MITCHELL (for Mr. SEYMOUR) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, insert the following:

## TITLE —EXPLOITATION OF ALIENS

## SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

## SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than \$100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than \$100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

## SEC. 03. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02 shall be covered into the Fund and shall be used for the purposes of this section.

## § 03(b)(1) to read as follows:

"(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded."

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11);

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

## MCCONNELL AMENDMENT NO. 726

Mr. MITCHELL (for Mr. MCCONNELL) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

## TITLE —PUBLIC CORRUPTION

## SEC. 01. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

## SEC. 02. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

## "§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State or the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling \$10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharged, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination. 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or pro-

ceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—  
 "(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;  
 "(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—  
 "(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity establishing and subject to control by a government or governments for the execution of a governmental or intergovernmental program;  
 "(B) any person acting or pretending to act under color of official authority; and  
 "(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce."

#### SEC. 03. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption."

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery)."

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sporting contests)."

#### SEC. 04. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

"(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

"(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce."

#### SEC. 05. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

##### "§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or  
 "(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;  
 shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;  
 "(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or  
 "(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—  
 "(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act."

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is

amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery)."

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (relating to bribery of public officials and witnesses)."

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption."

#### THURMOND AMENDMENT NO. 727

Mr. MITCHELL (for Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place insert the following:

"Be it enacted by the Senate and House of Representatives In Congress assembled, that this Act may be cited as the "Miscellaneous Criminal Law Improvements Act of 1991".

#### Subtitle A—Sentencing and Magistrates Amendments

##### SEC. 101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OR PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

##### SEC. 102. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense."

##### SEC. 103. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title."

##### SEC. 104. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release."

##### SEC. 105. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation or commit him to official detention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)"

and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) if any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult."

**Subtitle B—White Collar Crime Amendments**

**SEC. 201. RECEIVING THE PROCEEDS OF A POST-AL ROBBERY.**

Section 1114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

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

"(b) Whoever receives, possesses, conceals, or disposes of any moneys or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both."

**SEC. 202. RECEIVING THE PROCEEDS OF EXTORTION ON KIDNAPING.**

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

**"§ 880. Receiving the proceeds of extortion**

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."

(2) in the table of sections, by adding at the end thereof the following item: "880. Receiving the proceeds of extortion."

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a state or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both."

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.

**SEC. 203. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.**

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this

title, section 3733 of title 31, United States Code or" before "Antitrust Civil Process Act."

**SEC. 205. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.**

Section 3059A of title 18, United States Code is amended—

(1) by inserting "225," after "215";

(2) by inserting "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

**SEC. 206. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.**

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, in term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States."

**SEC. 207. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.**

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.

**Subtitle C—Miscellaneous Amendments**

**SEC. 301. SEXUAL ABUSE AMENDMENTS.**

**SEC. 302. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.**

(a) **IN GENERAL.**—Chapter 211 of title 18, United States Code, is amended by inserting: "§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c));

may be in the District of Columbia or in any other district authorized by law."

"(b) **CLERICAL AMENDMENT.**—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows: "3239. Optional venue for espionage and related offense."

**SEC. 308. DEFINITION OF LIVESTOCK.**

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"Livestock means any domestic animals raised for home use, consumptions, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof."

**SEC. 309. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.**

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall

consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer."

**Subtitle D—Technical Amendments**

**SEC. 401. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.**

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1955(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)";

(7)(a) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)";

(b) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)";

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101-123 as subsection (h).

**SEC. 402. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.**

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking “, or by any National Agricultural Credit Corporation”;

(9) in section 1014, by striking “Reconstruction Finance Corporation,” by striking “Farmers’ Home Corporation,” and by striking the second comma following the words “Federal Reserve Act”;

(10) in section 1160, by striking “white person” and inserting in lieu thereof “non-Indian”;

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting “or” before “farm credit examiner” and by striking “or an examiner of National Agricultural Credit Corporations.”;

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing the subsections (f) and (g) that were enacted by Public Law 100-690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3261, by striking “except for offenses barred by the provisions of law existing on August 4, 1939”.

**SEC. 404. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.**

Section 1116(a) of title 18, United States Code, is amended by striking “, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years”.

**SEC. 405. ELIMINATION OF REDUNDANT PENALTY.**

Section 1864(c) of title 18, United States Code, is amended by striking “(b) (3), (4), or (5)” and inserting in lieu thereof “(b)(5)”.

**SEC. 406. CORRECTIONS OF MISPELLINGS AND GRAMMATICAL ERRORS.**

Title 18, United States Code, is amended:

(1) in section 151, by striking “mean” and inserting in lieu thereof “means”;

(2) in section 513(c)(4), by striking “association or persons” and inserting in lieu thereof “association of persons”;

(3) in section 1014, by striking the comma following a comma after “Act”;

(4) in section 1956(e), by striking “Environmental” and inserting in lieu thereof “Environmental”;

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking “provider for” and inserting in lieu thereof “provider of” in subsection (d); and

(6) in section 3731, by striking “order of a district courts” and inserting in lieu thereof “order of a district court” in the second undesignated paragraph.

**SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.**

(a) Section 241 of title 18, United States Code, is amended by deleting “inhabitant of” and inserting in lieu thereof “person in”.

(b) Section 242 of title 18, United States Code, is amended by deleting “inhabitant of” and inserting in lieu thereof “person in” and by deleting “such inhabitant” and inserting in lieu thereof “such person”.

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

**Sec. 1(a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.**—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

“§21. Stolen or counterfeit nature of property for certain crimes defined

Wherever in this title it is an element of an offense that any property was embezzled,

robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term “official representation” means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following: “21. Stolen or counterfeit nature of property for certain crimes defined.”.

**SEC. 232. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.**

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before “Any” the following new sentence: “Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.”;

(2) in subsection (d)(1)(A), by inserting after “a firearm or destructive device” the words “or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection”;

(3) in subsection (d)(1)(B), by inserting before “ammunition,” the following: “marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (c) of this subsection”;

(4) in subsection (d)(1)(C), by inserting “methamphetamine, its salts, isomers, and salts of its isomers,” after “a narcotic drug,”;

(5) in subsection (d)(1)(D), by inserting “(A), (B), or” before “(C)”;

(6) in subsection (b), by striking “(c)” each place it appears and inserting in lieu thereof “(d)”.

**SEC. 233. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.**

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(1) by amending the title of such section to read as follows:

“SEC. 1703. Seizure and forfeiture of vessels, vehicles and other conveyances”;

(2) by amending the title of subsection (a) to read as follows:

“(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture”;

(3) by amending the title of subsection (b) to read as follows:

“(b) Vessels, vehicles and other conveyances; defined”;

(4) by inserting “, vehicle, or other conveyance” after the word “vessel” everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

“(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling

“For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to

defraud the revenue of the United States shall be—

“(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

“(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.”.

(b) The table of sections for Chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

“1703. Seizure and forfeiture of vessels, vehicles and other conveyances.

“(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.

“(b) Vessels, vehicles and other conveyances, defined.

“(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.”.

**SEC. 234. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.**

Section 497(a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding “or \$500, whichever is greater” after “value of the article”.

**SEC. 235. UNDERCOVER OPERATIONS—CHURNING.**

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

“(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.”.

**SEC. 236. DRUG PARAPHERNALIA AMENDMENT.**

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

“(g) Civil Enforcement.

“The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to \$100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.”.

**SEC. 237. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.**

Section 3565(a) of title 18, United States Code, is amended by striking “sentence the defendant to not less than one-third of the original sentence” and inserting in lieu thereof “resentence the defendant under subchapter A to a sentence that includes a term of imprisonment”.

**SEC. 238. CONFORMING AMENDMENTS CONCERNING MARIHUANA.**

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C.

960(b)(4) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

**SEC. 241. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.**

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3))."

**SEC. 242. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.**

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

**SEC. 243. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

(1) Sections 401(b)(1)(B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) and sections 1010(b)(1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marijuana, or depressant or stimulant substances."; and

**SEC. 244. ELIMINATION OF OUTDATED LANGUAGE RELATING TO PAROLE.**

(a) Sections 401(b)(1)(A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.";

(b) Sections 1010(b)(1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.";

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking " ; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.";

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking " ; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section."

**SEC. 245. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.**

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

**BINGAMAN AMENDMENT NO. 728**

Mr. MITCHELL (for Mr. BINGAMAN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

(f) **LIFE SKILLS TRAINING GRANTS.**—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development,

education, inter-personal and family relationships, and stress and anger management.

**RIEGLE (AND LEVIN) AMENDMENT NO. 729**

Mr. MITCHELL (for Mr. RIEGLE) (for himself and Mr. LEVIN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

**SEC. REGIONAL VIOLENT CRIME ASSISTANCE.**

(a) **AUTHORIZATION OF GRANTS.**—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) **CONSIDERATIONS IN AWARDED GRANTS.**—

(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) **AMOUNT OF GRANTS.**—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed \$10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) **NONMONETARY ASSISTANCE.**—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize 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 law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) **ISSUANCE OF IMPLEMENTING REGULATIONS.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as

are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than \$100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.0

#### DECONCINI AMENDMENT NO. 730

Mr. MITCHELL (for Mr. DECONCINI) proposed an amendment to the bill S. 1241, supra, as follows:

On page 245, add after line 15 the following:  
**TITLE XXVIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT**

##### SEC. 2801. SHORT TITLE.

This title may be cited as the "National Commission to Support Law Enforcement Act".

##### SEC. 2802. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

##### SEC. 2803. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

##### SEC. 2804. DUTIES.

(a) **IN GENERAL.**—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) **FUNDING.**—The Sufficiency of funding, including a review of grant programs at the Federal level.

(2) **EMPLOYMENT.**—The conditions of law enforcement employment.

(3) **INFORMATION.**—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) **RESEARCH AND TRAINING.**—The status of law enforcement research and education and training.

(5) **EQUIPMENT AND RESOURCES.**—The adequacy of equipment, physical resources, and human resources.

(6) **COOPERATION.**—The cooperation among Federal, State, and local law enforcement agencies.

(7) **RESPONSIBILITY.**—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) **IMPACT.**—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) **CONSULTATION.**—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

##### SEC. 2805. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House; and

(D) 1 shall be appointed by the Minority Leader of the Senate.

(E) 1 shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House; and

(D) 1 shall be appointed by the Minority Leader of the Senate.

(E) 1 shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the Senate Majority Leader.

(B) 1 shall be appointed by the Minority leader of the Senate and the Minority Leader of the House.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) **COMPENSATION.**—

(1) **IN GENERAL.**—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) **TRAVEL EXPENSES.**—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) **APPOINTMENT DATES.**—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

##### SEC. 2806. EXPERTS AND CONSULTANTS.

(a) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) **ADMINISTRATIVE SUPPORT.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

##### SEC. 2807. POWERS OF COMMISSION.

(a) **HEARINGS.**—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) **DELEGATION OF AUTHORITY.**—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) **INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

##### SEC. 2808. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

##### SEC. 2809. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2808.

##### SEC. 2810. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and Title II, Section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) is repealed.

#### GRAMM AMENDMENT NO. 731

Mr. MITCHELL (for Mr. GRAMM) proposed an amendment to the bill S. 1241, supra, as follows:

On page 226, between lines 11 and 12, insert the following:

##### SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) **DECLARATION OF POLICY.**—It is the policy of the Federal Government that the use of distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

“(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

“(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

“(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.”.

## NOTICES OF HEARINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 18, 1991, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from William Happer, nominee for Director of Energy Research, U.S. Department of Energy.

For further information, please contact Rebecca Murphy at (202) 224-7562.

## AUTHORITY FOR COMMITTEES TO MEET

### SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 10, 1991, at 2 p.m. on U.S. national tourism policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, beginning at 9:30 a.m., to conduct a hearing on implementation of section 404 of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, July 10, 1991, at 10 a.m. to conduct a markup of S. 1247, the Government Securities Act Amendments of 1991 and pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, at 2 p.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, at 2 p.m. to hold an ambassadorial nominations hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, July 10, 1991 at 10 a.m. for a hearing on S. 1074, the Safety of Pesticides in Food Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 10, 1991, at 9 a.m., in executive session, for markup of the Department of Defense authorization bill for fiscal years 1992-93.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### TRIBUTE TO CONNIE STRICKLAND

• Mr. ROCKEFELLER. Mr. President, improvements in education provide America with the brightest prospects for the future. The ability of our Nation to compete in the future and the ability of our citizens to provide a comfortable life for their families rely upon our education system.

That is why I take this opportunity to express admiration and appreciation for an outstanding West Virginia

teacher. Connie Strickland recently received the 1991 Reader's Digest American Hero in Education Award. She was one of the only 10 teachers selected nationally.

Connie, a teacher at Herbert Hoover High School, in Clendenin, WV, has gone above and beyond the call of duty in motivating and encouraging her students. Working with students labeled as gifted, and others who simply want to challenge themselves, she has been the key component in raising the students' aspirations at this relatively rural high school.

By introducing satellite courses in Japanese, Russian, American government, physics, and chemistry, she has helped to give her students an invaluable opportunity to participate in classes with people from all over the United States. These courses not only enhance the school's curriculum but also help to instill in the students the self-confidence and motivation so necessary to succeed in today's society.

In addition to carrying out her everyday responsibilities of the classroom, Connie also started an Academic Boosters Club, which raises money so that her successful academic teams may travel to competitions. Her students have won every local and State academic competition they have entered this year, going on to represent West Virginia at the national level. It is the students who receive, and deserve, most of the praise for their success in the competitions. I am glad to say that now, justly, Connie is receiving the kind of national recognition she deserves.

I am very proud that one of the Nation's finest educators is dedicated to helping the students of West Virginia acquire the tools they need to succeed later in life. Knowing that the education of our children is in the capable hands of teachers like Connie Strickland, I have added confidence that the future of our State and our Nation will get brighter and brighter. •

### MORGANTOWN, KY

• Mr. MCCONNELL. Mr. President, today I rise to share with my colleagues a story about a small Kentucky town. I would like to insert into the RECORD the story of Morgantown, told in the June 24, 1991, issue of the Louisville Courier-Journal.

This small town located on the Green River was thriving in the 1800's. In an attempt to continue the prevailing prosperity and avoid an increase in taxes in 1889, Butler County rejected the proposed building of L&N Railroad in Morgantown. Because the L&N Railroad was going elsewhere, so did new industries. Steady work was dried up, and droves of people moved away to big cities.

Industry leaving the city meant further decline. Since 1963, when an indus-

trial prospect insulted the town—referring to it as “just another dirty little town”—Mayor Charles Black has been working to improve Morgantown. Black won a city council seat in that year, and helped establish a formal community improvement program, supported a campaign for a new courthouse, and helped recruit the Kellwood Co., a women's clothing factory.

Additional Black initiatives included the Green River Parkway, built when Black was elected mayor of Morgantown in 1972. In 1978, Morgantown opened a city park, and the State's first industrial park was built there with help from the Tennessee Valley Authority in 1982. The industrial park was then sold to Morgantown Plastics, a plumbing accessories manufacturer, in 1985.

With the money from the sale, the town was able to finance the construction of a second industrial building twice the size of the first. It was sold within a year.

Currently, the mayor is developing plans for a new industrial park on the site of Morgantown's old airport. By abandoning the airport, Morgantown will get its third interchange on the Green River Parkway at KY 70, close to its two industrial parks. The mayor hopes that the city will concentrate on getting some new businesses for the town—restaurants, a bowling alley, a theater, and private housing—“to help build a more stable community.”

Mr. President, I rise to insert this article into the RECORD to commend Morgantown for their great economic and industrial efforts and advancements.

The article follows:

AFTER AN IDLE CENTURY, BLUFF ON GREEN RIVER IS WAKING UP  
(By Cynthia Crossley)

Packet steamers and showboats came and went every day; brawny men unloaded whiskey barrels and crates of goods for the thriving town. It was late in the 1800s, Morgantown's glory days, and everyone's attention was on the Green River.

So much so that Butler County rejected the L&N Railroad. Voters didn't like the railroad's proposal that a county tax help pay to build the line.

“Warren and Grayson counties are not as well off as we, and they have the railroad,” observed an 1889 editorial in the Green River Republican. “Our river transportation is enough. The railroad tax is too much of a burden on the county.”

The railroad went elsewhere. But so did new industries. Butler County's strip mines played out. And the Green River shipping trade sank—literally, in the case of three steamboats that rest, still today, on the bottom of the Green River near the dam at Woodbury. Steady work dried up. Periodically, a downtown fire would destroy five or six buildings.

By 1960, there were only 182 more people in Butler County than there were in 1870. Morgantown, by several historical accounts, was well into its “discouraging period.”

Mayor Charles Black tells of showing an industrial prospect around town in 1963, and getting this sneering reaction: “This is just another dirty little town.”

Droves of people moved away, to jobs in Louisville, Evansville, Cincinnati, Indianapolis, Detroit, Gary, Ind. Word would trickle back about additional jobs, and friends and relatives would follow:

They became what former Green River Republican editor Larry Craig described as “whole colonies of Butler Countians,” living in other states.

“My family's one that migrated out,” said Deborah Givens, editor of the Butler County Banner. “My grandfather went to Gary, Ind., to find work. And my grandmother ran a boarding house up there where everyone was from Butler County. When I was growing up in Gary I hardly knew anyone who wasn't from Butler County.”

The “Population 2,000” sign on the road into town is based on the 1980 census. By 1988, experts assumed Morgantown's vital signs were growing over faint, and they decreased the town's population estimate, to 1,960. But they were wrong. Last year's census found 2,284 people, including Deborah Givens, “back” from Gary, Ind. Morgantown is coming back, too.

A lot of people credit Black with “pushing the starter button,” as civic leader Nyla Morgan put it. And Black, who may be Morgantown's “Mayor for Life,” accepts credit.

The retired Butler County High School band director says he's been working to improve Morgantown ever since that industrial prospect insulted the town in 1963.

Black, who won a city council seat in 1963, helped start a formal community improvement program, supported a campaign for a new courthouse, and helped recruit the Kellwood Co., a women's clothing factory. In the 1970s, he supported a city occupational tax, and got the city streets resurfaced. He became mayor in 1972, the same year the Green River Parkway was built.

In 1978, Morgantown opened a city park. Today it has a swimming pool, tennis and volleyball courts, picnic pavilions, playground equipment, and regulation Little League baseball fields. Morgantown spends some money improving the park each year. Last year a third picnic pavilion was added; this year it acquired 29 more acres, including some woods.

The volleyball courts are so popular that the city keeps the gates open and the lights on for second-shift workers from other counties, who play until 2 or 3 in the morning.

In 1981, the town turned an old drug store into a new city hall, with a roughly 1,000-square-foot city council chamber featuring locally carved oak trim and prints by Butler County artists.

In 1982, Morgantown built the state's first speculative industrial building, with help from the Tennessee Valley Authority. The 20,000-square foot building was sold to Morgantown Plastics, a plumbing accessories manufacturer, in 1985.

With money from that sale, the town built a second industrial building, this time with 40,000 square feet. Within a year, Sumitomo Electric Wiring Systems, which makes wiring harnesses for cars, bought it and moved in. Sumitomo boomed, and now fills three buildings, including a warehouse Morgantown built for it with borrowed money.

While Sumitomo grew, Morgantown turned the remains of an old farm and strip mine into its first industrial park. And by 1984 folks were joking that Morgantown had more industrial jobs (2,200) than people (2,000).

Today, current economic conditions may put the job figure under 2,000, but the mayor, who is also the city's full-time, \$31,000-a-year

economic development coordinator, is charging ahead with plans for a new industrial park on the site of Morgantown's old airport, which consists of a concrete landing strip and a wind sock.

Black says airports in Bowling Green and Ohio County are close enough for Butler-bound private pilots. What's more, by abandoning the airport, Morgantown will get its third interchange on the Green River Parkway, at KY 70, right by its two industrial parks.

To be sure, some people fret that these jobs don't pay enough, that Morgantown's new housing is mostly for low-income families. And they wonder what happened to the commercial development that was supposed to come on the heels of new industry.

“Our ‘Wal-Mart, issue’ here is whether we go to the one in Bowling Green or the one in Beaver Dam,” said Craig, the former newspaper editor.

Black acknowledged that more work needs to be done.

“I'd like to see the Chamber concentrate on getting some new businesses for the community,” he said. “The city has concentrated on industrial development. Now we need mercantile businesses, restaurants, a bowling alley, a movie theater, some private housing—a subdivision—to help build a stable community.”

Meanwhile, Morgantown's economic renaissance has spawned a cultural renaissance too—a lot of which looks again to the Green River. The Green River Catfish Festival, created in the early 1980s, is every Fourth of July.

Before the festival starts, state Fish and Wildlife workers release several tagged catfish into the Green. Some of the tags represent cash prizes, including a top prize of \$10,000.

People who pull in a tagged catfish must wait until the end of the festival to find out what they won. While they're waiting, they can join a tug-of-war or a square dance, play tennis or watch beauty contests, race on foot, in canoes or with terrapins—and eat enough to sink a packet boat.

Every August, residents put on a production of “The Magic Belle,” a musical by former Actors Theatre of Louisville star Ken Jenkins, about the life of George Dabbs, a Morgantown painter and photographer who died in 1967.

In other, less noticeable ways, folks in Morgantown are looking anew at the people who populated its past.

Regina Hood, for example, is an expert on Granville Allen, one of the first Union soldiers to die in Kentucky during the Civil War. She's interested because he was shot and killed on her property—and because people used to ask if she'd seen his ghost, in the form of a fireball, rolling down her property.

“Nooo,” Hood said. She figures people were seeing flashes of gas from the hand-dug coal pits on the other side of her ridge.

In 1861, Allen was hiding in a big chestnut tree with three other Union soldiers, watching for an advance party of Confederate soldiers moving west from Woodbury. He stepped out of the tree to get a better look—and was found by a Confederate sharpshooter. Allen now stands atop the Civil War Monument, which honors soldiers from both sides of the conflict, outside the Courthouse.

Then there's the mystery of Arnold Shultz, which recently sparked Nyla Morgan's interest. No one knows exactly where he's buried, other than in the old “colored cemetery” in Morgantown. But folks know who he was.

According to an essay by William Lighthoot in the book “A Sense of Place,” Shultz cre-

ated the style of guitar-playing known as "thumb-pickin' . . . in which a single musician performs simultaneously four major musical elements; melody, harmony, rhythm and bass." Shultz's "preternaturally talented" playing influenced like Everly, father of the Everly Brothers, and, indirectly, Merle Travis, Chet Atkins, and a host of others.

Shultz, the son of Ohio County slaves, spent the last 10 years of his wandering life in Morgantown. He died in 1931, at the age of 45. The official cause was recorded as heart disease, but a legend persists that he was poisoned by jealous white musicians.

Recently some people asked Morgan—who oversaw a project to catalog every cemetery in Butler County—to help find Shultz's grave.

"I took them out to the old Bell Street cemetery, but it was all overgrown, just a mess," Morgan said. They couldn't find it.

Now she's wondering if people might dedicate a monument in his honor.●

#### "GROCERS CARE" PROGRAM

● Mr. DECONCINI. Mr. President, I am proud to rise today to recognize the invaluable efforts of the National Grocers Association's Grocers Care Program and participants such as Mr. Thomas Shope, chairman of the Retail Grocers Association of Arizona and member of the Independent Grocers Association. Mr. Shope is an outstanding representative of the hundreds of grocery store owner/operators, that are extraordinary community servants who have joined the Grocers Care Program. Grocers Care is a unique initiative that promotes the use of healthy foods, encourages recycling, and without question the most important in this Senator's heart; assisting the elderly and impoverished. As a model for Grocers Care, Mr. Shope's IGA stores in Coolidge and Florence sponsors Little League teams, provide donations to local high schools for critical equipment needs and helps fund educational scholarships, in addition to sponsoring employee participation in numerous civic organizations. I submit to you that individuals such as Mr. Shope and the numerous other Arizona citizens involved with the Grocers Care Program are the cornerstones on which communities are built. These individuals challenge each of us, through their actions, that there is a way we can and should help to make a difference. Mr. Shope and the participants in the Grocers Care Program have gone beyond simply recognizing a problem, they are producers of innovative solutions. Congress should take notice of these types of grassroots efforts that serve to carve an encouraging future for a strong and free nation.●

#### ENTERPRISE ZONES AS A SOLUTION FOR URBAN DECLINE

● Mr. LIEBERMAN. Mr. President, on Thursday, June 6, the city of Bridgeport, CT, filed for bankruptcy under

chapter 9 of the U.S. Bankruptcy Code—earning it the distinction of being the largest city in the country ever to take such an action. Mr. President, will bankruptcy protection be really nothing more than a technical legal term, the action taken by the city of Bridgeport is symptomatic of a much larger problem that has been brewing within many of our inner cities all over the country for the past 30 years. Today, Mr. President, I do not want to address the legal ramifications of chapter 9, but I do want to address the problems facing many of our inner cities, and what I believe to be one possible solution—enterprise zones.

The history of Federal urban policy and declining urban economies is relatively brief dating only from the early 1960's. In 1961, John F. Kennedy said:

Economic Growth has come to resemble the Washington weather—everyone talks about it, no one says precisely what to do about it, and our only satisfaction is that it can't get any worse.

President Kennedy was correct about the first two parts of his statement—everyone does talk about it, and no one knows precisely what to do about it, but, Mr. President, the plight of many of this Nation's inner cities is, indeed, getting much worse. Whether it was the Model Cities Program in the sixties or revenue sharing in the seventies, urban development has been a challenge facing the administration and the Congress for the last 30 years.

The causes of urban decline are really no great mystery. Manufacturing and industrial enterprises, which used to be the centerpiece of economic activity and employment, have either disappeared overseas, or have moved to more congenial surroundings outside our cities. With this outward migration or outright disappearance of manufacturing facilities went well-paying jobs and local tax revenues. At the same time, Mr. President, drug use, homelessness, and poverty were on the rise, and with shrinking tax bases, cities faced ever higher social service costs. Infrastructure continued to decline, and crime rates rose, making cities even less attractive to businesses.

In many regards, the Federal Government has ignored this decay for most of the decade of the 1980's. What happened in Bridgeport is symptomatic of that inaction. The 1980's marked a dramatic change in Federal urban policy. The administration made deep cuts in virtually every category of social services, and passed many of those costs on to State and local governments. In terms of urban development, general revenue sharing was placed on the shelf. Community development block grants were cut from over \$4 billion in 1981 to under \$3 billion in 1988. And, in 1988, there was no new appropriation for urban development block grants.

Mr. President, last month Senator DANFORTH and I introduced the Enter-

prise Zone Jobs Creation Act of 1991—legislation that puts forth a program for economic and urban growth which, I believe, begins to facilitate the redevelopment of some of America's most distressed urban communities and is one very promising solution to the plight of decaying urban economies.

An enterprise zone is an economically depressed area, much like many parts of the city of Bridgeport, that is designated to receive special treatment by the local, State, and Federal governments in order to attract business investment that might otherwise not occur. This is accomplished through a series of incentives including tax and regulatory relief.

In short, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly, Mr. President, they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

Surprisingly enough, Mr. President, the idea for using enterprise zones as a means for urban development is not a new one, but it is one whose adoption is long overdue. Two Englishmen of diverse political philosophies, Peter Hall and Sir Geoffrey Howe, first began working on this idea in the 1970's. It came to fruition in 1980, when an enterprise zone program was enacted by former Prime Minister Margaret Thatcher.

The first national enterprise zone legislation in this country was introduced by two former Members of Congress, also of diverse background, Representative Jack Kemp, a Republican from Buffalo, and Representative Bob Garcia, a Democrat from the South Bronx. What brought these two men together was a desire to find a long-term solution for poverty and urban decay while stimulating economic development across our Nation.

Ultimately, in 1987, enterprise zone legislation was passed into law as part of an omnibus housing bill. In essence, this bill directed the Secretary of Housing and Urban Development to designate 100 enterprise zones across the country, but it did not provide for any corresponding Federal tax benefits. That is precisely what the bill I introduced would do—put into place the tax and regulatory incentives which are pivotal to the success of enterprise zones and the redevelopment of urban and rural America.

Mr. President, the bill I introduced incorporates the best ideas from many proposals. It takes into account our present budgetary constraints and is strongly supported by President Bush

and Secretary Kemp. Funding for this proposal was included in the President's budget, and companion legislation, sponsored by Congressman RANGEL, is presently moving in the House of Representatives.

This legislation attempts to bring benefits to impoverished areas with a minimal loss of revenue to the Treasury. But, it is important to look beyond cost and consider the positive social impact that the enterprise zone program can have on a community by giving its residents jobs and a new sense of hope about their future. It is also important to consider the positive economic impact enterprise zones can have by giving local treasuries desperately needed new sources of revenue.

The Enterprise Zone Program, in its very essence, assumes that it is better for society to direct investment and employment to areas that have had a history of low levels of economic activity rather than to direct investment and employment to areas that have experienced economic prosperity.

This legislation recognizes that the economic problems affecting many of our cities cannot be solved by Federal handouts alone. It is clear that we must form a partnership between governments, business, and communities to develop a strategy that will attack chronic poverty and urban decay over the long term.

Currently, 37 States have begun to do precisely this by establishing their local versions of enterprise zones. I am proud to say that Connecticut led the Nation in establishing zones in 1982, offering a wide range of State and local incentives, as well as administrative support, to help develop distressed urban areas.

According to statistics from the Connecticut Department of Economic Development, Connecticut's 12 zones have attracted nearly \$400 million in new investment, and created or retained more than 13,000 jobs, without the benefit of accompanying Federal incentives. By providing such Federal incentives, we can expect to see ever greater investment and job creation in these regions.

Specifically, the bill I introduced calls for the designation of 50 Federal enterprise zones by the Secretary of the Department of Housing and Urban Development. Tax incentives allow:

Zone businesses to take advantage of a zero capital gains rate for the sale of any enterprise zone tangible property that has been held for at least 2 years; Those who invest in zone businesses to deduct up to \$50,000 for any taxable year, a \$250,000 maximum, on the purchase of qualified enterprise zone common stock; and

A 5 percent refundable tax credit to qualified enterprise zone employees for the first \$10,500 in wages, up to \$525 per worker.

I am convinced that, if adopted, this program will bring hope to areas with

little hope; offer jobs to those stricken by incessant unemployment; and promote economic growth in areas that have for too long experienced only economic decline.

Mr. President, what happened in Bridgeport on June 6 should be taken as a signal that things are not well in our cities. Bridgeport's filing for bankruptcy was clearly a desperate cry for help. Enterprise zones are not the whole cure for the social and economic ills plaguing our inner cities, but they are clearly a big step in the right direction.

Winston Churchill once said:

Some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few are those who see it as a sturdy horse pulling the wagon.

The most appealing feature of enterprise zones is their attempt to involve and utilize private enterprise in doing something substantial on a national scale about urban decay and chronic poverty. Poverty and decay that not only encompasses whole sections of every one of our inner cities but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, whether they are in the South Bronx, East St. Louis, New Orleans, Minneapolis, Liberty City, or Bridgeport are in need of our help. I believe enterprise zones can offer help to many inner cities in a long-term, meaningful way. Their adoption is long overdue.●

#### TRIBUTE TO MUSIC UNDER THE STARS

●Mr. KOHL. Mr. President, I rise today to pay tribute to one of the finest free music programs in existence—Music Under the Stars. This annual outdoor summer series has been one of the most productive artistic ventures in Milwaukee County, and has become a cultural pillar of the community. Under the excellent sponsorship of the Milwaukee County Board of Supervisors, Music Under the Stars has been available free of charge since 1968.

Much of the credit for the success of the Music Under the Stars program and other county-sponsored cultural events must be given to Music Director John-David Anello and his son, John D. Anello, Jr., as producer/artistic director. The Anello name has become synonymous with superb musical evenings in the park.

This year, to commemorate the Declaration of the Rights of Man and to celebrate the country of France, a very special evening has been planned. For the eighth time, the Voice of America has agreed to record a Music Under the Stars program for foreign broadcast. Thanks are due to the Voice of America's directors, and to the Music Performance Trust Funds of New York, which has been generous in cooperating

with the Music Under the Stars program and in granting permission for this broadcast.

Mr. President, there are ties of basic humanity that bind people all over the globe—ties that recognize no borders and go beyond the scope of any government. Two hundred years ago, following the spirit of our own American Revolution, France recognized, in the Declaration of the Rights of Man, that "all men are born free and equal in rights." Its 17 articles, adopted by France's National Assembly, served as the preamble to the Constitution of 1791. It came to be, according to 19th-century historian Jules Michelet, "the credo of the new age." What the Bill of Rights has been to our country, the Declaration of the Rights of Man is to France. Together, these documents mark an epoch in history.

Performances such as this one, where Milwaukee gives its voice to the world, do more than bring international recognition to the city. In a very real way, these performances express our solidarity with the citizens of other countries. The people of France gave our country a Statue of Liberty. This concert may not be on so grand a scale, but it truly is a tribute—and an expression of friendship and good will—to our fellow travelers on the historic road to freedom.

Mr. President, the concert is scheduled for Saturday July 20 at the Washington Park Temple of Music. The performers and concertgoers, as well as all the people who have worked so hard to put this program together, have my best wishes and my thanks. This night should be one to remember.●

#### TRIBUTE TO DR. HENRY BLACKBURN

●Mr. DURENBERGER. Mr. President, heart disease hits nearly every family in America. I am proud to say that in the State of Minnesota there is an outstanding physician who is a leader in public education and prevention of heart disease. Dr. Henry Blackburn is a fine example to us all in his effort to research and heighten awareness about health issues which can sometimes be devastating.

The March-April edition of the University of Minnesota Alumni Association magazine recognizes six University of Minnesota scientists who are the principal investigators responsible for very large research projects. One of the articles was about the research of Dr. Henry Blackburn, and I would like to share with you his story:

Henry Blackburn is a Mayo professor of public health in the School of Public Health, and for many years was director of the Division of Epidemiology. He also has a joint appointment as professor in the Medical School's Department of Medicine. For the past ten years, Blackburn has directed the Minnesota Heart Health Program, a statewide effort to educate the public about heart

disease risk factors, to engage whole communities in changing behaviors to reduce risk factors, and to measure the effects of education and behavioral changes. Since 1980, the Minnesota Heart Health Program has received more than \$41 million in support from the National Institutes of Health (NIH).

Blackburn also is the principal investigator for two related NIH-supported research projects, titled Community Surveillance of Cardiovascular Disease (more than \$12 million) and Prevention of Cardiovascular Disease (more than \$250,000). And since 1988, he has received more than \$300,000 for the School of Public Health's Midwest AIDS Training and Education Center.

Dr. Blackburn is a fine representative of the Minnesota medical community. His work in the area of lifestyle guidance is driven by compassion and concern for the individual. I commend and thank Henry Blackburn for his efforts and support him in his future endeavors in the health field. •

#### ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., on Thursday, July 11; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein; and that from 8:30 a.m. to 9:30 a.m. Senator KERREY of Nebraska be recognized to address the Senate; that the time from 9:30 a.m. to 10:30 a.m. be under the control of the Republican leader or his designee; and that when the Senate resumes consideration of S. 1241 at 10:30 a.m. tomorrow, there be 10 hours remaining on S. 1241 postcloture.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MITCHELL. Mr. President, I will withhold.

Mr. DOLE. Will the majority leader yield for an inquiry?

Mr. MITCHELL. I will be pleased to yield to the Republican leader.

Mr. DOLE. As I understand it, cloture is now being invoked so there would be what, 30 hours postcloture? As I understand, there are some germane amendments, maybe on each side. I do not know what the amendments are. But I am wondering if we could ascertain from anybody on this side, if they have a germane amendment, if they intend to offer it. That might help the leader decide whether we are going to stay here later tonight or come back tomorrow morning and take some time off the clock.

So if anybody on this side has an amendment which is germane, if they

intend to offer it, I think the managers would like to know.

Mr. THURMOND. That is correct. We would like to know now if possible.

Mr. DOLE. I guess we can put out a hotline.

I know there are some nongermane amendments.

Mr. THURMOND. I do not hear from anyone who has a germane amendment, so I presume there are none on this side. The Senator can test his side, and then we can get unanimous consent and close it out.

Mr. BIDEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I am pleased to yield.

Mr. BIDEN. I think the wisest thing said tonight is what was just said by the Senator from South Carolina. I know of no amendments on the Democratic side.

I respectfully suggest we give everybody 15 minutes to acknowledge whether they have an amendment. If they do not seek unanimous consent then the only thing to be in order tomorrow morning would be the pending business of the Senator from North Carolina.

Mr. MITCHELL. Mr. President, I would ask the Senator to withhold on that request.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess, as under the previous order, until 8:30 a.m. tomorrow, Thursday, July 11.

There being no objection, the Senate, at 9:19 p.m., recessed until Thursday, July 11, at 8:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate July 10, 1991:

##### DEPARTMENT OF STATE

ROBERT S. STRAUSS, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNION OF SOVIET SOCIALIST REPUBLICS.

DAVID A. COLSON, OF MARYLAND, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS.

##### IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

#### To be lieutenant general

LT. GEN. LEONARD P. WISHART, III, 152-24-4608, U.S. ARMY.

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(A):

#### To be lieutenant general

MAJ. GEN. WILSON A. SHOFFNER, 443-34-8897, U.S. ARMY.

#### IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

#### UNRESTRICTED LINE OFFICERS

##### To be lieutenant commander

EUGENE MICHAEL ABLER	CHARLES SAMUEL
DAVID DOUGLAS ABRAHAMSON	BLACKADAR
HOLLY ANN ADAMS	PATRICIA ANN BLAKELEY
ROBERT JOHN ADRION	WAYNE RICHARD BLANDING
CARA DALE AKERLEY	MARY SUE BLANKENSHIP
RALPH NORMAN ALDERSON, JR.	CLAIRE VIRGINIA BLOOM
JOHN DAVID ALEXANDER	ROBERT FRASER BLYTHE
RICHARD KERTELL J. ALEXANDER	MATTHEW EDWARD BOBOLA
BURT S. ALLAIRE	MARTIN JOHN BOBOG
EDWARD TODD ALLEN	RICHARD HUGH BOHNER, JR.
GRACE ELIZABETH ALLINDER	TIMOTHY EDWARD BOOTHE
JOHN MICHAEL ALLISON	STEVEN CHARLES BOS
SCOTT DOUGLAS ALTMAN	DAVID WINCENT BOSE
JOSE LUIS ALVAREZ, JR.	KELLY SUE BOSE
JEFFREY CHARLES AMICK	EDMOND LAWRENCE BOULLIANNE
ROY LOUIS ANDERSEN	RANDALL GREGORY BOWDISH
GERALD RANDOLPH ANDERSON	MARK DAVID BOYERS
GUSTAV ANDREW ANDERSON	TODD ALLEN BOYERS
PAUL FRANCIS ANDERSON	KENT DOUGLAS BRADSHAW
ROBERT ERIC ANDERSON	JOHN FREDERICK BRANDEAU
ROBERT SCOTT ANDERSON	ERIC HUGH BRANDENBURG
THOMAS XAVIER ANDERSON	RICHARD LEE BRASSEL
MELISSA SUE ANDREWS	BARRY CRAIG BRATTON
PHILIP THOMAS ANGELINI	RICHARD PAUL BRACKENRIDGE
RONALD PAUL ANGERER	ROBERT JOHN BRENNAN
DAVID STUART ANGRISANI	WILLIAM DENNIS BRENNAN
CHRISTOPHER P. ARENDT	TIMOTHY BLAKE BREWER
THOMAS JOHN ARUFFO	KRISTINE JOENS BRIDGES
LESLIE HANSEN ASHENFELTER	WILLIAM LLOYD BRIDGEWATER
CLIFFORD CLARK ATMORE	WILLIAM SCOTT BRINKMAN
WAYNE D. ATWOOD	BRUCE WILLIAM BRISSON
WILLIAM RICHARD AULT	EILEEN SUE BRISTOW
PAUL EDWIN AXELSON	JENNIFER ELLYN BROOKS
MATTHEW JAMES BABLITZ	MICHAEL GEORGE BROOKS
DALE ALAN BAKER	JOHN BURTON BROOMFIELD
MARK EDWARD BAKOTIC	GARY DEAN BROWN
KELLY BRUCE BARAGAR	MICHAEL RAY BARCLIFT
MICHAEL RAY BARCLIFT	DAVID LYNN BARKER
DAVID LYNN BARKER	STEVEN LESLIE BARNABY
STEVEN LESLIE BARNABY	THOMAS HAROLD BARNARD
THOMAS HAROLD BARNARD	TIMOTHY ROSSO BARON
TIMOTHY ROSSO BARON	STEVE MICHAEL BARRATT
STEVE MICHAEL BARRATT	MICHAEL GERALD BARRINGTON
MICHAEL GERALD BARRINGTON	KEITH RAY BARTON
KEITH RAY BARTON	ROLAND WESLEY BATTEN, JR.
ROLAND WESLEY BATTEN, JR.	WAYNE ROY BAUERS, JR.
WAYNE ROY BAUERS, JR.	KEVIN ALLEN BAUGH
KEVIN ALLEN BAUGH	JAMES JOSEPH BAUSER
JAMES JOSEPH BAUSER	FRED CHARLES BEACH
FRED CHARLES BEACH	VERNON DALE BEACH
VERNON DALE BEACH	PHILLIP LINCOLN BEACHY
PHILLIP LINCOLN BEACHY	WILLIAM WORTHAM BEAUMONT
WILLIAM WORTHAM BEAUMONT	RICHARD ROBERT BECK, JR.
RICHARD ROBERT BECK, JR.	FRED THOMAS BECKHAM, JR.
FRED THOMAS BECKHAM, JR.	MICHAEL JOSEPH BECKNELL
MICHAEL JOSEPH BECKNELL	SYDNEY JOYCE BEEM
SYDNEY JOYCE BEEM	KATHLEEN ANN BEERNINK
KATHLEEN ANN BEERNINK	DAVID FRANK BEERS
DAVID FRANK BEERS	MARGUERITE ELIZABETH BELEC
MARGUERITE ELIZABETH BELEC	DAVID DOUGLAS BELT
DAVID DOUGLAS BELT	DEBORAH EILEEN BENEDICT
DEBORAH EILEEN BENEDICT	IVARS RAFAELS BERGS
IVARS RAFAELS BERGS	RICHARD OLIVER BERNARD
RICHARD OLIVER BERNARD	TIMOTHY CRESTON BERTCH
TIMOTHY CRESTON BERTCH	RONALD CLINTON BETHMANN
RONALD CLINTON BETHMANN	MINDY SUE BARBOVE
MINDY SUE BARBOVE	BILODEAU
BILODEAU	DEBRA KAY BISHOP
DEBRA KAY BISHOP	CHARLES SAMUEL BLACKADAR
CHARLES SAMUEL BLACKADAR	PATRICIA ANN BLAKELEY
PATRICIA ANN BLAKELEY	WAYNE RICHARD BLANDING
WAYNE RICHARD BLANDING	MARY SUE BLANKENSHIP
MARY SUE BLANKENSHIP	CLAIRE VIRGINIA BLOOM
CLAIRE VIRGINIA BLOOM	ROBERT FRASER BLYTHE
ROBERT FRASER BLYTHE	MATTHEW EDWARD BOBOLA
MATTHEW EDWARD BOBOLA	MARTIN JOHN BOBOG
MARTIN JOHN BOBOG	RICHARD HUGH BOHNER, JR.
RICHARD HUGH BOHNER, JR.	TIMOTHY EDWARD BOOTHE
TIMOTHY EDWARD BOOTHE	STEVEN CHARLES BOS
STEVEN CHARLES BOS	DAVID WINCENT BOSE
DAVID WINCENT BOSE	KELLY SUE BOSE
KELLY SUE BOSE	EDMOND LAWRENCE BOULLIANNE
EDMOND LAWRENCE BOULLIANNE	RANDALL GREGORY BOWDISH
RANDALL GREGORY BOWDISH	MARK DAVID BOYERS
MARK DAVID BOYERS	TODD ALLEN BOYERS
TODD ALLEN BOYERS	KENT DOUGLAS BRADSHAW
KENT DOUGLAS BRADSHAW	JOHN FREDERICK BRANDEAU
JOHN FREDERICK BRANDEAU	ERIC HUGH BRANDENBURG
ERIC HUGH BRANDENBURG	RICHARD LEE BRASSEL
RICHARD LEE BRASSEL	BARRY CRAIG BRATTON
BARRY CRAIG BRATTON	RICHARD PAUL BRACKENRIDGE
RICHARD PAUL BRACKENRIDGE	ROBERT JOHN BRENNAN
ROBERT JOHN BRENNAN	WILLIAM DENNIS BRENNAN
WILLIAM DENNIS BRENNAN	TIMOTHY BLAKE BREWER
TIMOTHY BLAKE BREWER	KRISTINE JOENS BRIDGES
KRISTINE JOENS BRIDGES	WILLIAM LLOYD BRIDGEWATER
WILLIAM LLOYD BRIDGEWATER	WILLIAM SCOTT BRINKMAN
WILLIAM SCOTT BRINKMAN	BRUCE WILLIAM BRISSON
BRUCE WILLIAM BRISSON	EILEEN SUE BRISTOW
EILEEN SUE BRISTOW	JENNIFER ELLYN BROOKS
JENNIFER ELLYN BROOKS	MICHAEL GEORGE BROOKS
MICHAEL GEORGE BROOKS	JOHN BURTON BROOMFIELD
JOHN BURTON BROOMFIELD	GARY DEAN BROWN
GARY DEAN BROWN	MICHAEL RAY BARCLIFT
MICHAEL RAY BARCLIFT	DAVID LYNN BARKER
DAVID LYNN BARKER	STEVEN LESLIE BARNABY
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THOMAS HAROLD BARNARD	TIMOTHY ROSSO BARON
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STEVE MICHAEL BARRATT	MICHAEL GERALD BARRINGTON
MICHAEL GERALD BARRINGTON	KEITH RAY BARTON
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ROLAND WESLEY BATTEN, JR.	WAYNE ROY BAUERS, JR.
WAYNE ROY BAUERS, JR.	KEVIN ALLEN BAUGH
KEVIN ALLEN BAUGH	JAMES JOSEPH BAUSER
JAMES JOSEPH BAUSER	FRED CHARLES BEACH
FRED CHARLES BEACH	VERNON DALE BEACH
VERNON DALE BEACH	PHILLIP LINCOLN BEACHY
PHILLIP LINCOLN BEACHY	WILLIAM WORTHAM BEAUMONT
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KATHLEEN ANN BEERNINK	DAVID FRANK BEERS
DAVID FRANK BEERS	MARGUERITE ELIZABETH BELEC
MARGUERITE ELIZABETH BELEC	DAVID DOUGLAS BELT
DAVID DOUGLAS BELT	DEBORAH EILEEN BENEDICT
DEBORAH EILEEN BENEDICT	IVARS RAFAELS BERGS
IVARS RAFAELS BERGS	RICHARD OLIVER BERNARD
RICHARD OLIVER BERNARD	TIMOTHY CRESTON BERTCH
TIMOTHY CRESTON BERTCH	RONALD CLINTON BETHMANN
RONALD CLINTON BETHMANN	MINDY SUE BARBOVE
MINDY SUE BARBOVE	BILODEAU
BILODEAU	DEBRA KAY BISHOP
DEBRA KAY BISHOP	CHARLES SAMUEL BLACKADAR
CHARLES SAMUEL BLACKADAR	PATRICIA ANN BLAKELEY
PATRICIA ANN BLAKELEY	WAYNE RICHARD BLANDING
WAYNE RICHARD BLANDING	MARY SUE BLANKENSHIP
MARY SUE BLANKENSHIP	CLAIRE VIRGINIA BLOOM
CLAIRE VIRGINIA BLOOM	ROBERT FRASER BLYTHE
ROBERT FRASER BLYTHE	MATTHEW EDWARD BOBOLA
MATTHEW EDWARD BOBOLA	MARTIN JOHN BOBOG
MARTIN JOHN BOBOG	RICHARD HUGH BOHNER, JR.
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DAVID WINCENT BOSE	KELLY SUE BOSE
KELLY SUE BOSE	EDMOND LAWRENCE BOULLIANNE
EDMOND LAWRENCE BOULLIANNE	RANDALL GREGORY BOWDISH
RANDALL GREGORY BOWDISH	MARK DAVID BOYERS
MARK DAVID BOYERS	TODD ALLEN BOYERS
TODD ALLEN BOYERS	KENT DOUGLAS BRADSHAW
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TIMOTHY BLAKE BREWER	KRISTINE JOENS BRIDGES
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KURZAWA  
CLAYTON BRAD KYKER  
JOHN HODGE LACKIE  
HAROLD HENRY LAJONDE  
VINCENT LUIGI  
LAMOLINARA  
GREGORY MARTIN LANDIS  
PAUL AMBROSE  
LAROQUE, JR.  
LARRY WILLIAM LASKY  
LOUIS JOSEPH LASSARD,  
JR.  
WILLIAM CHARLES  
LATHAM  
ERNEST KELVIN LATIMORE  
DAVID ALAN LAUSMAN  
TIMOTHY JAY LAWRENCE  
DAVID JAMES LEACH  
DANIEL EUGENE LEADER  
DANIEL MARTIN LEE  
ROCKY ROBERT LEE  
CARROLL FAIRFAX LEFON,  
JR.  
DAVID WAYNE LEINGANG  
DOUGLAS EDWARD  
LEMASTERS  
DAVID ALLEN LENNOX  
ROBERT BRADFORD  
LEPPLA  
LINDSEY  
LESTERBRUTSCHER  
CLINTON DEAN LEWIS  
STEPHEN ROBERT LILLY  
BRUCE HICKS LINDSEY  
MENDALL SCOTT LIVEZEY  
CHARLES EUGENE  
LOCKETT  
JOHN LAWRENCE LOCKLER  
LEONARD ALEX LOLLAR  
JAMES DUDLEY LONG  
TERRY LEE LARSON LOVE  
JOHN LESTER LOVERING,  
JR.  
JAMES RICHARD LOW  
BERKALA KEITH LOWE  
CHARLES ELDON LOWE  
FRANK JOSEPH MICHAEL  
LOWERY  
LARRY EUGENE LUCAS  
RUSSELL PAUL LUEHRSEN  
SPOTRIZANO DESCANZO  
LUGTU

WALTER ERNEST  
LUTHIGER  
MARGARET QUEEN LYLE  
DANIEL JOSEPH LYNCH  
KRAIG MARION LYSEK  
NORMAN LAWRENCE  
LYSTER  
GUY ALLAN MACDONALD  
GARRY RICHARD MACE  
DANIEL PATRICK MACE  
DAVID LEONARD  
MACPHERSON  
DEBRA OCLISBY  
MADRELL  
MICHAEL WAYNE MALCOLM  
DAVID PAUL MALONEY,  
JR.  
JOHN THOMAS  
MANGAMARO  
THOMAS EDWARD  
MANGOLD, JR.  
SHAWN DANIEL MANK  
JOHN JAMES MARALDO  
MARY ANN MARGOSIAN  
CARL RAY MARKERT  
JEFFREY PHILIP  
MARQUARDT  
JOHN JOSEPH MARSHALL  
DANIEL JOSEPH MARTIN  
DENNIS MICHAEL MARTIN  
DUANE HENRY MARTIN  
EDWARD JOSEPH MARTIN,  
JR.  
JOSEPH WILLIAM MARX  
THOMAS LOUIS MASCOLO  
BRADLEY NIEL MASON  
DAVID BARRIE MATHERS  
JARON BAKER MATLOW  
VICTOR RICHARD MATTES  
ANGELA LAURA MAXWELL  
BRADLEY ARTHUR  
MAXWELL, JR.  
MATTHEW THOMAS  
MAXWELL, IV  
JAMES JOSEPH MAY  
MARTIN NEIL MAY  
RANDAL LEE MAYER  
VAL JOSEPH MAYNARD  
JOHN COLLINS MCCABE, II  
ROBERT THEODORE  
MCCAMPBELL  
KATHLEEN CHRISTOPH  
MCCARTHY, JOSEPH  
KEVIN TIMOTHY  
MICHAEL FRANCIS  
MICHAEL JOHN MCCARTIN  
STEPHEN DUANE  
MCCASLIN  
JOSEPH SCOTT MCCLAIN  
MATTHEW JUDE  
MCCLOSKEY  
MICHAEL DAVID MCCLOURE  
ANGUS ANDREW MCCOLL  
ANGELA DENISE MCCOY  
FRANCIS REGIER  
MCCULLOCH  
MARK ALDEN MCDANIEL  
MICHAEL RAY MCDERMOTT  
DEBORAH ANN MCGHEE  
EDWARD KENNETH  
MCGINNIS  
ERNEST DALE MCGINNIS  
MARY ANN MCGIFFRY  
SEAN ANDREW MCGUCKIN  
KEVIN WAYNE MCGUIRE  
PATRICK EDWARD  
MCKENNA  
LEIGH MAUREEN  
MCKENZIE  
ANNE ELIZABETH SHA  
MCKINNEY  
JOHN THEON MCKINNEY,  
JR.  
MARTIN HAYES MCKOWN,  
JR.  
ROBERT PAUL  
MCCLAUGHLIN, JR.  
LINDA HOPWOOD MCMEEANS  
JOSEPH FRANCIS  
MCMANARA  
MICHAEL PATRICK  
MCMELLIS  
JOHN FRANKLIN MEHKE  
WILLIAM JOHN MEIER, JR.  
DESIREE ELLEN  
MELNYCHENKO  
PATRICK WILLIAM MENAHI  
VITO MICHAEL MENZELLA  
VICTORIANO GUERRERO  
MERCADO  
RALPH GILBERT MERG  
JAMES WILLIAM  
MERSEREAU  
STEPHEN RICHARD METZ  
ROBERT CHARLES MEYERS  
MARSHALL NATHAN  
MILLARD  
BRAD C. MILLER  
CLAYTON WILLIAM MILLER

JOHN S. MILLER
KENDALL JOHNSTON
MILLER
SCOTT DAVIDSON MILLER
SPENCER LARRY MILLER
STEWART ALEXANDER
MILLER
TERRY TYRONE MILLER
HOWARD SCOTT MINYARD
JOHN JOSEPH MISIASZEK
ALEXANDER STEVEN
MISKIEWICZ
ANTHONY ELLIS MITCHELL
JERRY D. MITCHELL
ROSS FRANK MOBILIA
MARK PATRICK MOLITOR
MARK ERIC PAUL
MONAGHAN
PAUL DONALD MONGER
VALERIE ANN MOOT
WILLIAM MORALES
DARREL MICHAEL MORBEN
CLARENCE TODD MORGAN
JEFFREY LYNN MORGAN
DIANE IRENE NEFF
JAMES CALVIN NELSON
SCOTT MARSHALL NELSON
JEROME JOHN NETKO
JERRY VAN NEUBERGER
LAURENCE JAMES NEVE
JAMES HARVEY NEWPORT
DONALD ROY NEWTON
BRUCE WALTER NICHOLS
RICHARD CORWIN NICHOLS
PATRICK DALE NICKLES
RICHARD BRIAN NICKLAS
JOHN FRANCIS NILSEN
DARYL WAYNE NIX
STEVEN KIRK NOBE
DOUGLAS BRUCE NORDMAN
KENNETH JOSEPH NORTON
LEWIS CHRISTOPHER
NYGARD
KEVIN WILLIAM OAKES
GERALD LEE GAR
MARI CATHERINE
OBVINSKY
DAVID JAMES OCONNOR
SEAN EUGENE OCONNOR
STEPHEN MICHAEL ODEA
PATRICK ARNOLD
ODONNEL
RAYMOND LEO OKEEFE, III
ERIC JAMES OKERSTROM
MICHAEL ROY OLMSTEAD
MARTIN FRANCIS
DUDOGHLIN
GREGORY JAY OLSEN
DUNCAN FARWELL OMARA
DENNIS JOSEPH OMEARA
ANNE KELLEY RYAN
OMOORE
STEPHANIE SUE ORAM
GERARD ORBEGAN
PATRICK EDWARD
OROURKE
GREGORY DAVID OSBORNE
ALAN OSHRACK
CHARLES PATRICK OTOOLE
DOUGLAS ELMER OTTE
SCOTT GREGORY OWEN
BERNIT LUDMAR OYDINA
THOMAS GERARD PAGE
ROBERT PAUL PAPADAKIS
JOE HAROLD PARKER
STEVEN ALEXANDER
PARKS
RONALD GEORGE PARSON
BRUCE MICHAEL PATROU
JOHN FREDERICK PATYEN,
II
SHEILA ANNE PATTERSON
WILLIAM EDWARD
PATTERSON, JR
GLENN ALLAN PATTON
ROBERT PAUL PATY
MICHAEL S. PAUL
KYRA VALERIE PAULI
MARK ALAN PAYLOR
ROBERT KENT PAYLOR
RULON KEITH PAYNE
SVEND ERIC PEDERSEN
FRANCIS DAVID
PENNYPACKER
KENNETH MALCOLM
PERRY
TERESA ANNE PESHINSKI
MARK JAMES PETERS
WILLIAM SCOTT PETRIE
WILLIAM KEITH PETTY
ERNEST PAUL PETZCRICK
DAVID ROLAND PINE
ROBERT ALAN PLAYFAIR
LINAS MATTHEW PLOPFLYS
GARY DAVID POE
STEPHEN JOSEPH
POLLARD
CLARK BYRON POLLOCK
ALFRED LEON POPE

MICHAEL JOHN MORRIS
MICHAEL THOMAS MORRIS
DAVID BRUCE MORTON
JONATHAN DEAN MOSIER
LOUIS SCOTT MOSIER
KENNETH DAVID MOSLEY
WILLIAM JAMES MOYER,
JR
RUTHIE A. M. MUHAMMAD
JAMES ROBERT MUIR
ROBERT CAMPBELL MUIR,
III
MICHAEL JAMES
MULLIGAN
GARY LEE MURDOCK
JOHN FRANCIS MURPHY
MARK ALAN MURPHY
ROY HENRY MUSTELIER
JAN PETER MYERS
WILLIAM IRA MYERS
JON KELLY MYRAN
CHARLES JAMES NEARY
DAVID TODD NEELY
KENNETH EDWIN POSEY
EDDIE RAY POTTNER
JEFFREY THOMAS POWERS
EUGENE BOYD PRICE
JOHN KENNETH PRICE
MICHAEL DAVID PRUITT
JOHN MICHAEL QUIGLEY,
JR
JOSEPH M. QUINN
LESLIE JOAN QUINN
JOEL PASTOR RACHAL
JOHNNY WESLEY RAIFORD
JOSEPH PATRICK RAINEY
PATRICK FRANCIS RAINEY
JOSEPH PATRICK RARDIN
BRIAN A. RAY
ELLIOTT REAGANS, JR
ANNEMARIE REARDEN
ERIC PAUL REED
THOMAS LANGHORNE
REESE
MARK REGELMANN
TOD FREDRICK REINHART
GARY STEVEN REINHART
ROBERT JOSEPH REITER
THOMAS EDWARD REMLEY
BRIAN A. RAY
MARY LOUISE RHODES
RALPH HERBERT RICARDO,
JR
DAVID B. RICH
JEFFREY HALE RICHARDS
DAVID W. L. RICHTER
CURTIS ALAN RIDEOUT
MARK GEORGE RIDGEWAY
JAMES ANDERSON
RIGBERT
ROBERT FRANCIS RIEHL
BARBARA SUE RIEHTER
JAMES RAYMAN RICHTER,
JR
CHARLES JOHN RILEY, JR
DOYLE PATRICK RILEY
MARK RAYMOND RIOS
JEFFREY COLIN RISINGER
DAVID LEO RITCHIE
BOBBY JOE RIVERS
JONATHAN GENE ROARK
JOHN ERIC ROBERTI
WILLIAM GORDON
ROBERTS, II
PHILIP ALAN ROBINS
HARRY MICHAEL ROBINSON
JONATHAN HUGH
ROBINSON
SCOTT ANTHONY ROBINSON
MICHAEL DEAN RODMAN
HOWARD CHARLES
RODRIGUEZ
JOHN JAY ROESNER
MICHAEL ALAN ROGERS
LOUIS RICHARD ROMANO
RONALD W. ROMINE
JULIA ANNE ROOS
NELSON CHARLES ROSADO
JAMES WILLIAM ROSE
GARY LEE ROSSI
JANETTE FITZSIMMONS
ROSSI
ROBERT LEE ROUNTREE,
JR
STEVEN DAVID ROWLANDS
BRANDON KREIG RUBY
FREDERICK CHARLES
RUCINSKI
RICHARD JOHN RUEHLIN
DAVID GRADY RUFF
PETER BLAKE RUSH
RICHARD RANDALL RUSK
JOHN WALTER RUSSELL
JOHN LENROY RUSSELL
ROBIN LADD RUSSELL
GORDON BENNETT
RUTHERFORD
BERNARD THOMAS RYAN

KENNETH CHARLES RYAN
WARREN SCOTT RYDER
JOHN PAUL SACHLEBEN
KURT R. SADORF
CLAUDIA RISNER SALERNI
ARTHUR RAFAEL
SALINDONG
SCOTT KEVIN SALLEY
JAMES DALE SALMONS
THOMAS MICHAEL SALT
WARREN JOSEPH SAMOLUK
JOSEPH ANTHONY
SANTAGUSTIN
GARY SANDALA
KEVIN LAVARD SANDERS
LINDA ISABELL SAUV
PETER DAVID SAUV
EDMUND ROSSITER
SAWTELLE
JEFFREY THOMAS SAWYER
MATTHEW THOMAS
SCASSERO
MARK ROBERT SCHAEFER
MARK EDWARD SCHEITLUN
MARK RICHARD
SCHERBERGER
DAVID ALBERT SCHMICK
WILLIAM GEORGE
SCHMIDLIN
CHRISTOPHER LYNN
SCHREIER
JOSEPH CHESTER
SCHROEDER
MARY JULIA SCHROEDER
STEVEN HAROLD SCHULTE
CHRISTOPHER JON SCHULZ
RANDY HAROLD
SCHUMACHER
WALTER E. SCHUMAN
GREGORY WILLIAM
SCHWENK
MICHAEL SCHWENK
KEVIN DAVID SCOTT
DONNA NELSON SCRIVENER
GLEN RICHARD SEARS, II
LARRY FRANKLIN SEELEY,
JR
DANIEL RICHARD
SEESHOLTZ
MARK BENEDICT SEGAL
CLEMENS MICHAEL
SEGURA
CORINNE CYPRANOWSKI
SEGURA
CHARLES SEYMOUR SEITZ
RAMIRO SEPULVEDA, JR
DAVID WILLIAM SERHAN
JAMES DOUGLAS SETTELE
GREGG STEVEN SHALLAN
MICHAEL ROBERT SHAND
MATTHEW MICHAEL
SHARPE
MARTELL SHAW
LINDA WYTT SHEDLOCK
KIM BOWEN SHEPPARD
MICHAEL GLEN SHERER
KEVIN BRUCE SHERMAN
PAUL RONALD SHIGLEY
DONALD JOSEPH SHIREY,
JR
MALCOLM BAIRD SHUEY
RICHARD J. SHY
JAMES R. SICKMIER
PAUL VIVIAN SIEGAL
JORGE SIERRA
ANDREW CLARK SIGLER,
JR
MACK ANDREW SIGMAN
RUTH BYRNE SILVIA
EDWARD CLELL SIMMONS,
JR
MARTIN STUART SIMON
RICHARD LEE SIMON
DAVID GREY SIMPSON
DENNIS JAMES SINNETT
TAYLOR WILSON SKARDON
GREGORY HOWARD
SKINNER
KENNETH JAMES SKINNER
THOMAS JOSEPH
SLATTERY
DANIEL FRANCIS
SLOWIKOWSKI
JACKIE L. SMIDT
CHARLOTTE VERDA SMITH
DOUGLAS ERIC SMITH
GERALD NEAL SMITH
KEVIN DWIGHT SMITH
MICHAEL WILLIAM SMITH
MILLARD SMITH, JR
RICHARD WILLIAM SMITH
RUSSELL HUGH SMITH
SCOTT EDWARD SMITH
THEODORE HUNT B.
SMYTHE, II
GLENN REVERDY SNYDER
MURRAY REED SNYDER
GERALD LAWRENCE SOCHA
KENNETH NEAL SOLOMON
ERIC WILLIAM SORENSEN
RALPH THOMAS SOULE

CHRISTOPHER KEITH
SPAIN
JOHN GERARD SPEAR
JOSEPH DERWOOD SPETZ
GORDON EVERETT
ARTHUR RAFAEL
ROBERT STRICKLIN
SPRATT
CURT WILLIAM SPROUL
WILLIAM CARLTON STACIA,
JR
DONALD BRAXTON
STANLEY
ALBERT LEE STCLAIR
MICHAEL THOMAS STEED
BRAD ALLEN STEELE
JAMES FOLK STEELE, III
JAMES CONRAD STEIN
CURTIS RALPH STEVENS
PAUL OWEN STEVERMER
DAVID CRESTON STEWART
JOHN TODD STEWART
JEFFREY ALLEN
STILLWAGON
FREDERICK MATTHEW
STRAUGHAN
BARBARA ANN
STRICKLAND
JOSEPH CHARLES STROH
JAMES ROY SULLIVAN
LINDA DENNIS SULLIVAN
GENE ARMOND
SUMMERLIN, II
PERRY MATTHEW SUTTLE
KEITH MICHAEL SUTYAK
KENNETH ALLAN SWAN
HAROLD PHOENIX
SWANSON
JAMES JOSEPH SWEENEY
KEVIN MICHAEL SWEENEY
VERNON MORRIS
CHRISTOPHER THOMAS
THOMAS ALBERT TACK
CHARLES EVERINGHAM
TAMBLYN
NANCY LOUISE TANNER
SCOTT KARL TAUBE
DAVID CLAY TAYLOR
JEFFREY AUSTIN TAYLOR
TIMOTHY LEE TEIS
RICHARD LEE TERRELL, JR
WILLIAM ALBERT THAYER
JOHN BRADSHAW THOMA
LINDA CALBERT THOMAS
SCOTT EMERSON THOMAS
DONALD ARTHUR
THOMPSON
DOYLE BEASLEY
THOMPSON
EVILSHARD THOMPSON
GARY HUSTON THOMPSON
GARY STEPHEN THOMPSON
PATRICK KEVIN THURMAN
PHILLIP MARSHALL
TINSLEY
JONATHAN FRANK TOBIAS
JOHN BRANTLY TODD
JOSEPH EDWARD TOFALO
CURTIS WAYNE TOOMER
BRIAN ROBERT TOON
JANE ANN TREADWAY
WILLIAM ALBERT
TREADWAY
MARK BRIAN TREADWELL
WILLIAM BARNES TRIMBLE
TIMOTHY THIEL TUCKER
LORI POSTER TURLEY
FREDA GENE TUTTNER
DAVID KENDALL TUTTLE
RANDALL DAVID TWEET
STONE WAYNE TWETEN
MICHAEL WALTER
ULRICH
DONALD KEITH ULRICH
MICHAEL CHARLES
URQUHART
FRANK EDWARD VALENTE
CHRISTOPHER LAWRENCE
VANEGE
JOHN WALTER VANCE
ERIC ALBERT VANHOVE
KEVIN S. VANSLOTEN
SCOTT ROLAND VASINA
THOMAS AMORY VAUGHAN
JOSE ANGELO VAZQUEZ
RENE VELEZ
CAMILLE FRAN
VELLAWILKINSON
ROBERT FRANK VELLELLA
ROBERT ANGELO
VENDRASCO
JANICE MARGARET VENERI
ROBERT HOWARD
VERVILLE
JOHN JOSEPH VINIOTIS
HAROLD GILLMORE
WALKER, II
ANDREW NICHOLAS WALL
PAUL HENRY WALL, III
JAMES GREGORY WALLACE
MICHAEL ALAN WALLACE
CYNTHIA WALSH

GORDON THOMAS WALTON
MICHAEL WILLIAM WARD
RALPH CLAUDE WARD, JR
VICTOR GORDON
WARRINER, JR
TERRY LEE WASHBURN
BILLY JOE WASHINGTON
CHERI DENISE WATERFORD
TIMOTHY LANE WATKINS
STEPHEN JAMES WATSON
THOMAS CAMPBELL
WATSON, III
JESSEWAY WAYNE
WEATHERHOLTZ
BILLY EDWARD WEBB
ALLISON DEE
WEBSTERGIDDINGS
STEVEN MICHAEL
WEBSTER
KENNETH LANN
WEDDINGTON
DANIEL LEON WEED
GERALD VERNON WEERS
DAVID GLEN WEGMANN
DAVID LEE WEEGER
JOHN RUSSELL WEIDMAN
JOSEPH DONALD WELTER
WILK OTIS WEST, III
EZELL WESTBROOK, JR
BOXANE EMMILY WHALEN
RICHARD TUDOR
WHEATLEY
JAMES CRAIG WHITAKER
JERALD MICHAEL WHITE
SCOTT ALAN WHITE
DOUGLAS LEE WHITENER
STEVEN PHOENIX WHITLEY
KARL JOHN WIEGAND
THOMAS MICHAEL WILCOX
CAROL ANN WILDER
KEVIN THOMAS WILHELM
CATRY MAE WILLIAMS

DONOVAN JAMES
WILLIAMS
DUDLEY CARROLL
WILLIAMS
LANCE RICHARD WILLIAMS
MARK FOSTER WILLIAMS
JEFFREY JON WILLIAMS
KURT WILLSTATTER
BRIAN FRED WILSON
GARY ROBERT WINDHORST
THOMAS MICHAEL WINN
DAVID MICHAEL
WISNIEWSKI
GREGORY JOHN WITTMAN
GERALD WAYNE WOJCIK
DAVID LYNN WOLESZLAGE
GARY LEE WOLFE
MATTHEW LOUIS WOLFE
WOLFE
MARK EVANS WRALSTAD
DAVID KENDALL WRIGHT
MARVIN ABRAM WYANT, JR
HENRY CLAYTON WYKOFF
ROBERT PATTERSON
WYATT
JANICE MARGARET WYNN
DEAN JAMES YAMASAKI
GEORGE EVANS YATES
LONDA TOMSIC YEARGIN
HERBERT YEE
BRIAN CHRISTOPHER
YETKA
JAMES RUSSELL YOHE
MARCUS BARON YONEHRO
PETER HAMILTON YOUNG
MICHAEL EUGENE
ZYBENSKI
GUY WILLIAM ZANTI
DAVID KELLY ZATT
DAVID OAKLEY
ZIMMERMAN
HENRY ALAN ZWARTZ

ENGINEERING DUTY OFFICERS

To be lieutenant commander

KEVIN MACGREGOR ADAMS
FREDERICK M. ANDREW
JOAN EIGHTEN
SAUMSTARCK
WILLIE KELLY BOLICK
RICHARD JOHN BONCAL
JOHN LEONARD BRAUN
ROOSEVELT BRAXTON, JR
KATHLEEN COOPER
BRYANT
GREGG STANLEY
BUCKOWSKI
III ALDEN P. CHESTER
JAMES LAWRENCE CHILDS,
JR
MICHAEL JOHN CLOUTIER
PERCY DEAN CODY, II
THOMAS VICTOR COLE
ROBERT EDWARD
CONNOLLY
REID STERLING DAVIS
DANIEL LEWIS DEVANY
STEPHANIE ANNE
DOUGLAS
DANA JAY ELLIS
TERRENCE LEE EWALD
DAVID EDWARD FALKNER
NANCY COOPER FENNELL
JAMIE ANN FLAYHARTY
MICHAEL JAMES GALLET
JAMES GEOFFREY GREEN
LEWIS RANDALL GRIGG
JOSEPH DANIEL GUIDO
LARRY O.P. HAUKENES
NATALIE FRENCH
HEFFERNAN

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be lieutenant commander

DOROTHY J. FREER DAVID C. STUART
JEFFREY B. MAURO

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be lieutenant commander

II TELFORD GENE BOYER
CARL M. CALDERSON
MICHAEL DAVID DISANO
RANDALL EVERETT
DORNAN
FRANK MARTIN DRAKE, II
DONALD D. FATHEE
PATRICK JOSEPH FELTS
THOMAS FRANKLIN GLASS
ANTHONY SHAWN HANKINS
PRESTON KETH HARPE
DENNIS ROBERT HEEREN
DANIEL LEE HILL
GEORGE KLESSINGER
CHARLES WILLIAM
MALCOLM
DANIEL EARL MATHIS
FRANCIS NORMAN MOULDS
THOMAS MARTIN MURPHY
DENZIL EDWARD
OVERFELT
WILLIAM THOMAS
PETERSON
PAUL ERNEST HIDEENOOR
WILLIAM PETER SAVINO
THOMAS PATRICK SEEMA
FREDERICK DOYLE
THOMPSON
JAMES MING TUNG
ROBERT LYNN WESSINGER
JAMES W. WIRWILLE, JR

## AVIATION DUTY OFFICERS

*To be lieutenant commander*

LARRY DAVID CLINE MARK FRANEY  
 ANDREW VERNON COLE MARTIN MICHAEL MELTON  
 GORDON KENNEDY COVE DAVID MARTIN  
 ROBERT FRANCIS CURRY, REICHENBERG  
 JR. MICHAEL JOHN SCHIFFER  
 PAUL ERNEST EDMONDSON FREEMAN ALLEN TABER,  
 EDWARD WALTER JR.  
 EVERETT DAANE LEE TROYER  
 ROBERT MARSHALL FIELD

## SPECIAL DUTY OFFICERS (CRYPTOLOGY)

*To be lieutenant commander*

JAMES WARREN BLOW WILLIAM EVERETT  
 STEVEN LEWIS BRANDT LEIGHER  
 MICHAEL DON BRIMBERRY BOB RAY NICHOLSON  
 JAMES DOUGLAS BURNS JOANNE TRUPIA OHERN  
 NANCY JOANN CARTER ORVILLE SIDNEY OHERN  
 FRANK JOSEPH CARUSO, JR. ZACK WILLIAM OLNEY  
 EDWARD GREYSON ROY MATTHEW RADCLIFFE  
 DANIELS TIMOTHY L. REYNOLDS  
 STEPHEN ALEXANDER JOHN NORBERT ROGERS  
 FEDORISKA JAMES ALLAN SEERDEN  
 SEAN RAYMOND DARYL ALLEN SHADLE  
 FILIPOWSKI CAMPBELL  
 WILLIAM DON FLEET SCOTT ALAN STEPHENSON  
 ROBERT JAMES FORD GREGORY ALLAN THOMAS  
 DAVID ROBERT HAARBERG RENEE CHRISTINA TIMME  
 SCOTT RUSSELL HENDREN EUGENE RAYMOND  
 ALAN LUIS HENSLEY VALENDI  
 GARY MICHAEL HUMES ROGER DEAN WILLIAMS  
 NANCY VIRGINIA COLLI EDWIN FEREBEE  
 KNIPF WILLIAMSON  
 DOUGLAS KEITH KNOWLES MELANIE SUZANNE  
 REINER WOLFGANG WINTERS  
 LAMBERT SPECIAL DUTY OFFICERS  
 (INTELLIGENCE)

*To be lieutenant commander*

THOMAS CALHOUN ADAMS, ROBERT STEVEN  
 JR. EWIGLEEN  
 SHERRILL DIANE BAKER DANIEL JOSEPH  
 CHRISTOPHER ALLEN GALLAGHER  
 BARNES ROBERT DAVID GOURLEY  
 KEVIN ALLEN BOREEN JAMES VINCENT HARDY  
 DIANE HIGHFILL BOUZIANE NORMAN ROBERT HAYES  
 WELDON JACKSON JEFFREY JOHN JONES  
 CAMPBELL, JR. PAUL RAYMOND  
 JOHN HOWARD CHILTON, JR. KERSTANSKI  
 RICHARD HOLMES COOK SARAH BETH KOVEL  
 STEPHEN JOSEPH CURRAN SCOTT LEON LARKIN  
 MAUREN ANNE STEVEN GREGORY LAUREN  
 DOMBROWSKI RONALD ARTHUR LITTLE  
 MARK STEVEN LITTLETON

DOLORES RUTH MANLEY  
 THOMAS PAUL MEEK  
 FREDERICK MICHAEL MERTL  
 KATHERINE ANNA PIERCE  
 DANIEL WILLIAM PROCTOR  
 CRAIG W. PRUDEN  
 DAVID ANDREW RADI  
 DOUGLAS STEPHENS  
 RANDLETT  
 LAURENT CHARLES G.  
 REINHARDT  
 RONALD GLEN RICE  
 PATRICK WILLIAM RYAN  
 JOHN JACOB SCHOCH, II

## SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

*To be lieutenant commander*

EDWARD WILLIAM BARKER JOHN HAZLEHURST  
 JEFFREY DAVID GRADECK SINGLEY  
 FREDERIC ALLISON FRANK THORP, IV  
 HENNEY, JR. SPECIAL DUTY OFFICERS  
 JOHN JOSEPH PAPP (OCEANOGRAPHY)

*To be lieutenant commander*

JEFFREY WILLIAM MARCIA LYNN JONES  
 CAMPBELL ROBERT EUGENE KISER  
 CHARLES HAROLD DAILEY RICHARD JOHN KREN  
 DIANNE K. EDSON ERIC JOHN MILLER  
 GREG ALAN EISMAN SYLVIA ANN EREY MILLER  
 DAMASCENE VILLAFLOA JAMES MICHAEL OLSON  
 FERNANDEZ RAYMOND MARK  
 MICHAEL DAN FOSTER ROBICHAUD, JR.  
 LISA EDNA FRALLEY WILLIAM ARCHER WRIGHT,  
 TERESA MARIE GOBEL III  
 DOUGLAS J. GROTERS

## LIMITED DUTY OFFICERS (LINE)

*To be lieutenant commander*

GEORGE CRUZ ACFALLE DAVID LEE BRITTIAN  
 THOMAS ALLEN ADAIR EDWIN JOSEPH BURDICK  
 JIMMIE S. ALLEN PATRICK J. BYRNE  
 EUGENE V. BABICH PATRICK CARROLL  
 GREGORY J. BALDWIN LONNIE THEODORE  
 MICHAEL KILBURY CHDSTER  
 BALLINGER STEPHEN LAWRENCE  
 DAVID MICHAEL BARBATO CIPPERLY  
 RALPH JOSEPH ERNEST LEON COLLINS  
 BERTHIAUME ROBERT F. COONEY  
 DENNIS NORMAN JOSEPH EDWARD CONERY  
 BLACKMORE JAMES ROBERT CRANDALL  
 JAMES M. BLOCK ANTHONY ROSS  
 BOBBY L. BOBBITT CUNNINGHAM  
 STEPHEN M. BOYD DICIEB C. DAVIDSON

GERALD SHERRILL  
 DANIEL JAY SMITH  
 FRED CARTER SMITH  
 PETER FRANCIS SMITH  
 MATTHEW DEANE TITTLER  
 DELBURN MICHAEL  
 WALTER  
 WARREN CURRIER  
 WHEELER  
 EMMETT ROYCE WHITE, JR.  
 STEVEN ALLEN WHITE  
 CHRISTOPHER PAUL  
 WOODRUFF  
 HELEN ANN ZEPFENFELD

RAYMOND E. DAVIS  
 GLENN ARTHUR DAY  
 ERVIN C. DECK  
 RICHARD STEPHEN  
 DEHART  
 DENNIS MICHAEL DIXON  
 PAUL RODNEY DOTLICH  
 TONY LISK DREW  
 JAMES EDWARD DUNCAN  
 RONALD LEE ERWIN  
 LEO O. FALARDEAU  
 DONALD B. FAUST  
 RANDALL W. FRANK  
 KENNETH WAYNE  
 FREEMAN

FRANK B. FULLER, JR.  
 ANTHONY M. GALANDES  
 MICHAEL STEVEN GENTRY  
 DAVID DARWIN GITCHELL  
 VERNON LARRY GODWIN  
 DONALD LEE GRANT  
 FRANK NNN GREEN, JR.  
 LLOYD LEON GUFFEY  
 MICHAEL WARREN GURATH  
 THOMAS M. HAGAN  
 JAMES QUINTON  
 HENDERSON

WILLIAM L. HENDY  
 ARLIE NATHAN HENRY  
 WILLIAM MICHAEL HERRON  
 JOHN ARTHUR HIGGINS  
 GARY G. HOGUE  
 MICHAEL ARTHUR  
 HOMSCHK  
 JACK EDWARD HOWELL  
 DANIEL EARL HURD  
 MICHAEL LEE HUTCHISON  
 DONALD CHARLES  
 JOHNSON, JR.

LEE REAMES JOHNSON, JR.  
 MICHAEL A. KANTOR, JR.  
 MICHAEL A. KENNERSON  
 TIMOTHY EDWARD

KETCHAM  
 EDWARD RIGHTLINGER  
 ADRON D. KREKELER  
 MICHAEL AARON LACEY  
 PAUL M. LACHANCE  
 MARVIN CHESTER LANDIS  
 JOHN DEAN LARRIBEAU  
 JAMES PATRICK LAVELLE  
 LARRY WAYNE LEIST  
 MICHAEL C. LOEBER  
 ARTHUR PAUL MAJERUS, II  
 NORMAN L. MASSENGILL  
 PETER A. MATTERN  
 JAMES DALE MAUTNER

RICHARD S. MCELROY  
 ALONZO MCMORRIS, JR.  
 JAMES MICHAEL  
 MICHAELIS  
 JOHN H. MILLER  
 TOMMY J. MOLLITT  
 GREGORY NNN MOORE  
 WILLIAM RICHARD  
 MORGAN  
 DENNIS WAYNE MOYER, SR.  
 STEVEN WADE MULLEN  
 ERNEST MERLE NIEMELA  
 DAVID NNN PERRY  
 ROBERT JOSEPH PETRY  
 EDWARD W. PITCAVAGE

HENRY ALAN PITTS  
 THOMAS ALBERT PREVOST  
 FREDDIE E. QUIROS  
 RANDELL LEE RATHMAN  
 BRUCE R. REESE  
 CHRISTOPHER MARCUS  
 RHONE  
 JIM ODIAN ROMANO  
 THOMAS WILLIAM  
 SCHAMBERGER  
 MICHAEL PATRICK

WILLIAM FELIX SHAY  
 EDWARD ANTHONY SKUBE,  
 JR.  
 GARY D. SMITH  
 RICKIE EUGENE SNOOK  
 WILHELM HEINRICH  
 SPICKER  
 EDWIN L. SPRATT  
 JOSEPH JAMES SPRY  
 WILBUR LEE STEBBINS  
 ROBERT BARTON STEBETT  
 STEVEN LAMONT STEVENS

NELSON CERVANCIA  
 TABINGA  
 DANNY R. TACKETT  
 CHARLES ALEXANDER J.

TALLEN  
 DELMAIN RAY TAYLOR  
 MICHAEL J. TAYLOR  
 STEPHEN K. TIBBITTS  
 ANDREW RICHARD UHRICH  
 JAMES IVON UPSHAW  
 ALAN THOMAS VETTER  
 MANUEL FRANCIS VITAL  
 TONY MICHAEL WEEKS  
 JOHN ALLEN WEIBLEY  
 BRENT REED WERKMAN  
 RONALD KEITH WILLIAMS  
 DONALD WILLIAM WILSON  
 RICHARD ALLEN WILSON

HOUSE OF REPRESENTATIVES—Wednesday, July 10, 1991

The House met at 12 noon.

The Reverend Timothy J. O'Brien, professor of political science, Marquette University, Milwaukee, WI, offered the following prayer:

Heavenly Father, we petition You today to bless the work of this legislative body, the members' staffs, and interns. We acknowledge You as the Lord of all that is and all that will be. Give us the courage to labor vigorously in the building of Your Kingdom—a Kingdom that grants justice to all and a serenity that alone comes from knowing, loving, and serving You.

Forgive our sins—both those in our personal lives as well as those we are communally responsible for as a nation and as a society.

Help us heal the wounds caused by injustice and selfishness, and help us create a society that is fair and compassionate to all.

We thank You for Your many blessings and ask that You continue to lift up leaders that inspire by word and deed so that Your will may be realized. We ask this in Your name. 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.

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

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

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. FRANK of Massachusetts. 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. 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 292, nays 103, not voting 37, as follows:

[Roll No. 202]

YEAS—292

Abercrombie	Anthony	Bateman
Ackerman,	Applegate	Bellenson
Alexander	Archer	Bennett
Anderson	Aspin	Berman
Andrews (ME)	AuCoin	Bevill
Andrews (TX)	Bacchus	Bilbray
Annunzio	Barnard	Bonior

Borski	Hatcher	Orton	Visclosky	Wheat	Wyden
Boucher	Hayes (LA)	Owens (UT)	Volkmer	Whitten	Wylie
Boxer	Hefner	Packard	Walsh	Williams	Yates
Brewster	Hertel	Pallone	Washington	Wilson	Yatron
Brooks	Hoagland	Panetta	Waters	Wise	
Broomfield	Hochbrueckner	Patterson	Weiss	Wolpe	
Browder	Horn	Payne (NJ)			
Brown	Horton	Payne (VA)			
Bruce	Houghton	Pease	Allard	Goodling	Ramstad
Bryant	Hoyer	Pelosi	Armye	Goss	Regula
Bustamante	Hubbard	Penny	Baker	Grandy	Rhodes
Byron	Huokaby	Perkins	Ballenger	Hancock	Ridge
Callahan	Hughes	Peterson (FL)	Barrett	Hansen	Riggs
Campbell (CO)	Hutto	Peterson (MN)	Bentley	Hastert	Roberts
Cardin	Jefferson	Petri	Berenter	Hefley	Rogers
Carper	Jenkins	Pickett	Billirakis	Henry	Rohrabacher
Carr	Johnson (CT)	Pickle	Bliley	Herger	Ros-Lehtinen
Chapman	Johnson (SD)	Porter	Hobson	Roth	Roukema
Clement	Johnson (TX)	Poshard	Boehner	Holloway	Santorum
Clinger	Johnston	Price	Bunning	Hunter	Saxton
Coleman (TX)	Jones (GA)	Pursell	Burton	Hyde	Schaefer
Collins (IL)	Jones (NC)	Rahall	Camp	Ireland	Schroeder
Collins (MD)	Jontz	Rangel	Campbell (CA)	James	Sensenbrenner
Combest	Kanjorski	Ravenel	Chandler	Kyl	Shays
Condit	Kaptur	Ray	Coble	Lagomarsino	Sikorski
Conyers	Kasich	Reed	Coleman (MO)	Leach	Smith (OR)
Costello	Kennedy	Richardson	Coughlin	Lewis (CA)	Smith (TX)
Cox (CA)	Kennelly	Rinaldo	Crane	Lewis (FL)	Smith (WY)
Cox (IL)	Kildee	Ritter	Cunningham	Lightfoot	Stump
Cramer	Klecza	Roe	Dannemeyer	Machtley	Sundquist
Darden	Klug	Roemer	DeLay	Marlenee	Taylor (NC)
Davis	Kolbe	Rose	Dickinson	Martin	Thomas (CA)
DeFazio	Kolter	Rostenkowski	Doolittle	McCandless	Thomas (WY)
DeLauro	Kopetski	Rowland	Duncan	McCollum	Thomas (WY)
Dellums	Kostmayer	Roybal	Edwards (OK)	McGrath	Upton
Derrick	Lancaster	Russo	Fawell	McMillan (NC)	Vucanovich
Dicks	Lantos	Sabo	Fields	Meyers	Walker
Dingell	LaRocco	Sangmeister	Franks (CT)	Michel	Weber
Dixon	Laughlin	Sarpalius	Gallo	Miller (OH)	Wolf
Donnelly	Lehman (CA)	Sawyer	Gekas	Miller (WA)	Young (AK)
Dorgan (ND)	Lent	Scheuer	Gilchrist	Murphy	Zelliff
Downey	Levin (MI)	Schiff	Gingrich	Oxley	Zimmer
Dreier	Levine (CA)	Schulze		Quillen	
Durbin	Lewis (GA)	Schumer			
Dwyer	Livinston	Serrano	Andrews (NJ)	Jacobs	Owens (NY)
Dymally	Long	Shaw	Atkins	LaFalce	Parker
Early	Lowey (NY)	Shuster	Barton	Lehman (FL)	Paxon
Eckart	Luken	Sistisky	Clay	Lipinski	Sanders
Edwards (GA)	Manton	Skaggs	Cooper	Lloyd	Savage
Edwards (TX)	Markey	Skeen	Coyne	Lowery (CA)	Solomon
Emerson	Matsui	Skelton	de la Garza	Martinez	Stearns
Engel	Mavroules	Slattery	Dorman (CA)	McCurdy	Torricelli
English	Mazzoli	Slaughter (NY)	Gaydos	McCade	Waxman
Erdreich	McCloskey	Slaughter (VA)	Gray	Mink	Weidon
Evans	McCrery	Smith (FL)	Hayes (IL)	Molinari	Young (FL)
Fascell	McDermott	Smith (IA)	Hopkins	Nichols	
Fazio	McEwen	Smith (NJ)	Inhofe	Nowak	
Feighan	McHugh	Snowe			
Fish	McMillen (MD)	Solarz			
Flake	McNulty	Spence			
Foglietta	Mfume	Spratt			
Ford (MD)	Miller (CA)	Staggers			
Ford (TN)	Mineta	Stallings			
Frank (MA)	Moakley	Stark			
Frost	Mollohan	Stenholm			
Gejdenson	Montgomery	Stokes			
Gephardt	Moody	Studds			
Geren	Moorhead	Swett			
Gibbons	Moran	Swift			
Gillmor	Morella	Synar			
Gilman	Morrison	Tallon			
Glickman	Mrazek	Tanner			
Gonzalez	Murtha	Tauzin			
Gordon	Myers	Taylor (MS)			
Gradison	Nagle	Thomas (GA)			
Green	Natcher	Thornton			
	Neal (MA)	Torres			
	Neal (NC)	Towns			
	Nussle	Traficant			
	Oakar	Traxler			
	Oberstar	Unsoeld			
	Obey	Valentine			
	Olin	Vander Jagt			
	Oliver	Vento			
	Ortiz				

NAYS—103

Boehner	Goodling	Ramstad
Bonior	Goss	Regula
Boucher	Grandy	Rhodes
Brooks	Hancock	Ridge
Broomfield	Barrett	Riggs
Browder	Bentley	Roberts
Brown	Berenter	Rogers
Bruce	Billirakis	Rohrabacher
Bryant	Pickle	Ros-Lehtinen
Bustamante	Porter	Roth
Byron	Poshard	Roukema
Callahan	Price	Santorum
Campbell (CO)	Pursell	Saxton
Cardin	Rahall	Schaefer
Carper	Rangel	Schroeder
Carr	Ravenel	Sensenbrenner
Chapman	Ray	Shays
Clement	Reed	Sikorski
Clinger	Richardson	Smith (OR)
Coleman (TX)	Rinaldo	Smith (TX)
Collins (IL)	Ritter	Stump
Collins (MD)	Roe	Sundquist
Combest	Roemer	Taylor (NC)
Condit	Rose	Thomas (CA)
Conyers	Rostenkowski	Thomas (WY)
Costello	Rowland	Upton
Cox (CA)	Roybal	Vucanovich
Cox (IL)	Russo	Walker
Cramer	Sabo	Weber
Darden	Sangmeister	Wolf
Davis	Sarpalius	Young (AK)
DeFazio	Sawyer	Zelliff
DeLauro	Scheuer	Zimmer
Dellums	Schiff	
Derrick	Schulze	
Dicks	Schumer	
Dingell	Serrano	
Dixon	Sharp	
Donnelly	Shaw	
Dorgan (ND)	Shuster	
Downey	Sistisky	
Dreier	Skaggs	
Durbin	Skeen	
Dwyer	Skelton	
Dymally	Slattery	
Early	Slaughter (NY)	
Eckart	Slaughter (VA)	
Edwards (GA)	Smith (FL)	
Edwards (TX)	Smith (IA)	
Emerson	Smith (NJ)	
Engel	Snowe	
English	Solarz	
Erdreich	Spence	
Evans	Spratt	
Fascell	Staggers	
Fazio	Stallings	
Feighan	Stark	
Fish	Stenholm	
Flake	Stokes	
Foglietta	Studds	
Ford (MD)	Swett	
Ford (TN)	Swift	
Frank (MA)	Synar	
Frank (MA)	Tallon	
Frost	Tanner	
Gejdenson	Tauzin	
Gephardt	Taylor (MS)	
Geren	Thomas (GA)	
Gibbons	Thornton	
Gillmor	Torres	
Gilman	Towns	
Glickman	Traficant	
Gonzalez	Traxler	
Gordon	Unsoeld	
Gradison	Valentine	
Green	Vander Jagt	
	Vento	

NOT VOTING—37

Andrews (NJ)	Jacobs	Owens (NY)
Atkins	LaFalce	Parker
Barton	Lehman (FL)	Paxon
Clay	Lipinski	Sanders
Cooper	Lloyd	Savage
Coyne	Lowery (CA)	Solomon
de la Garza	Martinez	Stearns
Dorman (CA)	McCurdy	Torricelli
Gaydos	McCade	Waxman
Gray	Mink	Weidon
Hayes (IL)	Molinari	Young (FL)
Hopkins	Nichols	
Inhofe	Nowak	

□ 1223

Mr. KOLTER changed his vote from "present" to "yea."  
So the Journal was approved.  
The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Wisconsin [Mr. KLECZKA] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. KLECZKA 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.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 276. An act to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building";

S. 591. An act to require airbags for certain newly manufactured vehicles; and

S. 1012. An act to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

The message also announced that, pursuant to section 1295(b) of title 46, United States Code, as amended by Public Law 101-595, the Chair, on behalf of the Vice President, appoints Mr. HOLLINGS, ex officio; Mr. BREAUX, from the Committee on Commerce, Science, and Transportation; Mr. LOTT, from the Committee on Commerce, Science, and Transportation; and Mr. MACK, at large; to the Board of Visitors of the U.S. Merchant Marine Academy.

The message also announced that, pursuant to section 194(a), of title 14, United States Code, as amended by Public Law 101-595, the Chair, on behalf of the Vice President, appoints Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation; Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation; and Mr. SEYMOUR, at large; to the Board of Visitors of the U.S. Coast Guard Academy.

## WELCOME TO FATHER TIMOTHY O'BRIEN

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

Mr. KLECZKA. Mr. Speaker, it is with great pride that I again welcome Fr. Timothy O'Brien to the House Chamber as our guest chaplain.

This marks the fourth summer that Father O'Brien has directed the Marquette University Congressional Intern Program. This program provides the valuable experience of working on Capitol Hill, as well as a vigorous academic overview of the Congress, to more than 30 undergraduate and graduate students from throughout the country.

The Marquette Intern Program has motivated numerous young men and women—including two members of my own staff—to enter the field of public service as legislative aides.

Mr. Speaker, I have known Father O'Brien for over 20 years, and have the highest respect for him, not only as a dedicated member of the clergy, but also as a gifted scholar, teacher, and friend.

In his 22 years as a priest in the Archdiocese of Milwaukee, and 14 years as a professor of political science at

Marquette University, Father O'Brien had gained a reputation as an authority on the subject of religion in politics, interest group politics, and congressional procedure.

I ask the House to join me in extending a warm welcome to our distinguished guest, Father O'Brien.

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

Mr. KLECZKA. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman and to add that Father O'Brien has rendered an excellent service to the U.S. Congress and to the Marquette interns. The best interns on Capitol Hill come from Marquette University; and the Jesuits can be proud of all of them. We in Congress salute, the interns, Tim O'Brien, S.J. and Marquette University.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 1-minute requests at a later time with the exception of the request of the gentleman from Texas [Mr. BROOKS].

## INVITATION TO UNVEILING OF PORTRAIT OF FORMER SPEAKER JIM WRIGHT

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

Mr. BROOKS. Mr. Speaker, I would take this opportunity to invite the Members to the unveiling of the portrait of former Speaker Jim Wright. It will be done this afternoon at 5 o'clock in Statuary Hall.

We will be honored by the presence of our current Speaker, the illustrious gentleman from Washington [Mr. FOLEY], and by our current minority leader, the distinguished gentleman from Illinois [Mr. MICHEL], and others.

It will not be a long program. We look forward to seeing you there. We will have a reception immediately after that in the Rayburn Room, and we look forward to seeing you.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,  
July 9, 1991.

Hon. THOMAS S. FOLEY,  
The Speaker, U.S. House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from the Honorable Jim Edgar, Governor, State of Illinois certifying that, according to the official returns of the Special Election held on July 2, 1991 the Hon-

orable Thomas W. Ewing was elected a Member of the House of Representatives from the Fifteenth Congressional District, State of Illinois.

With great respect I am,  
Sincerely yours,

DONNALD K. ANDERSON,  
Clerk, House of Representatives.

## CERTIFICATE OF ELECTION

Know Ye That I, Jim Edgar, Governor of the State of Illinois do hereby certify that the Official Abstracts of the votes cast in the 15th Congressional District of the State of Illinois for member of the 102d Congress on Tuesday the 2d day of July, 1991 were duly canvassed by the State Board of Elections as is provided by law and from the canvass of said abstracts it appears.

And I do hereby Certify, That Thomas W. Ewing of the County of Livingston was duly elected a member of the House of Representatives of the 102d Congress of the United States from the 15th Congressional District of the State of Illinois and is entitled to a seat in said 102d Congress to fill the vacancy caused by the resignation of the Honorable Edward R. Madigan.

## SWEARING IN OF THE HONORABLE THOMAS W. EWING, OF ILLINOIS, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-elect from Illinois, Mr. EWING, come forward and take the oath of office.

The Chair will invite the members of the Illinois delegation to accompany the Member-elect to the well.

Mr. EWING appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are a Member of the House of Representatives.

□ 1230

## INTRODUCTION OF THOMAS EWING

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

Mr. MICHEL. Mr. Speaker, we are very fortunate, obviously, on our side of the aisle today, to present a new Member to the House of Representatives, Tom Ewing, from Pontiac, IL, a neighboring district of mine.

Members will all recall our good friend, Ed Madigan, has moved on to other pursuits, and the seat was vacated as a result of Ed having moved on. TOM EWING is a veteran member of the Illinois Legislature for some 17 years, having served as the assistant minority leader in that body out in our home State of Illinois. He served with

distinction on the agriculture committee, the rules committee, and has been cited any number of times for his outstanding leadership and capability as a legislator.

I would like for Members to again welcome warmly for whatever few brief remarks he may choose to make at this time, our newest colleague, TOM EWING.

#### THE FUTURE BELONGS TO THOSE WITH IDEAS

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

Mr. EWING. Mr. Speaker, it is with a sense of pride and humility that I take my oath of office for the U.S. Congress. I am here fresh off of a campaign with an election on July 2.

The people were telling me certain things during that campaign. They said that government should help people and should not do everything for the people. It should not do what they can do for themselves, and that we cannot solve every problem and pay every bill.

I would like to say, as we look ahead, we should remember that the future belongs to those who are committed to turning ideas into action. The hopes and dreams of our children and grandchildren will depend upon our ability to make a difference.

I look forward to working very closely with the Speaker of the House of Representatives, the gentleman from Washington [Mr. FOLEY] and the minority leader, the gentleman from Illinois [Mr. MICHEL]. I thank them for the courtesies which they have extended to me.

As a new Member of Congress, I realize there will be limits to what I can accomplish. However, I intend to work hard. I promised the people in my district that I would be the very best Congressman I could and attempt to be as good as my predecessor, Ed Madigan.

On behalf of the people of the 15th Congressional District in Illinois, my family, myself, I thank all very much. God bless each person, and God bless America.

#### ECONOMIC ACTION PLAN NEEDED NOW

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

Ms. DELAURO. Mr. Speaker, I finally understand how the Bush administration plans to get us out of the recession: They plan to wait it out.

Well, that is not good enough for those who are facing the threat of unemployment, those who have already lost their jobs, or those young people who are coming out of college to find that there is no place for them in an already choked job market. This past

week, we learned that the unemployment rate hit 7 percent for the first time since 1986. Last month, there were 8.7 million Americans out of work. And what is the administration telling us? Is this still just a temporary interruption—as the President calls it?

This is what we have been hearing for the past 2 years—in fact, it took the President almost that long just to admit that we were in a recession at all. Well, Mr. Speaker, we have all just spent 2 weeks at home talking with our constituents. I held office hours at shopping centers and had lunch with workers. My constituents know there is a recession, and they want us to take action.

There are few signs of recovery in Connecticut. Week after week, month after month, my constituents are losing their jobs, businesses are consolidating their operations, or closing their doors for good. Hardworking middle income people who are struggling to make ends meet in the face of skyrocketing costs for basics like health care, education, and food, are now facing the growing prospect of unemployment.

We cannot continue to sit around and wait for the recession to end; 8.7 million unemployed Americans represent more than a statistic. They are real people, paying the price every day.

Mr. Speaker, we need an administration that will wake up to the needs of average families and a Congress that will enact an economic action plan; 8.7 million Americans need our help.

#### COSPONSORS URGED FOR INCOME-DEPENDENT EDUCATION ASSISTANCE ACT [IDEA]

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

Mr. PETRI. Mr. Speaker, recently I proposed the Income-Dependent Education Assistance Act—known in short as IDEA.

Under IDEA, subsidies would be precisely targeted to all those who need them, only to those who need them, and to the extent of their need.

Thus IDEA would solve the middle-income access problem we've all been hearing about.

As you know, it would cost a ton of money to open up eligibility for Stafford loans to all students regardless of family income.

But when you turn the picture around and look at it from the IDEA perspective, the whole picture changes.

The IDEA program would want students from middle and upper income families to participate because these students stand the best chance of achieving high earnings themselves—which means that rapid repayment of their IDEA loans would provide a cross subsidy for other borrowers who are less successful.

I should emphasize that under IDEA those anticipating high incomes after school would still want to participate because they would still get a better deal than they could from alternative financing sources.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page E1792 of the May 16 CONGRESSIONAL RECORD.

#### USE LEVERAGE WITH CHINA TO FREE PRISONERS

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

Ms. PELOSI. Mr. Speaker, today, as Members consider most-favored-nation status for the People's Republic of China, I rise to call their attention to Amnesty International's 1991 report on human rights abuses, which was released yesterday. This report is a terrible indictment of China in its treatment of those who spoke out for democratic reform there.

Hundreds of people have been arrested in connection with the 1989 protests, and they remain in prison. While the fate of thousands are unknown, we do know that thousands are in the Beijing prisons now. In North China, over 30 Roman Catholic bishops, priests, and church members have been arrested. Members of Protestant groups are also detained and harassed. Beatings and harsh treatment of detainment were commonplace at Tiananmen Square.

Because of China's trade surplus with the United States, we have an opportunity to use our leverage, to free the prisoners of conscience. Members, we can do that today by voting for conditional renewal of most-favored-nation status.

#### REJECT STRIKE INCENTIVE ACT

(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, there is no way to fix the Strike Incentive Act, H.R. 5; though some of my colleagues are trying desperately.

There is an amendment to try to restrict the bill to unions only—though it is doubtful that the language of this amendment provides this limitation since the terms "collective bargaining representative," "bargaining unit" and "labor organization" do not translate into "union only" under the National Labor Relations Act. And there are amendments to provide a moratorium on hiring strike replacements for a period of time after the start of a strike.

Even if H.R. 5 is amended to include only unions it discriminates against those American workers who choose to

be nonunion—it is further clarified to be special interest legislation that not only holds management hostage but it treats those workers that choose to bargain for themselves as second class citizens while giving unions a government mandated special privilege.

The other solution, to provide a moratorium, is also tremendously flawed. Seasonal industries such as beach resorts could have their business destroyed for an entire year if a strike is called at the wrong time and then they could not hire permanent replacements or even advertise for them until after the moratorium. Union officials could also abuse this system by calling a strike for the moratorium time frame, return to work before it expires, resume bargaining and then call another strike.

There is no way to fix H.R. 5. Let us reject it.

#### U.S. STANDARD OF LIVING DECLINES

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

Mrs. SCHROEDER. Mr. Speaker, when we go home for a break, as we have been, people tend to shake their heads as we talk about Washington, DC. Today I think is going to be one of those days where they shake their heads again, because today, as we see the very prestigious Council on Competitiveness releasing their report showing that the standard of living in the United States declined in 1990, and that of the seven industrial nations, ours has the slowest, we are taking up most-favored-nation status for the People's Republic of China.

□ 1240

The United States already owes more money to China than any other country except Japan. They have a terrible human rights record. They have been selling weapons to Iraq. They have even been turning their tanks on their own children.

I find it amazing when there are so many things that we should be doing at home for our own people that the administration's No. 1 cause is "We must continue to reward the People's Republic of China with all of our money and by giving them most favored nation status."

#### H.R. 5: STRIKER REPLACEMENT NOT SIGNIFICANT

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

Mr. BARRETT. Mr. Speaker, a General Accounting Office [GAO] report released this year has several findings that contradict the claims made by the

advocates of H.R. 5, the striker replacement bill.

Proponents argue that many employers use prestrike threats of replacement to scare workers into staying on the job. The report shows that employers announced they would hire replacements before a strike began, in only 5 percent of the cases studied.

H.R. 5 supporters claim it is necessary because of the numerous workers who lose their jobs due to employers quickly using striker replacement, without allowing time for good faith negotiations.

The GAO study proves otherwise. It found that in a majority of the instances where replacements were hired, it was not done until at least 1 month after the workers had walked away from their jobs.

Mr. Speaker, H.R. 5 will give union workers an unfair leverage in labor negotiations, and will encourage the disruption of fair and legitimate businesses—all of this to cure a problem that was shown, in the GAO report, not to be significant in the American workplace. I urge my colleagues to oppose H.R. 5.

#### UNEMPLOYMENT IN THE UNITED STATES

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

Ms. KAPTUR. Mr. Speaker, last week the Department of Labor announced the unemployment rate is up to 7 percent. There is little encouragement in that to those who have been laid off and are desperately looking for work. Add to that the 1.2 million long-term unemployed workers who have exhausted their benefits and must turn to public assistance programs to survive.

My hometown of Toledo, OH, with an unemployment rate of 10.7 percent, proves that once these individuals exhaust their benefits and their hopes for finding employment, they have no choice but to turn to public assistance. Welfare rolls are at an all-time high in America—4.4 million families—with the fastest rising category being those who have fallen off the unemployment rolls. To make matters worse, States are slashing benefits at a time when they are most needed.

Mr. Speaker, my family is historically democratic. And one of the important reasons is that everytime a Republican President occupied the White House, somehow my grandfather and others were put out of a blue-collar job. Though that was years ago, times really have not changed.

#### SAVE THE TIMBER INDUSTRY

(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, it is extremely ironic that on the day that one arm of the Federal Government is putting out a report called "Removing Barriers to Affordable Housing," another arm, the U.S. Forest Service, should be declaring a ban on harvesting live trees in the Sierra Nevada, pending a study of the California spotted owl.

Mr. Speaker, I think we have got to protect our environment and all the species therein, but this report calls for a thorough review and reform of the Endangered Species Act.

The California spotted owl is not even federally protected. This decision by the Forest Service will devastate our already burdened economies in this part of California by making unemployment worse and suffering even more grievous than it is.

I urge the Forest Service to reverse this policy, pending the thorough reform and review of the Endangered Species Act called for by this report.

#### THE PRESIDENT'S WISE DECISION TO END SANCTIONS AGAINST SOUTH AFRICA

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

Mr. ROTH. Mr. Speaker, I am here with some good news.

Mr. Speaker, the President announced a few minutes ago that he is ending sanctions against South Africa. I applaud the President's decision.

South Africa has embarked on a new era of racial harmony and peace, and it is time for America to help the new South African leadership restore its economy and once again become a strong ally.

Ending the sanctions will help all South Africans, especially the black population, which suffered so greatly under the sanctions. For millions of South Africans, of all races, this is the dawning of a new era of peace and prosperity, and we Americans welcome this new era. This action fulfills the purpose of my bill, H.R. 1895, which I introduced on April 17 and is beginning the process of ending sanctions.

#### MOST-FAVORED-NATION STATUS TO CHINA A GRAVE MISTAKE

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

Mr. SMITH of Florida. Mr. Speaker, we are going to take a very, very important vote today on the floor of this House relating to most favored nation status for China.

All I can say is quite simply that voting for most-favored-nation status would bring us to the point where we are now with a country like Japan. China has the same inclinations, take

technology from the United States, take jobs from the United States, then flood the United States with imports from your country, flood them and then when they build up, like the Japanese have a huge trade surplus, try to get more. Do not turn around and give it back.

Japan forced China, forced China by telling them they were going to cut off what they had to reverse a trade surplus. We are not doing that.

On top of that, China has been known to sell technology, like Japan has just been revealed selling our technology. China, we know, has already sold our technology and is selling missiles, weapons, et cetera, in places where we do not believe it ought to be done.

Selling and giving most favored nation status to China is a huge mistake for the United States and it is another shipment of jobs overseas.

#### STRIKER REPLACEMENT BILL IS ANTISMALL BUSINESS

(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, proponents of H.R. 5, the striker replacement bill, claim that it would not affect most small businesses because the vast majority of them are not unionized.

In fact, this bill would have Congress grant unions both the incentive and the power to launch a huge organizing campaign aimed at small, nonunion businesses.

"Join the union and your job will be permanently protected. Don't join and you can be permanently replaced." This is the message that proponents of H.R. 5 want the U.S. Congress to send to American workers.

Small business owners cannot simply go out and hire temporaries, or get management to take the place of striking workers. If H.R. 5 becomes law, unions only need to entice a few employees onto a picket line in order to force a small business owner into an economically precarious position.

I urge my colleagues to vote against H.R. 5. It is easy to say that you are for small business. But it is how you vote that really counts.

□ 1250

#### LIFTING SANCTIONS AGAINST SOUTH AFRICA IS PREMATURE

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

Mr. KENNEDY. Mr. Speaker, a few minutes ago the President lifted economic sanctions against South Africa. His timing could not be worse. Just when sanctions are reaping their maxi-

mum benefits, he wants to remove the only modest leverage we have to bring democratic change to this troubled Nation.

The President is bending over backward to accommodate South Africa's Government. But he is not doing the same for South Africa's people. The conditions to lift sanctions have simply not been met, in letter or spirit.

The law states that sanctions cannot be lifted until all political prisoners are released. Yet hundreds continue to languish and suffer in South African jails, only because of their opposition to the most brutal form of racism the world has yet to know. And the law states that the cornerstones of apartheid must be removed. Sure, the Group Areas Act and the Population Registration Act have been repealed. Yet new laws will accomplish the same purposes: continued segregation and classification based on race.

Mr. Speaker, if America is to abandon its moral authority throughout the world, then we will pursue the Bush policies; if we are to continue to lead the world in its moral authority, then we should continue to keep sanctions on South Africa.

#### H.R. 5 WOULD DESTROY WORKING RELATIONSHIPS WITH SMALL EMPLOYERS

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

Mr. IRELAND. Mr. Speaker, soon we will be asked to consider H.R. 5, striker replacement legislation. If this bill becomes law, the positive employer-employee relationships we find in most small businesses today could become a thing of the past.

H.R. 5's dual standard of protection under the law for union and nonunion employees encourages union organizing even in healthy, happy working environments.

It should not be the function of this body to provide Government-sponsored incentives for nonunion workers to join a union. But that is what H.R. 5 would do.

This bill would foster labor unrest in the small business community. It would allow unions working with just two employees to dictate to an employer the workplace policies of his or her business.

My colleagues, our Nation's 20 million small business owners and their employees deserve better than this. And they deserve more than lipservice from the U.S. Congress. I urge you to join me in taking a stand against H.R. 5, and for our Nation's entrepreneurs.

Remember, it is easy to say you are for small business. But it is how you vote that really counts.

#### IRS AGENTS ARE TAUGHT HOW TO USE SAUNAS, HOT BATHS; AMERICAN TAXPAYERS GET THE SHAFT

(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, for 2 years now legislation has been introduced which would require the IRS to provide a training program for their agents to minimize the abuse of the American taxpayers. For 2 years the IRS has stone-cold killed it.

I will quote why: They said:

We in the IRS do not need an official law mandating that program, because we already do it.

Listen to how they do it: They just spent \$150,000, \$2,000 per agent, at a luxury resort in West Virginia. They taught IRS agents how to take saunas, hot baths, how to use hot tubs, how to swim real well, and to tone their bodies.

What a joke, folks.

But the truth is the laugh is on the American taxpayer. While the IRS is enjoying hot tub saunas and facials, the American taxpayers keep getting the shaft.

The tragedy of it all is Congress keeps turning the screw. What is the next program going to be? How about Disneyland, folks? Or give them some money so they can go to Hawaii. Maybe they will stop ripping off the American taxpayer.

#### H.R. 5 WILL HURT SMALL-BUSINESS WORKERS

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

Mr. HEFLEY. Mr. Speaker, the striker replacement bill is designed to stop business owners from permanently replacing workers who walk off the job for more money, or better benefits, or other economic reasons.

Supporters of H.R. 5 want to cast this as a David and Goliath type issue, with poor union workers as David and huge corporations as Goliath.

They are simply ignoring the very real, very damaging impact the bill would have on our Nation's smaller firms—and on those firms' nonunion employees.

This bill is bad for small business. What's at stake is not simply who has the upper hand in labor negotiations between the AFL-CIO and corporate America.

What's at stake is American jobs generated by the 20 million small businesses in every district in the country.

My colleagues, let us not sell out small-business interests to big-labor bosses. Vote against H.R. 5.

It is time to support small business with your vote.

#### SUPPORT EXTENSION OF FUNDING FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

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

Mr. MORAN. Mr. Speaker, I rise today to support the extension of funding for child abuse prevention and treatment programs. Too often these days children are relegated to a far corner of our country's conscience. Each year there are over 2 million cases of child abuse reported. The actual number is much higher. It is one of the most heartbreaking crimes in our Nation.

Child abusers are likely to be a member of the child's immediate family or a family acquaintance. This often makes it too hard for abused children to be identified, too hard for a child to admit to abuse and too hard to prove the case in a court of law.

We must do all we can to help State and local officials identify and treat abused children and prosecute child abusers. The program is being reauthorized in this bill to instruct teachers, doctors, and social workers how to identify and treat abused children and support the law enforcement community in finding new methods to accurately and effectively prosecute child abusers.

Mr. Speaker, the next frontier in fighting child abuse is the challenge of its prevention. Identifying the many causes of child abuse will help communities reach out to families and parents under pressure situations where the chances of child abuse are great and reach out to children to give them the courage to report abuse and to find help.

Mr. Speaker, fighting child abuse now may help these victims avoid mental illness, failure in school, unemployment, and even the cycle of abuse passed down from generation to generation. The seriousness of this problem is evident and the need for these programs is great.

Mr. Speaker, I encourage all of my colleagues to join me in support of H.R. 2720.

#### MOST-FAVORED-NATION STATUS FOR CHINA

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

Mr. WOLF. Mr. Speaker, this is an important day for the people of China. We will have the opportunity this afternoon to tie China's most-favored-nation trade status with the United States to progress on human rights. I believe that it is absolutely essential that the United States Congress support the Pelosi bill to place conditions on the renewal of MFN status for the People's Republic of China and require

China to make significant progress in the area of human rights before receiving MFN status next year.

The People's Republic of China continues to imprison people for expressing democratic ideals, for exercising their religious beliefs and for advocating human rights. Two more human rights advocates were arrested in April and another Catholic bishop in June.

I have a picture with me of another Catholic bishop, Joseph Fan Xueyin. Bishop Fan is 83 years old. He was imprisoned for 21 years between 1958 and 1979 for refusing to renounce his ties with the Roman Catholic Church. Since then he was arrested again in 1981 and sentenced to reform through labor, despite the fact that he was 73 years old at the time. In 1987, he was transferred to house arrest, thanks to the intervention of Catholic Bishop Sin of Manila, not to the kindness of Chinese authorities.

Since being placed under house arrest, Bishop Fan has been shipped against his will from place to place to prevent him from exerting positive influence over local Catholic churches. He is in poor health, and unless pressure is applied to persuade the Chinese Government to release him, he will almost certainly die under detention.

The Pelosi bill which will be considered today would require that the Chinese Government make significant progress in ending religious persecution if China is to receive MFN status next year. I urge my colleagues in the House to support this bill for the sake of Bishop Fan and thousands of others who are suffering unjustly in the People's Republic of China.

#### WOMEN HOLD IMPORTANT ROLES IN AGRICULTURE

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

Ms. LONG. Mr. Speaker, one of the biggest misconceptions about agriculture is that it is a field where only men are involved. In reality, women hold important roles in agriculture in ever increasing numbers.

Over the years, more women have entered farming on their own and farm women spouses have more frequently been considered cooperators with their husbands.

In fact, the 1987 Census of Agriculture identified 132,000 farms whose operators or senior partners were women. This represented over 6 percent of all farms and was an increase of 10,000 in 5 years, at a time when the overall number of farms was falling.

In addition to farming, women have been involved in agriculture in much broader ways such as research and development, food exporting, lobbying, and holding top positions in the U.S. Department of Agriculture.

Mr. Speaker, because these women deserve recognition, several Members and I are today introducing legislation to designate March 19, 1992, as "National Women in Agriculture Day." This day will focus the public's attention on the significant and too often overlooked role women play in our Nation's agricultural system.

#### LABOR LAW HISTORY LESSON

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

Mr. ARMEY. Mr. Speaker, the proponents of the striker replacement bill want to overturn a key principle that has been in our labor law for 50 years. History suggests this might not be a very bright idea.

Right now, there is a balance in labor-management relations: Employees have the right to strike, but employers have the right to try to continue operations by hiring permanent replacements.

If we ban even the possibility of hiring permanent replacements, we will destroy this delicate balance. The result will be a wave of strikes and economic disruptions on a large scale.

Now, the last time we had such an imbalance in labor-management relations was during the 1940's. There were bitter and violent strikes across the country.

The public responded to that situation by throwing out the Democrat majority in Congress and electing a Republican Congress for the first time since the New Deal. This Republican Conference then passed the Taft-Hartley Act restoring the balance.

The historical lesson is clear: If we pass H.R. 5, we will soon have an outraged public on our hands and we will have to pass another bill to correct our mistake.

Mr. Speaker, let us save ourselves the trouble and reject H.R. 5.

#### NRA BEGINS DRIVE TO STALL CRIME BILL WHILE CARNAGE CONTINUES

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

Mr. SCHUMER. Mr. Speaker, how ironic it is that our morning headlines carry these two headlines:

"Stray Bullet and Gun Fight Kills Mother With Three in Car," and a few pages over, "NRA Begins Drive To Stall Crime Bill."

Mr. Speaker, we see once again the unlimited zeal of the NRA. The gun lobby has now decided to work for the defeat of the entire crime bill. The NRA lost the Brady bill votes in the House and the Senate fair and square, so now they seek to kill the whole bill by filibuster.

How can the NRA say with a straight face that they are interested in stopping the violent crime that plagues our Nation when they are seeking to kill a bill that both the President and the Congress, Democrats and Republicans, say is essential to curbing crime?

Mr. Speaker, the senseless killing of the young mother, possibly with a semiautomatic weapon, within the sight of the Capitol dome, is another glaring example of why we must persevere against this opposition. How many more mothers must die? How many more children must be left motherless before we resist the NRA?

My colleagues, we must enact a sensible waiting period on handguns and do something to curb the use of weapons of mass destruction. It is my hope, Mr. Speaker, that the Senate will flank the NRA's Maginot Line and pass legislation to prevent crime and stop the carnage.

#### WORLD GRATEFUL AS COOLER HEADS PREVENT BALKANIZATION IN THE BALKANS

(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, we have been informed that the last phase of the temporary peace sought in Yugoslavia by the European Community occurred today when the parliament of Slovenia overwhelmingly voted to accept the European Community's proposal. Slovenia's decision was most vital. Prior to the vote President Kucan is reported to have pointed out to his parliament that their vote would mean either peace or war, and President Kucan recommended peace. The world is grateful.

Mr. Speaker, these last 3 weeks have been very difficult throughout all of the republics in Yugoslavia. Let us pray that every effort now will be made over these next 3 months to establish a federal government that will allow all six republics to live and work together, that will prevent further loss of life, that will create improvement for the rights of all of their citizens for a national, free, fair, and multiparty election and will provide the means for a thriving economy. Hopefully cooler heads will continue to prevail and the return of the balkanization in the Balkans will not occur.

#### AMERICA'S LIBRARIES NEED HELP

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

Mr. MAZZOLI. Mr. Speaker, I cannot conceive of anything more barren, more desolate, more sterile, more empty, and more unhappy than an America without books, an America

without libraries, and an America without information. That is a possibility unless we move quickly to strengthen America's libraries, both the free public libraries as well as school-related libraries.

Right here in Washington the White House Conference on Library and Information Services is meeting and it will chart, in its week of activity, the blueprint for libraries for the next decade, which takes us into the next century. I am very proud that two persons from my district are delegates to that White House Conference: Harriet Henderson, who is the director of the Louisville Free Public Library system, and Linda Hall Perkins, who is a 24-year librarian in the Jefferson County school system.

I wish these delegates, the full Kentucky delegation, and the White House Conference every success in their important task of helping America's libraries.

#### H.R. 5 WOULD TURN LABOR NEGOTIATIONS INTO RUSSIAN ROULETTE

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

Mr. HANCOCK. Mr. Speaker, after 50 years of labor law precedent, labor unions recently decided that allowing management to offer permanent employment to replace workers who strike for purely economic reasons is somehow inherently wrong.

Their proposed solution—titled H.R. 5—would aim a loaded gun squarely between the the eyes of our Nation's small business owners.

Labor unions apparently think that workers deserve the right to strike without consequence, while employers should have no rights at all to keep their businesses running during employee work actions, no matter why these workers decide to strike.

It is easy for Members of Congress to demagogue and say that they are for small business, economic opportunity, and the creation of new jobs. But it is how they vote that really counts. Do not vote to turn labor negotiations into a form of Russian roulette for our Nation's businesses. Vote against H.R. 5.

#### MFN FOR CHINA MAKES NO SENSE

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

Mr. RICHARDSON. Mr. Speaker, President Bush has a blind spot on China. His policy is: See no evil, hear no evil.

Mr. Speaker, I do not understand his grand China bargain. In exchange for China repressing its own people, working against our policy in Cambodia,

and selling \$758 million in weapons to countries like Syria, we give them trade advantages, most-favored-nation status. Mr. Speaker, that is some bargain.

The President's policy on China makes no sense. It is wrong, wrong, wrong. Mr. Speaker, how can we look at democratic forces in Europe with a straight face when we reward the butchers of Beijing?

Mr. Speaker, today we are debating most-favored-nation status for the People's Republic of China. Two years ago, the renewal of this privilege was thought of as an imperative measure to strengthen the ties between our country and China. Since this time, however, the People's Republic of China has demonstrated a wanton disregard for human rights and have sold arms to potentially dangerous countries.

We can't possibly ignore the memorable scenes of the prodemocracy demonstrators in Tiananmen Square. We can't ignore the fact that China sold approximately \$780 million of arms throughout the world in 1989; a large percentage of these arms were sold to countries such as Syria and Pakistan. Because we have granted them the MFN status, we are encouraging human rights abuses and the threat of terrorism worldwide.

Mr. Speaker, if we are to renew MFN status to China we must grant such status with certain conditions. If we allow China the MFN privilege without conditions, we will be voting against the Judeo-Christian belief of the dignity of man as espoused by our Founding Fathers. If we fail to place these conditions on China we will see numerous human rights violations persisting in the future, and those images of Tiananmen Square, indelibly printed in our memories, will be a part of reality once again. We cannot allow this to happen. The citizens of China have suffered enough.

#### PROTECT SMALL BUSINESSES AND AMERICAN JOBS—VOTE AGAINST H.R. 5

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

Mr. RAMSTAD. Mr. Speaker, proponents of H.R. 5, the striker replacement bill, argue that it would not adversely affect small businesses or jobs. This claim needs scrutiny.

Small businesses generate more than 67 percent of all new jobs in the United States. American small businesses set the standard for the rest of the world in terms of creativity, innovation, and entrepreneurial spirit. The striker replacement bill is a direct threat to this vital sector of our economy.

The workers of this country rightfully deserve the powerful economic tool of organized strikes. This is necessary to guarantee that workers possess ample bargaining power in disputes with their employers.

But the delicate balance of bargaining strength now existing between labor and management should be maintained.

H.R. 5 would upset this balance and force employers to go out of business and jobs to be lost.

To protect small businesses, American jobs, and the economy, vote "no" on H.R. 5 when it comes to the House floor.

#### CONDITIONAL RENEWAL OF MFN FOR CHINA

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

Mr. ABERCROMBIE. Mr. Speaker, since renewal of most-favored-nation status last year, we have seen no significant improvement in China's human rights record. It is a record which remains far short of internationally recognized standards. Arrests, trials, and incarceration of dissidents continue, as does official restriction on religious freedom. The Government of China has refused to issue a list of those detained, arrested, tried, or released. China's policy of repression instituted in 1988 continues in 1991.

More recently, another form of repression has surfaced. Official Government documents revealed by Asia Watch confirm the use of prison labor under China's gulag system to produce goods for export. These documents clearly indicate that hard currency is being earned in export trade through prison manufactures.

Mr. Speaker, unconditional extension of most-favored-nation status would send the wrong message to the Chinese rulers—that they are allowed to continue their systematic repression and brutality at no cost. Those Members of Congress who, like myself, support the Pelosi bill—H.R. 2212—are not advocating for a complete withdrawal of this privilege. My support for this bill is based on the belief that political liberalization and economic liberalization are not independent of each other.

Political reform, hence improved human rights, is the key to economic reform as it provides the internal stability required to encourage international trade and investment.

□ 1310

#### PROHIBIT POSTAL BONUSES WHILE SERVICE OPERATES IN THE RED

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

Mr. DUNCAN. Mr. Speaker, once again we have received shocking news about the wasteful way the Federal Government is spending money. Yesterday it was reported in newspapers around the Nation that the Postal Service has given bonuses to nearly all its executives, at a time the Service has been losing huge amounts of

money. These losses have had to be made up by the taxpayers. Yet Postmaster General Frank, instead of being embarrassed about this, has tried to defend it.

Mr. Speaker, only our Federal Government would give bonuses totaling \$20 million to executives of an agency that lost \$1.4 billion over the 3 years these bonuses were being given.

This could not happen in the private sector. In the real world, businesses cannot spend money that they do not have if they want to stay in business, and yet we always do that in Washington.

We need to demand that the Postal Service operate more like a private business. If we do not, the people will continue to lose faith in the entire Federal Government. I am sure that the Congress is too liberal to do this, but also we should pass a law prohibiting bonuses to any Postal Service executives unless and until the Postal Service begins to operate in the black.

Mr. Speaker, most of the problems of this Nation could be solved if we could give our people much less government and much more freedom and free enterprise.

#### THE IMPORTATION OF PEANUTS IS A BLOW TO OUR FARMERS

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

Mr. RAY. Mr. Speaker, I am very disappointed and concerned with the administration's decision to allow the importation of 100 million pounds of peanuts into this country by the end of this month, in the next 21 days.

Mr. Speaker, this packet of Georgia peanuts is grown under safe conditions, having been inspected by State and Federal agencies, and is not contaminated. But I am very skeptical about the quality of the 100 million pounds of peanuts that will be packaged in the next few weeks and sold to American consumers.

It is crucial that we do the utmost to protect the health of the American consumer and the reputation of the American grower by carefully monitoring the quality of every peanut brought into this country. We do not know what condition those peanuts were grown under. Perhaps they will have aflatoxin and stripe and clump viruses, which affect peanuts grown in many foreign countries and are not cared about in those countries by the producers nor the consumers.

Mr. Speaker, we do not have a shortage of peanuts in the United States, and I am very disappointed in the President's action.

#### MOST-FAVORED-NATION STATUS TO COMMUNIST CHINA? NO WAY

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

Mr. ROHRBACHER. Mr. Speaker, today this Congress will vote on most-favored-nation status for the communist regime in Beijing. We are asked to vote on "business as usual" with a regime that murders its people, that commits genocide in Tibet, and that sells missiles and nuclear technology to Third World despots; to a regime with one of the worst human rights records on the planet. We are asked to vote for "business as usual" with this gang of Communist thugs. No way.

Mr. Speaker, we are going to offer it, if we offer most-favored-nation status, not to the people of China but to this murderous regime. No way.

#### WITH FRIENDS LIKE THIS, WHO NEEDS ENEMIES

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

Mr. APPELEGATE. Mr. Speaker, today we are going to vote on whether or not to give most-favored-nation status to Communist China. Well, folks, how about the United States of America getting consideration for having most-favored-nation status, particularly from countries like Kuwait? They should be extending most-favored-nation status to the United States.

Mr. Speaker, America spent over 300 American lives, our young people, freeing Kuwait, and we spent over \$50 to \$60 billion of American taxpayer money to free Kuwait. Then they are giving their contracts to rebuild Kuwait to other countries of the world.

Why do we not get most-favored-nation status? The first contract they sold, they got 25,000 tons of raw steel from Japan and Venezuela. What the hell did Japan and Venezuela do in that war? They did nothing.

Now Kuwait is going to give a \$2 billion contract to buy planes, but not to Boeing or any other United States firm. They are going to give it to France Airbus.

Mr. Speaker, where is the loyalty? At least where is the debt that they owe us? With friends like that, the United States sure as hell does not need any more enemies.

#### CONGRESS DEMANDS INFORMATION ABOUT COSTS OF AIR FORCE ONE

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

Mr. DORGAN of North Dakota. Mr. Speaker, 7 months ago I sent a request

to the General Accounting Office, the GAO, to conduct a review of the expenses of flying Air Force One around the country. I was interested especially in where they flew, between public and political events, and how the costs were allocated. I was interested especially, because we now have this flying Taj Mahal, the big 747, to fly the President and the White House across America. And fly it does, all the time.

Who is paying the cost? How do they allocate the cost between public events and political events?

Mr. Speaker, 7 months later I am told by the GAO that the White House will not provide the information. "This information is not available to us. The White House is stonewalling."

Mr. Speaker, what an arrogant bunch of people. They do not have the right to withhold that information. That information ought to be available to those of us in Congress, and we are going to make sure it is available, following every possible approach, insisting they disclose the information about the cost of Air Force One.

A message to the White House is, we are not going to quit. We want that information, we demand that information, we have a right to it, and you are going to provide it.

#### MEMBERS WHO FLY IN GLASS PLANES SHOULD NOT THROW STONES

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

Mr. HUNTER. Mr. Speaker, let me respond briefly to my friend, the gentleman from North Dakota [Mr. DORGAN], who just spoke about the travel of the White House and the attendant costs of the aircraft that are assigned to the White House.

Let me just say if we are going to continue to have this partisan attack on the President, on the Republican side, we are going to start categorizing and listing expenses by Members of Congress and travel, not only in this country, but around the world, on Government aircraft.

I would simply say to my friend, that this President has just come off a war in which he won a ground war against a very heavily armed enemy in 100 hours. And he flies a big plane.

If you gave aircraft to Congress based on their achievements over the last 10 or 12 months, we would all be flying in Piper Cubs, with about 15 Members assigned to each one.

Mr. Speaker, I think that the other side of the aisle is going to have to realize if they are going to continue to talk about costs of administration aircraft, it is only right that we begin to categorize and list the expenses of aircraft used by House Members.

□ 1320

#### UNITED STATES SHOULD CONTINUE SANCTIONS AGAINST SOUTH AFRICA

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

Mr. MRAZEK. Mr. Speaker, now is not the time to lift our sanctions against South Africa. Our national interests and certainly those of the vast majority of people of South Africa are best served by the continuation of those sanctions. We should be encouraged by the positive changes that have taken place in recent years, but there is still a long uphill battle to try to help bring justice to that troubled nation.

On the same day that headlines proclaimed President Bush's intent to lift sanctions against South Africa, Amnesty International released its annual human rights report. It notes that in 1990, more than 1,500 critics and opponents of the government were detained without charge or trial for up to 6 months at a time.

Although the administration is apparently satisfied on the issue of political prisoners, Amnesty International estimates that many political prisoners remain incarcerated in South Africa. The African National Congress estimates that number at nearly 1,000 individuals.

After decades of frustration, the African National Congress is set to begin negotiations with the white minority government in the next few months. We should not prejudice those negotiations. We should not strengthen the hand of the minority government. We should not give the minority government reason to believe that the United States commitment to the abolition of apartheid is wavering in any way. We should not lift the sanctions at this time.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1782

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1782. The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Ohio?

There was no objection.

#### RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That upon adoption of this resolution, general debate in the House on the

subject of most-favored-nation treatment for the People's Republic of China shall be in order for a period for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. All points of order against consideration are waived with respect to each of the three measures specified in sections 2, 4, and 5.

SEC. 2. After general debate it shall be in order to consider in the House the joint resolution (H.J. Res. 263) disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China. The joint resolution shall be debatable for one hour equally divided and controlled by Representative Solomon of New York and Representative Rostenkowski of Illinois or their designees. Pursuant to sections 152 and 153 of the Trade Act of 1974 the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

SEC. 3. The provisions of section 152 and 153 of the Trade Act of 1974 shall not apply to any other joint resolution disapproving the extension of most-favored-nation treatment of the People's Republic of China for the remainder of the first session of the One Hundred Second Congress.

SEC. 4. After disposition of the joint resolution (H.J. Res. 263) it shall be in order to consider in the House the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the amendments recommended by the Committee on Ways and Means now printed in the bill, which shall be considered en bloc and which shall not be subject to a demand for division of the question, and on the bill to final passage without intervening motion except one motion to recommitt.

SEC. 5. After disposition of the bill (H.R. 2212) it shall be in order to consider in the House the concurrent resolution (H. Con. Res. 174) concerning relations between the United States and the People's Republic of China. The concurrent resolution shall be debatable for one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as ordered on the amendments recommended by the Committee on Foreign Affairs now printed in the concurrent resolution, which shall be considered en bloc and which shall not be subject to a demand for division of the question, and on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 189 provides for the consideration of three

matters relating to extension of most-favored-nation trade status with the People's Republic of China. Mr. Speaker, the rule providing for the consideration of these three measures provides the House ample opportunity to express its will on the current and future trading status of the United States with the PRC and I rise in strong support of the resolution recommended to the House by the Committee on Rules.

House Resolution 189 provides for 1 hour of general debate on the general topic of most-favored-nation treatment for the People's Republic of China, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Further debate time, which will specifically address the three measures made in order for consideration in the rule, is provided and all points of order against the consideration of those measures are waived by the rule.

Mr. Speaker, a brief history of most-favored-nation trade, prior to my explanation of the rule, is in order. Beginning in 1951, with the exception of Yugoslavia, MFN status was withdrawn from all Communist nonmarket countries. In 1960, Poland's MFN status was restored by Presidential directive. In 1974, the Congress adopted the Jackson-Vanik amendment as title IV of the Trade Act of 1974 and which authorized the President to waive the freedom of emigration requirements of the act and grant MFN status to a nonmarket economy country if he determines that such action would substantially promote the objectives of freedom of emigration. The President's waiver authority under title IV expires on July 3 of each year, but may be extended on an annual basis upon Presidential determination unless disapproved by Congress within 60 calendar days after July 3.

Most-favored-nation was first granted to the People's Republic of China on February 1, 1980 and has been renewed annually on the basis of a Presidential waiver. Since then, these annual waivers had been noncontroversial; however, on June 3, 1989, the events in Tiananmen Square changed the view of the American people toward those leaders in China who were responsible for the massacre of the peaceful students and workers who were gathered there to call for democracy in China.

The three measures made in order in House Resolution 189 all relate to the status of trade between the United States and the People's Republic of China. The first, House Joint Resolution 263, is a resolution disapproving extension of MFN status to China as recommended by the President on May 29, 1991, and takes the form set out in the Trade Act of 1974. Under the 1974 Trade Act, House Joint Resolution 263 is a privileged resolution, but the Committee on Rules has recommended that it be considered under a rule in order

to allow the House the opportunity to consider other related matters.

The second matter made in order in the rule, H.R. 2212, seeks to establish a number of preconditions which must be met by the Government of the People's Republic of China before the President may recommend continuation of MFN status in 1992. The final matter, House Concurrent Resolution 174, expresses the sense of the Congress that some foreign policy actions on the part of the Government of China will have serious negative consequences for United States-China relations, in particular placing in jeopardy the access of Chinese products to the United States market through MFN status.

Section 2 of House Resolution 189 provides for the consideration of House Joint Resolution 263, the resolution of disapproval, under procedures similar to those provided for in sections 152 and 153 of the Trade Act of 1974. Therefore, the rule precludes any amendment to the resolution, allowing only for an up-or-down vote and no motion to recommit. The rule, however, provides only 1 hour of debate on the joint resolution rather than the 20 hours provided for in the statute. The debate time is to be equally divided and controlled by Mr. SOLOMON, of New York, the author of the resolution, and Mr. ROSTENKOWSKI, of Illinois, the chairman of the Committee on Ways and Means. House Joint Resolution 263 was referred to the Committee on Ways and Means and while there was no clear majority to report the resolution favorably, the committee reported the resolution on June 26 without recommendation in order to offer the entire House the opportunity to vote on the resolution of disapproval.

Under the Trade Act of 1974, privilege is extended to only one resolution of disapproval per session of Congress. Consequently, section 3 of House Resolution 189 provides that the expedited consideration procedures found in sections 152 and 153 shall not apply to any other joint resolution of disapproval relating to the People's Republic of China during the remainder of this session of the 102d Congress.

Section 4 of House Resolution 189 provides that after the House has disposed of the Solomon resolution, it shall be in order to consider in the House H.R. 2212. H.R. 2212 was reported, with amendments, favorably from the Committee on Ways and Means on June 26. The rule provides that H.R. 2212 shall be debatable for 2 hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and provides that the previous question shall be considered as ordered on the committee amendments. Those amendments shall be considered en bloc and are not, under the rule, subject to a demand for a division of the question. Finally, section 4 provides

that the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

Section 5 provides that after the disposition of H.R. 2212, it shall be in order to consider in the House the House Concurrent Resolution 174 which was reported favorably on June 26 from the Committee on Ways and Means and from the Committee on Foreign Affairs, with amendments. The rule provides that House Concurrent Resolution 174 shall be debatable for 1 hour, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The rule provides that the previous question shall be considered as ordered on the Foreign Affairs Committee amendments, that they shall be considered en bloc and shall not be subject to a demand for a division of the question. Finally, section 5 provides that the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

Mr. Speaker, given the level of controversy associated with the President's decision to extend most-favored-nation trading status to the People's Republic of China for another year, the Committee on Rules has fashioned a rule which will allow all sides of this issue an opportunity to fully express their views on the subject. For those who favor an immediate end to MFN for China, or for those who favor leveraged pressure on the Government of China to improve conditions in that country, the rule provides an option. In addition, the rule allows the House the opportunity to further make its view known regarding the issue of China's action relating to proliferation of nuclear and missile technology. Mr. Speaker, given the enormous complexity of our Nation's relationship to the People's Republic of China, I believe this rule will offer the House ample opportunity to express its will regarding such a relationship in the coming months and years. I urge my colleagues to support the rule so that the House may proceed to the consideration of these most important matters.

□ 1330

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

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

Mr. Speaker, I rise in reluctant opposition, perhaps I should say non-support, of the rule.

I am troubled by the fact that a request by the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], that an open rule be granted on H.R. 2212, the Pelosi bill,

was not granted by the Committee on Rules. The practical effect of this rule is to deny an opportunity for our colleague, the gentleman from Washington [Mr. MILLER], to offer his amendment that would establish a code of conduct for U.S. businesses operating in China similar to the Sullivan principles that are in effect in South Africa today. I would like to have had the opportunity to discuss and vote on that amendment.

Having said all of that though, Mr. Speaker, let me just say that the business of the House has to go on. I would have preferred an open rule, but I shall not ask for a recorded vote on this one since we are about to go into a protracted 5-hour debate.

This rule will permit the House to work its will on the important question of whether or not to renew most-favored-nation trade status for the People's Republic of China. As the gentleman from Texas [Mr. FROST] has indicated, this is a modified closed rule that provides for the consideration of three legislative initiatives on this important issue.

After 1 hour of general debate, it shall be in order to consider for 1 hour Joint Resolution 263, that I and 16 other Members have introduced. House Joint Resolution 263 would deny, and I repeat, deny, the administration's request for a 1-year extension of China's MFN status. China's present status would thus be terminated upon the enactment of this joint resolution.

Following a vote on the Solomon resolution, it shall then be in order to consider for 2 hours H.R. 2212, a bill that was introduced by our colleague, the gentlewoman from California [Ms. PELOSI]. Under the terms of her bill, China's present MFN status would be renewed for 1991, but it will be terminated in 1992 if several conditions primarily concerned with human rights issues are not met by next June.

Following the 2-hour debate on that bill, there will be a vote on the several amendments to the bill that were adopted by the Committee on Ways and Means. These amendments will be considered en bloc, and they will not be subject to amendment or division. In other words, we have to cast one vote on all four of those amendments. Then, depending on how the recommendational motion goes, there will be a vote on final passage on H.R. 2212.

Finally, I should advise my colleagues that the rule also makes in order consideration of House Concurrent Resolution 174, a sense-of-Congress resolution offered by our friend, the gentleman from New York [Mr. SOLARZ]. His resolution concerns Chinese participation in the various non-proliferation regimes regulating international transfers of nuclear technology, guided missiles, and the like. I am not sure if the gentleman from New York [Mr. SOLARZ] is going to offer his

resolution. But, nevertheless, the rule does provide for it.

Just to reiterate, Mr. Speaker, I would have preferred an open amendment process on the Pelosi bill, but I do believe that this rule provides for an adequate and orderly process in dealing with this very important issue.

Mr. Speaker, for my part, I obviously plan to support my own resolution of disapproval, and I also plan on voting for the Pelosi bill, which I was pleased to cosponsor with more than 100 other Members from all points on the political spectrum, conservative, liberal, and everywhere else in the middle.

Indeed, the resolution of disapproval and H.R. 2212, the Pelosi bill, can be seen as being complementary to each other. The resolution of disapproval applies to China's MFN status this year and would terminate that status as of right now. The Pelosi bill applies to China's MFN status next year, and it sets the conditions that would have to be met before MFN could be renewed or restarted next year.

Members can, in good conscience, support both the resolution of disapproval and the Pelosi bill. I hope many Members will, as I will. We need as large a vote as possible on both of these bills in order to send the proper message to Beijing. And, believe me, passage of both of these bills will do just that.

Mr. Speaker, there was a time when China seemed to be leading the way toward reform in the Communist bloc. There was a time when the Chinese leadership seemed to recognize the nature of the economic and social problems that that country was facing. But what seemed to be fact has, in truth, been exposed as an illusion.

The events in Europe and elsewhere have left China completely in the dust. The true reforms and the sweeping changes that have happened in the rest of the Communist world have exposed the Chinese policies and reform efforts as being pathetic, half hearted, and meaningless by comparison.

It is now China that is bringing up the rear. It is in China that a discredited Communist dictatorship insists on clinging to power by sole virtue of having all the guns. It is in China where this regime is fundamentally illegitimate. And it is China that we help up with MFN, and that is wrong.

□ 1440

That is wrong. The gentlewoman from California [Ms. PELOSI] said it well in testimony before the Committee on Rules yesterday. She said that The Chinese leadership hates our democracy; it hates our capitalism; and it hates our ideas about freedom; but it loves our money. I repeat: It loves our money.

I say, Mr. Speaker, that the MFN gravy train for China should stop, and it should stop now. If MFN is to be re-

newed at all, it should be with conditions and requirements that speak to the needs of the Chinese people, human rights.

I hope that both the resolution of disapproval and the bill of the gentlewoman from California [Ms. PELOSI] will pass overwhelmingly in this House. I urge every Member to vote for both of these pieces of legislation.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. APPLLEGATE].

Mr. APPLLEGATE. Mr. Speaker, I rise to support the rule. However, I do want to make a statement with regard to the situation which is facing Members.

To give most-favored-nation status to China, which is a Communist country, is a most foolish notion. Therefore, I say to President Bush in his consideration of this, "No, no, a thousand times no."

It is an insult to the American veterans to say to them, now that they have fought and sacrificed for the very principles that are being denied other people in the world, we have had 1¼ million people who have died since the beginning of this country, defending freedoms, we have had millions who have been maimed and have been disabled, and now we are going to turn around and say that it is OK if we recognize a country that denies free speech, that denies freedom of the press, that denies freedom of religion, denies all human rights. That we as a nation, we are going to recognize another nation that strips its people of everything as we know it in this country.

The President of the United States says that it is just, and it is moral. I do not know what book he is reading, but I think he better go back to the library.

When Nicaragua abused those very same principles that we are talking about now, these very same principles that Americans have fought for, we cut them off. We stopped trade with Nicaragua. We took care of them completely, and now all of a sudden we are saying to China that it is all right, this godless society, it is OK if they abuse their people.

American veterans and American workers are going to lose their jobs. Listen, they are going to lose their jobs to slave labor-made products. People who are paid 50 cents a day, and that may be high, I do not know. They do not even have a minimum wage over there. If Members do not think this is true, just ask the American veterans, and the American workers what we think about most-favored-nation status.

If it is going to be China now, who is it going to be next? Are we going to give it to Hussein in Iraq? Are we going to give it to Quadhafi in Libya? How about Fidel Castro down in Cuba? Why do we not just give him most-favored-

nation status and recognize the same things they are doing in Communist China? Why do we not just free Noreiga and send him back to Panama? Then we can give it to them. What is the difference?

China, of course, is not all Communist, apparently. They are employing some of the free enterprise tactics that they use in the United States. They are hiring a public relations firm. They have hired Hill & Knowlton, one of the biggest PR firms in the United States and in the world, as a matter of fact, and paying them \$150,000 a month. What for? To lobby Congress. They are paying an American PR firm to lobby Congress and, in fact, have threatened Congressmen by saying that if they do not vote for them, China is not going to maybe do business in their district anymore.

I say that we better take another look at this. I think it is foolish, and I think that we better get our priorities straightened around in a hurry and give our loyalty to where it belongs.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRBACHER].

Mr. ROHRBACHER. Mr. Speaker, I rise to support the two amendments that we will be voting on in the House today. We are discussing today most-favored-nation status, not for the Chinese people. We are discussing most-favored-nation status for the Chinese regime. We are going to decide today whether this House will put itself on record as to whether we are on the side of the Chinese people, the people who long for a decent life and long for democracy, or whether we will be on the side of their oppressors. Are we on the side of the reformers or the oppressors? Are we on the side of the democratic activists or on the side of the hardened Communists?

In the past, we had to play China off against the Soviet Union. It is what we call realpolitik. That is what we had to do in the past in order to preserve the peace. There was a legitimate concern that the Soviet Union might threaten our national interest, and indeed, violate the peace and drag the world into a new Armageddon. Those days have passed. The Soviet Union is in total disarray. There is no longer an excuse for the United States to be siding with a dictatorship at a time when we no longer have to play that dictatorship off against the Soviet Union.

Also during that time period, there was a supposed evolution going on in China. Today, we see that evolution, that so-called evolution, unmasked, and we see the tyranny that remains in the blood-stained streets of Tiananmen Square.

The situation is wholly different. We no longer have the Soviet Union for an excuse, and we can no longer use the evolution toward democracy as an excuse for dealing with the Communist

regime that controls the mainland of China. The current Communist regime murders its own people. It commits genocide in Tibet. It tortures and jails and executes democratic student reformers. It sells missiles and nuclear technology to Third World despots. What message are we going to send that regime today? Are we going to send it the message that those things do not make any difference? Are we going to send a message to the people of China that we are on the side of their oppressors?

I think that it is time for the United States to stand for what this country's principles are all about. That is, we side with the people, and we side with freedom over despotism. There is another China. There is a freer China. There is nothing that we can do today that would send a better signal to the people of China and to the Communist regime in China than to recognize what is going on in the freer China at the same time that we recognize what is going on in the totalitarian China in the mainland. Not only should we look at the freer China and say that these are the people we identify with, and deny most-favored-nation status to Communist China, but we should recognize that progress in the democratic reform in Taiwan.

We could take steps, for example, to ensure that the Republic of China is part of GATT, part of the International Monetary Fund and World Bank. In fact, we could even suggest that China regain its seat at the United Nations, or have a full embassy in Washington, DC. These are steps that we could take that would gain the attention of the Communist thugs in Beijing immediately. However, for those who say we must give most-favored-nation status to China, we do not hear this as an alternative. The Communist dictators in Beijing must be sent a message.

□ 1350

The people in mainland China must be sent a message as well that we are on their side and that those tyrants in Beijing will pay for their crimes. In the long run, the regime in Beijing will pass, just as every other despotic regime in history has passed.

The surge of freedom that is sweeping through other Communist States will not be reversed on Communist China's doorsteps. When that day comes, when freedom does, indeed, win the day in China, we will be left to explain why we were doing business as usual with their tyrants at a time when it counted.

Business as usual with Communist thugs? No way.

Business as usual with a regime that murders its own people, commits unspeakable genocide in Tibet, that sells missiles and nuclear technology to the Third World? No way. No most-favored-nation status for China.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, today may be most-favored-nation trade time for China, but in my opinion it is once again most-foolish-nation trade time for America.

Everybody in this body knows that China gunned down their own students seeking freedom in Tiananmen Square, but how many here realize that just 2 weeks ago China threatened unless they get most-favored-nation trade status, they threatened to stop buying jet planes from the Boeing Co. Think about it. They made a demand.

Now, that demand did not hit hard enough. So guess what? They wised up. China bought the best Washington lobby they could find at \$175,000 a month. Because why not, folks? Everybody does it. If you want something from Congress, you buy a top lobbyist and they get the votes. Stone cold simple. You know it and I know it.

What is even worse than that, Mr. Speaker, is that many of the top political names that we have known over the past and many of the top staffers of these powerful committees, as soon as they are out of Government life they go on the payroll of these foreign countries. They are the same lobbyists who once had to write those laws. They are so powerful, in my opinion, it is an underground government that runs our own Congress.

But do you know what? What really bothers me is while we are in here today debating egg rolls, China keeps steamrolling over the American worker. Their trade surplus last year was \$10 billion, Mr. Speaker, second only to Japan.

Now, I want to ask you a question. How many Chinese workers at 17 cents an hour are going to buy a Chevrolet made in my district?

How many American companies are going to move overseas and hire people at 25 cents an hour with no OSHA, no EPA, no workmen's compensation?

I say we should start exporting some of these staffers, some of these powerful committee people, some of our politicians to China and let them keep their trade status to themselves.

I think today it is appropriate to quote a most famous Chinese citizen, Confucius. Confucius says that when those who fail to look after their own marbles, they put in danger and in fact lose their own.

I am wondering today if Congress has any marbles left. Maybe Confucius might work on this Congress. I think what really works on this Congress is lobbyists. I think there should be a law that there should be no foreign lobbies allowed in the United States of America, and the only lobbies allowed are those which represent absolutely the interests of the American people. That is not a tough law.

Finally, on these free traders, let me say one last thing, Mr. Speaker. While we have all this free trade, let me tell you what we have. We have free bankruptcy, free economic collapse, and in about 5 years, try to buy a meal with your Toyota, and try to eat your Suzuki.

Think about it, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I rise today in opposition to the rule because it again waives the 3-day layover rule to the detriment of the legislative process.

While I am concerned about the specifics of this rule, I will support the resolution disapproving the extension of most-favored-nation [MFN] status for China.

Today, partisan politics and party loyalty take a back seat to moral convictions.

On this issue, I repeatedly come to the following conclusion: We can either continue sticking our head in the sand, or we can be strong defenders of freedom and fairness.

I prefer to come out swinging.

Last week, America celebrated her 215th birthday. Between the barbecues and the parades, I was asked to express my thoughts about this Nation's accomplishments and our goals for the future.

I chose to quote Abraham Lincoln who said our—

Declaration of Independence \* \* \* gave liberty not alone to the people of this country, but hope to the world, for all future time. It gave promise to that in due time the weights would be lifted from the shoulders of all men, and that all would have an equal chance.

Sadly it appears to me that extending MFN status to China is a sign that instead of working for hope, we're turning our back on those ideals and beliefs that we hold dear—all in the name of expanding our economic interests.

That is not why I came to Congress.

Each year, China promises to do better when it comes to human rights abuses. But each year, the promises get shallower and more unbelievable.

China is still a nation where peaceful, freedom-seeking demonstrators either disappear, or face judges and juries that are stacked against them.

China also promises to promote fair trade with our Nation.

But in the last year, China has made it tougher for American products to reach Chinese markets.

While imports from China have increased 27 percent, exports to China have decreased by 17 percent. Last year, our trade imbalance with China increased to \$10.4 billion.

And, finally, China promises to stop promoting pain and terror in other nations. But in the last year, nuclear

missile launchers have been sent to Pakistan and negotiations are underway for the delivery of missiles to this unstable nation.

China has also sent chemicals to Iraq which have been used to make nerve gas, missile fuel, and nuclear weapons.

No more promises, Mr. Speaker. I urge my colleagues to vote against MFN status for China.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, first things first. No one here today will argue that in terms of domestic policy and basic human rights within the People's Republic of China do not meet our standards that we too often take for granted in the United States.

And, I agree that we must keep working to implement a common sense and practical policy and strategy that will help urge and even force the Chinese Government to pursue and adopt meaningful reforms. In this regard, I appreciate what the gentleman from New York, my colleague and friend, Mr. SOLOMON, and what my colleague from California, Ms. PELOSI, are trying to accomplish. But, with all due respect, denying most favored nation status is not the answer and their approach in regard to conditions is not the answer.

Once again, we are proposing to use food as a foreign policy weapon. Once again, perception becomes reality—we somehow feel better if we take action, any action, that is perceived a strong stand against individual oppression and human rights. And, once again, once the laws of unintended effects takes place, once we fully appreciate the practical effect of denying MFN status or placing conditions we know will not be met, supporters of this policy will shrug their shoulders and say, "Well, we didn't mean for this to happen," or perhaps, "tough luck", we should not be trading with the Chinese to begin with.

I know some of my colleagues are tired of hearing this speech but we need to keep repeating it so that we do not repeat making the same mistakes over and over again.

It will not be the Chinese Government who suffers if we revoke or put conditions on MFN so as to render it useless. It will be those who carry forward the memory of the students who were brutally killed in Tiananman Square, the poor citizens throughout China struggling to get enough to eat, those who suffer from malnutrition and hunger. And, it will punish those in China who now work for reform in progressive regions and in Hong Kong.

And, if this policy is adopted, it will hurt Americans, namely my Kansas farmers who see another 25 to 30 cents coming off wheat prices because of retaliation and decreased exports—prices that have already fallen 35 percent in the last year.

Once again, under the banner of perception we are spilling the blood of American agriculture. Once again, we are contemplating using our farmers and their grain as a foreign policy weapon. And, once again, we are passing up the opportunity to use this Nation's bountiful food supply as an instrument of peace.

Oh yes, its easy to mount the parapits in the fight against man's inhumanity to man. But, after the rhetoric stops, will you accept responsibility for what actually takes place in the real world? Without MFN, the Chinese will take their business elsewhere, to the 100 and more nations, who will not join us in this thinly disguised embargo. The People's Republic is the largest customer for United States wheat in the world. They are projected to purchase over 200 million bushels this marketing year. That is \$500 million that farmers will pay as an obligatory titling at the alter of perception.

Now, if that is what we are going to do, lets everyone tithe, including Members of Congress. Let us take a 30-percent cut in our salaries to be placed in a human rights fund. Or, at the very least, support a supplemental appropriation to assist farmers as a result of this action.

And, just as the Republic of China is a key market for our farmers, we represent a key market for many Chinese products. That trade is and can be an instrument for peace. The hard line Government in China will respond to that and the Chinese citizen will benefit from the nearly \$5 billion in investment stemming from over 1,300 joint ventures with United States companies.

If we pass either of these amendments today, the practical result will be for China to tighten its belt, suppress all dissent, and unite the country around the idea that throughout the history of China they have been humiliated at the hands of foreigners. Oh, if we want to express outrage, we can send that message but is that really worth the damage?

When the dust clears, China will still be doing business, only with our competitors. They will remain even more firmly opposed to reforms and we will have lost markets that will take years to recover, if they can be recovered. Where is the sense in that?

We could oppose multilateral loans, we can address unfair trade barriers, stop imports produced by prison labor and insist upon Chinese adherence to nonproliferation, there are many policy avenues to be explored. But, let us not repeat the mistakes of the past and sacrifice the farmer at the alter of perceived human rights.

□ 1400

Mr. SOLOMON. Mr. Speaker, the reason I reluctantly opposed this rule in the beginning was because the gen-

tleman from Washington [Mr. MILLER] was denied his amendment under this rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank my distinguished colleague from New York [Mr. SOLOMON]. I join him in opposition to the rule.

Mr. Speaker, I think we both know how the vote is going to come out on this. We are going to get into a discussion of a very important subject later today, and at that point I hope to be speaking at greater length on why I believe a conditioned extension of most-favored-nation trade status is the right way to go.

But at this point I do want to make some comments on the rule, which I think is unnecessarily restrictive.

Last year, my colleagues, you will remember when this issue came to the floor it was then called the Peace bill. Several of us, Congresswoman PELOSI, Congressman WOLF, Congressman PORTER, and I had amendments that were offered and adopted by the full House. I think they improved the bill.

The amendment I offered at that time was an amendment establishing a set of human rights principles for United States companies operating in China, along the lines of the Sullivan principles in South Africa. That amendment which I offered passed this House by a vote of 407 to 9. I was allowed to offer that amendment last year.

This year, the Committee on Rules did not make that amendment or any other amendments, such as were offered last year by myself and my distinguished colleagues, in order.

I think that is a mistake. I think particularly at this stage of the process, when we will probably be sending over a bill to the Senate, a bill cosponsored by Congresswoman PELOSI and myself and several others, one amended in the Committee on Ways and Means, it was certainly appropriate and reasonable to allow the consideration of other amendments that might have further improved the bill and particularly considering that the bill then would probably end up in conference with the Senate.

That was not done by the Committee on Rules. I think that was a mistake. For that reason I must oppose this rule.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished member of the Committee on Foreign Affairs, the gentleman from New York [Mr. GILMAN], with whom I served on that committee for 10 years.

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 189 the rule providing for the consideration of House Joint Resolution 263, disapproving the extension of most-favored-nation [MFN] treatment to the products

of the People's Republic of China. I commend my colleague, Mr. SOLOMON, the gentleman from New York, for his longstanding leadership on this issue. For many years he has spoken out against the ruthless dictatorship in Beijing, unfortunately, only recently has the world begun to listen.

Mr. Speaker, there is a common myth in this town that in order to bring about positive political change in the People's Republic of China we should continue to grant it MFN and simply wait for the old men who rule from Beijing to fade from the scene. If we deny MFN, it is argued by those favoring MFN, that China will withdraw into its cocoon, and we will undercut the moderates in the Government.

The truth, however, is that by kowtowing to China's oppressive leaders, whether they be young or old, hardline or moderate, we continue to isolate them from universally held ethical and moral standards. Years of external moral and ethical isolation has emboldened China's Communist leaders. According to Amnesty International prodemocracy forces in the People's Republic of China have been hunted down, rounded up, and routinely executed. Asia Watch calls China's rule over occupied Tibet merciless repression. And Freedom House informs us that Tibet is the No. 1 worst area in the world in regards to political freedom. The reauthorization of MFN over the years, has not put a stop to any of the violations of human rights.

Another myth being argued is that MFN will lead to economic liberalization which itself will lead to political pluralism. However, the authorities in Beijing have recentralized banking, credit, production planning, material allocation, foreign trade, and other important elements in the economy. Approximately 3 million private and semiprivate Chinese enterprises have been shutdown and in the majority of the cases only state-run enterprises will benefit from MFN. All of this has happened since reauthorization of MFN after the Tiananmen Square massacre.

Permit me to also point out to my colleagues that MFN did not prevent the People's Republic of China from selling lithium hydride, a chemical precursor to hydrogen bombs, atomic bombs, fuel for ballistic missiles, and poison gas to Iraq while the allied sanctions were in place. Nor did MFN prevent the People's Republic of China from negotiating a sale of M-9 nuclear-capable missiles to Syria and past offers of missiles to Iran, Libya, and Pakistan. The People's Republic of China is also cooperating with North Korea to improve the range of Scud missiles.

Mr. Speaker, our Nation lost over 80,000 soldiers in North Korea and Vietnam fighting Chinese communism. I perceive no overriding reason to let Communist state-run industries and

prodemocracy political prisoners in forced labor camps unfairly compete with American labor. It is an insult to American families who lost sons or daughters in those two wars.

For the sake of our deepest values and most hard-nosed national interests, the United States should not renew MFN for China. Constructive engagement amounts to appeasement in the eyes of the leadership in Beijing. It is time for a new policy toward China and occupied Tibet. The United States Government should stand for freedom by supporting democracy in China and insisting the People's Republic of China negotiate a comprehensive settlement on Tibet before it gets MFN.

Mr. Speaker, the trouble with the People's Republic of China is not the old Communists in Beijing—there are plenty of young, hardline Communists willing to take their place—the trouble with China is the Communist system itself and the world's industrialized nations willingness to continue to bankroll it. Accordingly, I urge my colleagues to support the rule and House Joint Resolution 263 disapproving the extension of most-favored-nation treatment.

□ 1410

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise in support of the rule and the amendments attached by the Ways and Means Committee to H.R. 2212. As a cosponsor of the bill, I believe that the amendments approved by the committee strengthen and improve the bill.

I want to focus on an amendment that I offered, along with Representative NANCY JOHNSON, under which the President could not request an extension of MFN for China if he finds that the Government of China supports or administers a policy of coercive abortion or involuntary sterilization. This condition is added to other human rights conditions in the bill, which is included as one of the Ways and Means en-bloc amendments.

In 1989, President Bush vetoed the foreign operations bill because it contained funding for the U.N. Family Planning Fund [UNFAP] which funds family planning programs in over 140 countries including China. Bush vetoed the foreign operations bill because some of the funding for UNFPA might go to China. The President said it "would clearly place the United States in the position of supporting a program that in turn supports coercive abortions, a program that is inconsistent with American values. Such support \* \* \* would contradict the human rights character of our foreign policy around the world."

If coercive population policies do in fact exist in China, conditioning MFN

on ending these policies is a much more powerful and appropriate way to express our concern than cutting off the U.S. contribution to the 140 countries that depend on UNFPA funds for voluntary family planning. Cutting off U.S. aid to UNFPA would not really affect China because the UNFPA funds less than 1 percent of China's population program and because UNFPA's contribution is a fixed sum.

Conditioning MFN, however, would definitely have a direct impact on the Government of China. Chinese exports to the U.S. totaled \$15.2 billion in 1990—a 27-percent increase over the previous year. Contrary to practices in private market economies, a large segment of the profits from expanded exports flow directly into Chinese Government coffers. If, in fact, China does have coercive policies, we must take this opportunity to express our deep concern about it.

This amendment will also help to resolve the confusion that exists around this policy. There is some legitimate confusion over whether such policies do in fact exist in China, and whether they have the blessing of the Chinese Government. The State Department's Country Reports on Human Rights Practices for 1990 does little to clear up the confusion. It states, on the one hand, that "China's population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and severe economic penalties." On the other hand, it concludes that "[p]hysical compulsion to submit to abortion or sterilization is not authorized, but continues to occur as officials strive to meet population targets."

We need to establish the facts here. Does China have or not support or administer a coercive abortion or involuntary sterilization? This amendment will help us clear up that question, and end the confusion which characterizes the debate on UNFPA.

I am pleased to say that this amendment was approved with overwhelming bipartisan support from my colleagues on the Ways and Means Committee. By enlarging the Pelosi conditions to include abortion coercion, we will reaffirm that support here today.

Mr. SOLOMON. Mr. Speaker, I believe we have 3 minutes remaining, and I yield the balance of our time to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I also yield 2 minutes to my colleague from the Committee on Rules, the gentleman from California [Mr. DREIER].

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] my friend,

the distinguished ranking member, for yielding, and I thank the very magnificent gentleman from Texas [Mr. FROST] for yielding his time.

Thomas Jefferson said that two thinking men can be given the exact same set of facts and draw completely different conclusions. This is certainly the case on this issue. Everyone in the House wants to see us address the human rights crisis taking place in China; the problems of arms transfers to Third World countries; as well as the various trade concerns that we all share. We differ only in deciding what the most effective methods would be to accomplish these goals.

Mr. Speaker, I will take a back seat to no one in Congress when it comes to expressing outrage over the human rights violations taking place in China. I have marched with Members from both sides of the aisle to the Chinese Embassy, first to meet with Ambassador Ham Xu, and then again last month, when several Members of Congress were rebuffed by the deputy press attache when we tried to deliver a message expressing our outrage over the continued rights violations. I have stood on the steps of the Capitol to argue against the actions of the repressive despots in China. And I believe that President Bush shares these same concerns and strongly opposes the horrendous human rights policies of the Chinese Government.

During all of this time, I have asked myself: What is the best way to assist our reformist friends in China? Will revoking most-favored-nation trade status do anything at all to release a single political prisoner? Will it prompt a great outpouring of openness and freedom from the Communist Chinese Government? Will it speed the inevitable march toward democracy and a free market?

I have come to the conclusion that it will not. In fact, I am concerned that either revoking or conditioning MFN will complicate the path to reform. I am not alone in holding these views. An excellent article appeared last month in the New York Times which outlined the growing concern among Chinese dissidents about the negative impact that the loss of MFN could have on their efforts.

One leader, Zhang Weiguo, a Shanghai dissident who spent more than 20 months in prison for his activities during the Tiananmen Square demonstrations, pointed out that "the U.S. should support China's economic development and social exchanges."

Why? Because the budding private sector will be hurt far more than the Communist government, and without an economic base, political reform will be even more difficult. Unemployed men and women have to focus their efforts on trying to scratch out a living for their families. They would have little time for petition drives, marches,

letter writing campaigns, and so forth. As the China Information Center, established by Chinese students in the United States during the Tiananmen crackdown, said:

If the path of political transformation is treacherous without the presence of a sizable private economy, it is downright impossible when living standards are falling.

Also, it has been the Chinese private sector which has supported the Chinese student activities. In spite of the political crackdown, economic activity has continued. Economic growth in 1990 totaled 56 percent in the foreign investment enterprise sector. Without these funding sources, resistance to the current regime will be difficult.

A year ago this month, I visited London and had the opportunity to be the first Member of Congress, to meet with famous Chinese dissident Fang Lixhi. As we were discussing the question of most-favored-nation status, and he said to me:

David, you've got to understand that, Deng Xiaoping, Li Peng, who are not young men, will be out of the picture in only a few years. They will be dying, and there are reformers in the forefront. There are reformers like Jiang Zemin, who is a younger man who has not in any way gotten involved in the crackdown against the democracy activists. In fact, the government left him alone, and he is one of those who will conceivably be on the forefront when these older despots are out of the picture.

And Fang said:

David, you've got to understand that when these older men are gone, we need to have a strong economy.

□ 1420

Mr. Speaker, I fear a devastated economy in China if we see the revocation of most-favored-nation status. There are many people within China who have been active members of the reform movement. One dissident who for months was held in prison following the Tiananmen Square massacre has said, "The United States should have a vigorous debate on most-favored-nation status," which we are having, "but in the end it is important that most-favored-nation status be granted."

This is from a man who was held in prison in China for a long period of time. Why? Because he believed that revocation of most-favored-nation status would hurt the reform movement in China, that it would hurt the standard of living in China, and that it would really send a signal to the despots in China that they can in fact establish an even greater wall to the United States.

Mr. Speaker, the Berlin Wall came down because of one major reason: exposure to Western values. We in the United States have successfully gotten our message through by satellite technology and fax machines into parts of the world that have not up until now enjoyed the kind of freedom that we hope very much the Chinese people will

be able to enjoy. It is obvious that President Bush's policy of engagement has had a great deal of success. We can look to the release of 1,000 detainees following the Tiananmen Square massacre. We can look at the release of Fang Lixhi. We can look at the partial accounting of the whereabouts of dissidents who were detained after Tiananmen Square; the resumption of access for journalists to Tibet, and a number of other positive steps that have been taken.

Indeed, the changes that have taken place since Richard Nixon's famous visit to Peking are remarkable. As President Nixon's policies have since proven, economic cooperation brings political stability both internally and internationally. Certainly we have much, much more to accomplish. We must keep the pressure on the Chinese Government. But we must also be careful not to pull the rug out from under those fighting for freedom in their homeland.

I am angered over the arrest of the Catholic Bishop and laypeople. I am angered by the incarceration of students who were simply expressing their hopes for a more just society. I am angered by China's continued sale of weapons to the Third World. And I am not in any way whitewashing those problems; they are very serious, but I am convinced that we are not continuing with business as usual. The President, through his policy, Mr. Speaker, has continued to stand up on weapons transfers, on OPIC loans, and a litany of other actions which the Chinese have pursued since the Tiananmen Square massacre. American sanctions against high-technology transfers, against high-speed computer sales and preventing weapons sales, are still in place. President Bush is vigorously pursuing a section 301 complaint against China for intellectual property rights violations. So when people stand up and try to claim that business as usual is continuing, they are wrong.

Mr. Speaker, we will bury the despots of China with Western values and Western ways through our free enterprise system. I believe that there is a Lech Walesa out there for the Chinese people. There is a yearning for freedom. It is in the interest of the American consumer, the American worker, and the Chinese people, a billion of them, and the future of the free world for us to adopt a policy that will be effective in promoting change in the People's Republic of China. This may not be the policy that quenches our thirst for punishing the Chinese Government, but it will offer the best hope for empowering the Chinese people. In my opinion, preserving our economic influence is the best way to accomplish these goals.

Thank you.

Mr. FROST. Mr. Speaker, we have no further requests for time, I yield back

the balance of my time, and I move the

previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL DEBATE ON THE SUBJECT OF MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 189, it is now in order to debate the subject of most-favored-nation treatment for the People's Republic of China.

The gentleman from Florida [Mr. GIBBONS], will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

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

Mr. Speaker, the first resolution or the first matter we have to take up is disapproval of most-favored-nation treatment or normal trade treatment for China. Obviously it is a motion that should be defeated. None of us in this Chamber condone or in any way like the actions that took place in China known as Tiananmen Square, nor the repressive activities that China has shrunk back to in the last 2 years. We want to change all that.

The best way to change it, the most humane way to change it is for the United States to stay involved in the process in China, and unless we continue to trade with them, we have no way of being involved and we will send China back into isolation as it previously existed for about 40 years and we will do a great deal of damage to many fine people in China and also in this country.

So, while I realize that the gentleman from New York [Mr. SOLOMON] is perfectly sincere in his desire to improve relations in China, he has picked the wrong tool to deal with it. We should defeat his resolution and we should go then to the consideration of the Pelosi recommendation that has been favorably reported by the Committee on Ways and Means.

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

The SPEAKER pro tempore. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] care to allocate time?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the resolutions and the bill considered pursuant to House Resolution 189.

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

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, for the second consecutive year, we are debating the future of United States trade relations with China. The reasons for returning to this issue are clear to everyone in this chamber. In June 1989, the hard-line leaders of China engaged in an unprovoked massacre of students and workers demonstrating peacefully for greater freedom of speech and political reforms. Since that time, those leaders have maintained many of the repressive policies put in place since the 1989 crackdown in Tiananmen Square. They have sentenced many of the nonviolent demonstrators to months, even years, in prison. Many prisoners remain unaccounted for. China has been engaged in the sale of missiles and nuclear technology to countries of the Middle East and southern Asia. Other human rights and foreign policy actions of China are also cause for great concern.

Mr. Speaker, Members of this body will be given the opportunity to vote today on three measures relating to China's most-favored-nation [MFN] trading status.

The first measure is House Joint Resolution 263, which would cut off China's MFN status 60 days after enactment. The resolution was reported without recommendation by the Committee on Ways and Means, in order to provide Members of the House an opportunity to vote on the measure. I believe Members should resist the inclination to strike blindly at China by cutting off China's MFN status. We all want to see an improvement in the human rights situation in China. We all want to see an end to the proliferation of weapons of mass destruction. The question is, What is the best way to achieve that goal? Mr. Speaker, I believe we stand a far greater chance of influencing events in China by remaining engaged there. I will, therefore, oppose House Joint Resolution 263.

The second measure we will consider today is H.R. 2212, introduced by our colleague, NANCY PELOSI, with many other cosponsors. H.R. 2212 was reported favorably by the Committee on Ways and Means. The bill imposes a number of conditions which China must meet before the President may recommend that China's MFN status be continued in 1992.

I must admit, Mr. Speaker, that I have reservations about certain aspects of H.R. 2212 as reported by the committee. I worked with Congresswoman PELOSI and other interested Members of the House to craft an amendment, which clarified certain provisions of the introduced bill. However, the committee adopted other amendments, which considerably expanded the list of conditions which China must meet by next year. Those amendments will be offered as an en bloc amendment later.

I am concerned that H.R. 2212 as approved by the committee may set such high standards that the Chinese may decide that they either cannot, or will not, meet the bill's conditions. In that case, the President will have no choice but to terminate China's MFN status in 1992. Nonetheless, I am prepared to support the bill as amended, with the hope that we can improve the bill in conference with the other body.

The final measure on which the House is scheduled to vote today is House Concurrent Resolution 174, introduced by Congressman SOLARZ. The resolution—which was referred jointly to the Committee on Ways and Means and the Committee on Foreign Affairs—was reported favorably by the Committee on Ways and Means, without amendment. It expresses the sense of the Congress on Chinese actions relating to the proliferation of nuclear and missile technology. I believe this resolution is an appropriate response to a very serious problem, and I intend to support it.

□ 1430

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

Mr. Speaker, today we debate once again the important issue of United States policy toward China in the wake of the violent crackdown on peaceful demonstrators in Tiananmen Square. Actually, and appropriately, the debate has never stopped during the 2 years since that appalling act of aggression against Chinese people seeking freedom.

The time that has passed, and the two bills that are before us now, indicate how difficult it is to legislate sanctions and conditions against China which would successfully pressure the current government to change its human rights practices.

The first bill, House Joint Resolution 263, would end normal tariff treatment, so-called most-favored-nation [MFN] status for China.

The time that has passed, and the two bills that are before us now, indicate how difficult it is to legislate sanctions and conditions against China which would successfully pressure the current government to change its human rights practices.

This is an extremely harsh response to the problem of China's recent behavior.

More importantly, the effect of this bill would be to end United States influence in China, isolate that country further, and ruin the United States businesses and investments that have grown in China since President Nixon's historic visit in 1972.

Such unilateral action would hurt the very people in China who have struggled against the harsh leadership and have dared to pursue democratic ideals and free market principles.

The second bill, H.R. 2212, would establish inflexible and difficult to ascer-

tain conditions for renewal of MFN tariff treatment in 1992.

Although a well-meaning attempt to construct a carrot-and-stick-policy toward China, the effect of this measure will likely be the same as House Joint Resolution 263.

The bill requires China to meet unattainable and arbitrary conditions that will certainly result in withdrawal of MFN.

Both bills represent legislation that is dangerous as well as ineffective in achieving United States goals with respect to China and throughout the region.

A backlash in China will only serve to reinforce the hardliners in Beijing at the expense of those who continue to resist repression and work for continued economic and political reform.

However strongly we oppose the actions of the current leadership, the United States must consider the impact on the Chinese people themselves and on Hong Kong, as well as on ourselves, of any action or policy we pursue.

House Joint Resolution 263 and H.R. 2212 offer the wrong approach—a defeatist approach. We must work with the President to develop constructive and effective sanctions that will be successful in molding the actions of the Chinese Government without undermining our own interests or those of the Chinese people. As chairman GIBBONS stated, we must stay involved and engaged to have any influence on what happens in China.

I urge my colleagues to vote "no" on both bills.

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

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, today we are considering essentially two options with respect to the extension of most-favored-nation [MFN] status for the People's Republic of China [PRC]. Congressman SOLOMON's bill—House Joint Resolution 263—represents one option, that is, to revoke MFN or to disapprove the President's extension of this preferential trade status. The second is outlined in Ms. PELOSI's bill—H.R. 2212—which I amended along with other members on the Ways and Means Committee including Congressmen MOODY, CRANE, STARK, DOWNEY, and indirectly, Mr. SOLARZ as well. This bill establishes conditions that the Government in Beijing must meet before China will be granted MFN status beyond June 1992. The conditions span a number of areas including human rights, trade, and foreign policy.

I strongly support the conditional approach to the extension of MFN for China and will therefore cast my vote today in favor of H.R. 2212.

In my view, the human rights abuses that the Government in Beijing has

committed over the past few years—the most heinous of which came to light during and after the prodemocracy demonstrations in Tiananmen Square—have been egregious enough to warrant linkage to China's status as a trading partner to the United States.

It is also my belief that the People's Republic of China will not improve its human rights record unless the United States Government uses the leverage it has over this Asian nation in the form of MFN. For China, MFN status means billions of dollars annually. This is revenue that the Government of China, no matter how hardline, cannot afford to lose. I view the threat of revocation of MFN as a bigger, more effective stick than actual revocation.

Additionally, history has shown that the use of conditional MFN extension has achieved the desired effect, in terms of pushing the Chinese Government in the direction of human rights reform. The conditionality bill that I sponsored last year provides a case in point. The mere introduction of this legislation resulted in the release of a number of political prisoners in China.

In contrast, I believe that revocation of MFN would prove counterproductive by weakening those entrepreneurial entities in South China and Hong Kong that have been largely responsible for the People's Republic of China's movement toward commercial reform. These same entities have been active in pressuring the central government in China into political and social liberalization.

Some argue that attaching conditions to the extension of MFN will ultimately bring about revocation. Let me make clear that those of us involved in developing the original conditionality proposal of this year—Congresswoman PELOSI, Congressman SOLARZ, and myself—had no intention of "painting President Bush into a corner," so to speak. In crafting H.R. 2212, we sought to fashion conditions that would prove effective and meaningful in the struggle for better human rights policy in China without being so stringent that the Government of the People's Republic of China would not be able to fully comply within the allotted time period and our President would be forced to cut off MFN.

Ms. PELOSI, Mr. SOLARZ, and I were also striving to write a bill that had the chance to become law either through the President's approval or through the veto override process. It was our feeling that limiting the conditions to the human rights area would make the bill more palatable to the administration.

The conditions added during the Ways and Means Committee markup obviously go beyond the realm of human rights. While these extra amendments might increase the possibility of a Presidential veto, I personally feel that they are all appropriate and logical additions to the original

bill and serve only to strengthen it. Furthermore, I believe that we have the votes in the House to override a veto from the White House. I wholeheartedly support H.R. 2212 as amended by Chairman ROSTENKOWSKI's en bloc amendment and I urge you to vote for it as well.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, the father of modern day democracy, Thomas Jefferson, once said that he swore upon the altar of God eternal hostility against every form of tyranny over mankind. That is why we are here today.

Tiananmen Square was real—tyranny at its worst. The Chinese Government may deny that it ever happened. But we saw it.

We all watched as young men and women were mowed down by the military. We all watched as their symbol for hope, the goddess of democracy, was toppled. We saw it happen.

And because as a democracy we pledge eternal hostility against every form of tyranny against mankind, we must take a stand against what happened in Tiananmen Square.

That is the reason that today I will support the Solomon bill that would disapprove the extension of most-favored-nation status to the People's Republic of China.

We need to send a message to the Communist leaders of China that we don't believe their history books and we don't intend to give preferential trade treatment to governments that kill their own people.

However, because I question whether or not the Solomon bill will ever be enacted into law, I will also vote for the Pelosi bill which conditions MFN status on improvements in human rights practices and nuclear nonproliferation.

The opponents of this bill will state that the conditions set forth in the Pelosi bill are too rigid and that it will be hard for them to be lived up to.

First, most of the conditions require for the People's Republic of China to make significant progress in human rights practices. From a nation that kills its own people I find it inconceivable that this is too tough a standard to meet.

We ask for significant progress in areas like freedom from torture, free press, fair trials, and humane prison conditions. Rights that we hold dear in America, but are only a vision in a young Chinese student's mind.

Second, opponents of the Pelosi bill claim that we cannot afford the economic consequences of an isolated China. I think that Jefferson would say that there are some values upon which an economic price cannot be placed. Basic human rights is one of them.

It seems that the arguments against the Pelosi bill come from the fact that

the practices of the Chinese Government are so abysmal that asking for improvements is just asking too much. That is a tough premise to swallow.

We need to make a stand. Jefferson swore hostility against tyranny. We should do no less today.

□ 1440

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I would like to commend the gentlewoman from California [Ms. PELOSI], for doing a very, very excellent job. She has, in fact, been a leader in the area of human rights with respect to China, and I have to give her a great deal of credit for bringing this policy to the floor, and certainly the gentleman from Ohio [Mr. PEASE], and the gentleman from New York [Mr. SOLARZ], as well.

At the same time I would have to say that I am going to have to oppose not only the Solomon amendment but the Pelosi proposal as well. I think the direction that the House will be going and also the Senate will be going, in adding conditions to the MFN agreement with China, is the exact opposite of the direction we should go if in fact we want to open up China.

If Members will recall, when Mikhail Gorbachev first talked about glasnost, he talked about political freedom. And then he began to realize that unless one has economic freedom, political freedom will not occur. And we have to compare not 1989 in China and today, but 1980 in China and today, when President Carter opened up China and the United States, where we had bilateral trade relations.

Think of how much progress has been made because literally thousands of students have come to the United States. We now have businessmen coming from China to the United States and vice versa. And as a result of that, democracy will occur in China only when we begin to open up China with more and more trade relations.

The direction of threatening China with respect to cutting off trade, in my opinion, is the exact opposite direction of where we should go if in fact we want China to open up and have democracy and many of those freedoms that were discussed in the conditions in the Pelosi bill.

Let me say this, some will say, why not have conditions anyway? It does not make any difference.

The fact of the matter is, it does make a great deal of difference, because if in fact the Chinese Government does not comply with those conditions, and they will not, I can tell my colleagues they will not, a year from now we are going to be here saying, how are we going to continue trade and save face. And we are going to eventually back down, and that would be the

worst thing for the Congress from an international perspective with respect to the Chinese. They will then not work with the United States in the United Nations. They will not work with the United States on international issues because we will be, at that time, the paper tiger.

I am hopeful that this House will try and understand whether it is in conference, or whether it is here on the floor, or the Senate, that we need trade with China if we want to open China up, and both the Solomon and Pelosi amendments are the opposite direction of that. It is the wrong way to go.

Mr. Speaker, the specific topic at issue on the floor today is China's trade status with the United States. Unfortunately, however, recent Chinese behavior has broadened what should have been the focus of the debate, and we now find ourselves addressing Chinese social atrocities, and overall United States policy toward China, in the framework of international trade.

There should be no doubt that the events of Tiananmen Square were abhorrent to the United States. There should be no doubt that China's human rights record is deplorable. Proliferation of nuclear, chemical, and missile technology is clearly antithetical to U.S. policy, as well as to internationally accepted guidelines, and incidents of abusive implementation of birth control regulations and coerced prison labor can be considered no less than despicable.

There is not a Member of this Congress who would deny that the promotion of fundamental human rights is anything less than a premiere cornerstone of our foreign policy. In addition, most, if not all, Members agree that we need to seek a stronger commitment from the Chinese on nonproliferation and on fair trade. However, the real question is whether we should use the tools of trade to achieve our social policy objectives. While all agree that social atrocities have occurred in China and that there has been a lack of progress in human rights conditions since then, I do not believe that terminating MFN status for China is the right cure for the ill.

Part of the problem is that today's issue is poorly named. Most-favored-nation status is a misnomer because the status it affords is neither special nor preferential. In fact, it is currently extended by the United States to over 160 countries, many with whom we have significant policy disagreements. MFN status is currently denied to only 11 countries. Extending this status merely means maintaining what has become the status quo trading posture with our trade partners.

While extending MFN status gives China nothing preferential, terminating that status for China would hurt American business. Chinese retaliation is sure to affect United States investment in China. Importation of Chinese goods would become prohibitively expensive. Replacement markets are not always available, due for example to quota restrictions, to fill the void in textiles, electrical appliances, toys, footwear, and apparel, to name a few currently low-cost Chinese export items that are popular here. The impact would then eventually be felt by the American consumer.

Export trade with China would be severely diminished, if not eliminated, due to Chinese retaliation that would threaten \$5 billion in exports and over 100,000 United States jobs.

Most importantly, however, is the fact that termination of MFN status would hurt the very people we purport to wish to help. For over a decade, we have worked to build United States-Sino relations. We have established business links with a country encompassing one-fourth of the world's population. Through business contacts, we have exposed the Chinese to our democratic ways and encouraged political and economic reform. Terminating MFN would seriously damage the Hong Kong economy and threaten the most progressive and market-oriented coastal provinces, such as Guangdong, which support reform. United States leverage regarding trade, weapons proliferation, and human rights would be sharply reduced, and channels of education and communication would be reduced, thereby seriously weakening the more progressive forces in contemporary China.

Many of my colleagues have determined that the extension of MFN status this year for China must be accompanied by conditionality. As I have already stated, I do not believe that the tools of trade policy should be used to impose social objectives on another trading partner, and particularly through the use of stringent, unrealistic conditions. The conditionality contained in this legislation is neither reasonable nor flexible. I cannot support an approach that forces the hands of both the Chinese and United States Governments in a unproductive fashion. Creating a chain of events whereby we remove MFN status for China is as unproductive as not granting it in the first place. By legislating these conditions, we are setting ourselves up to ultimately terminate an important United States-Sino liaison and the important progressive opportunities that it carries with it for China. That result does not serve U.S. foreign policy or economic interests and, therefore, this approach should be rejected.

Mr. CRANE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to the resolution disapproving the President's waiver recommendation. The issue of China's trade status is a deeply troubling one because the repressive policies of the dictators in Peking continually disrupt an already difficult bilateral relationship. On balance, however, I am persuaded that the United States must continue to be engaged in the Chinese market in order to protect our long-term strategic and economic interests in the Pacific region.

We cannot divorce the question of MFN status from the question of Hong Kong's security or the question of United States support for Taiwan's application to join the General Agreement on Tariffs and Trade [GATT]. These two issues are vitally important to the evolution of the world economy.

Fully 70 percent of China's exports to the United States flow through the territory of Hong Kong. Denying renewal of MFN will threaten business confidence in Hong Kong, further undermining the future viability of this re-

gion and its economic prosperity. Many Hong Kong citizens are fleeing their homes because they fear their heritage of political freedom will be lost when the Chinese take control in 1997.

These Hong Kong citizens saw themselves in the faces of the students demonstrating peacefully in Tiananmen Square. I believe we should work diligently to preserve the Hong Kong miracle after 1997 so that it remains an irresistible inspiration for change in China. The President must have the opportunity to weigh this consideration carefully when he makes his MFN recommendation.

If Congress ultimately votes to continue MFN for China for another year, we must also urge the administration to endorse and promote Taiwan's application for GATT membership. I support our Trade Representative in sending the message to China that dramatic political and economic liberalizations will be rewarded by a seat among the contracting parties to the GATT. In this regard, China will do well to follow Taiwan's lead.

The political issues surrounding Taiwan's relationship to China do not have to be addressed directly, as Taiwan has applied for GATT membership as a customs union. Furthermore, Taiwan is prepared to enter the GATT assuming the full responsibilities of a developed country and thereby furthering a basis U.S. trade policy objective: that of lesser developed country graduation to full GATT participation.

I wish to remind my colleagues that while China may succeed again in preserving column one tariff treatment, the position of being subject to the annual renewal process is not a favorable one. Growing more difficult each year, the renewal fight clouds bilateral trade relations with great uncertainty and subjects the Chinese to tough scrutiny and condemnation by Americans.

To my mind, expressing United States principles with respect to repressive policies in China can take a more constructive form than turning off the MFN light switch on our trade relationship. I urge my colleagues to vote "no" on the resolution of disapproval and no later today on H.R. 2212, which while well-intentioned, would impose impossible conditions on MFN renewal; and, finally, on the Archer motion to recommit.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise in support of the Pelosi language on this bill and opposed to the more extreme form of the Solomon amendment. I also specifically want to endorse the en bloc amendments by the committee which I think were a wise addition.

Of course, I want to highlight the fact that one of those amendments in the en bloc amendments focuses on the issue which has torn this body apart on

several occasions; namely, the question of whether or not there was coercive abortion and involuntary sterilization in China.

This body has never received a definitive finding from the administration on that question, and I think all Members on the question of abortion can agree that we could not contemplate involuntary abortions or involuntary sterilizations. No matter how one feels about family planning, I do not know anyone who supports that—at least in this body or this country.

□ 1450

Yet it has been a debate which has torn us apart here in this body when we discussed money for U.N. family planning activities. So this amendment has a double virtue. This particular amendment has a double virtue both clarifying that by requiring the administration to make a finding and, at the same time, including that human rights violation in the list of violations which would disqualify China for MFN treatment.

I can think of no more horrendous human rights violation than involuntary sterilization or forced abortion; therefore, I strongly commend the gentlewoman from California [Ms. PELOSI] for leading us to the point of conditioning MFN on human rights, and among those human rights, I certainly appreciate the fact that my committee and my chairman have allowed us to enter that issue, and include that, as one of the human rights conditions in this bill.

I hope my colleagues on both sides of the aisle will support that as well.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, we cannot ignore the fact that China is a major power in Asia and has a growing influence in the world at large. We have pursued mutual goals in the Persian Gulf crisis and in seeking a political settlement in Cambodia.

However, because of our concerns over the policies of the Chinese Government, there can be little doubt that our relationship with the People's Republic of China has seriously deteriorated since the tragic massacre at Tiananmen Square 2 years ago.

Since Tiananmen, the Chinese Government has conducted sham trials of student demonstrators and suppressed dissidents in total disregard of world opinion and universal standards of decency.

It tortures and mistreats those accused of crimes, persecutes Catholic and Protestant churches that refuse to affiliate with government-sponsored religious organizations, and force Chinese women to undergo abortions and sterilization.

It has snubbed its nose at accepted standards of honest dealing in inter-

national trade that has led to a \$10 billion trade deficit with the People's Republic of China. Intellectual property rights violations, continued patent infringements, widespread textile quota violations, continued barriers to our imports, and excessive state intervention plague our economic relationship with China.

There are a number of other concerns that infect our bilateral relationship. There are ominous signs that China will soon sell its newest missile systems to sensitive countries like Pakistan and Syria, and there is concern that China has been less than forthcoming in the transfer of nuclear technology to other nations.

Mr. Speaker, most-favored-nation status is basically a trade matter. However, because of our many concerns with regard to China, the continuation of MFN has taken on a political aspect reserved for no other country that now receives MFN.

As we consider the MFN issue today, our objective is the same regardless of whether we support ending MFN, conditioning it, or as the administration has requested, extending MFN without conditions.

We seek to support the forces of change in China that will bring about political and economic reform, a decent respect for human rights and individual freedoms, a level playing field in our trading relationship, and a responsible approach to the export of weapons and nuclear technology.

Because the People's Republic of China is an important power, the actions we take today and in the coming weeks should encourage China to participate and not isolate itself from the international community.

The crucial question to be considered during this debate is what are the appropriate means to bring about the desired changes, and whether there is a reasonable expectation that using MFN will bring about these changes.

I would like to think there is a more structured, more subtle way to developing our policy toward China than the Congress-administration shootouts of the past few years.

Next week, I plan to introduce a resolution that would lead us to this goal. It would establish a Commission on United States relations with China that could lay the basis for a national consensus on our relations with this important country. Its members would be appointed by the President, with appointees to be drawn from the upper ranks of the government, the Congress, and the private sector.

Regardless of how the votes turn out today, we must continue to focus on the key objectives of our long-range policy toward China—namely encouraging that country to continue the reform process and to become a full participant in the international community of nations. The creation of a Unit-

ed States-China Commission could, I believe, lead us toward this objective by developing a United States policy that speaks with a clear, single voice.

Mr. Speaker, I will include as a part of my statement a copy of the letter I wrote to President Bush outlining the rationale and the goals of a United States-China Commission.

CONGRESS OF THE UNITED STATES,  
COMMITTEE ON FOREIGN AFFAIRS,  
Washington, DC, June 27, 1991.

The PRESIDENT,  
The White House, Washington, DC.

DEAR MR. PRESIDENT: Many in Congress and the public continue to have serious concerns about the situation in China. The severe human rights abuses highlighted by the Tiananmen Square massacre of 1989 have not been resolved. Other aspects of Chinese policy—particularly its grudging response to international initiatives to address global and regional security concerns—also raise doubts whether the Chinese government is prepared to be a responsible actor in the community of nations.

There is no denying that China is an extremely important country with which the United States should if possible maintain a working relationship. You have emphasized this point in announcing your decision to renew most-favored-nation (MFN) trade status. You have also eloquently stated your belief that continued economic and political ties between the United States and China are in the long run benefit of the Chinese people.

Once again this year, however, Congress may take actions that could threaten relations between the United States and China. This would occur if Congress attempts to impose conditions that would be difficult or impossible to meet on the renewal of most-favored-nation (MFN) trade status. Withdrawal of MFN would undoubtedly lead to the exclusion of U.S. products from the Chinese market and to virtual elimination of U.S. influence in China.

Various demands have been made in both houses of Congress to impose conditions on continuation of MFN. I understand your position that it would be desirable to avoid such conditions. In my view, reasonable conditions could send an important signal to the Chinese leadership that it cannot continue to expect business as usual with the United States unless our concerns about China's internal situation and external behavior are resolved. At the same time, I feel that the major issues in U.S.-China relations should be pursued separately from MFN.

Congressional action imposing conditions on renewal of MFN is more likely this year than previously. For example, it is probable that the House of Representatives will adopt certain conditions, including one concerning accountability for the Tiananmen Square massacre, that would not easily be met by the Chinese. The Senate is also likely to propose conditions on MFN as well as insist on other steps to address the main issues in U.S.-China relations.

The yearly battle between the Administration and Congress on renewal of MFN has not been constructive for U.S. interests in China. It has resulted in mixed signals to the Chinese government combined with the chance of a rupture in normal relations in the event Congress imposes conditions that would be difficult or impossible to meet. While it may be good politics for some in Congress, this situation should not be permitted to continue.

During your meeting with several Members of the House June 7, I described a proposal

that I believe could offer a way out of this impasse. This would be to establish a special commission on U.S. relations with China composed of senior U.S. officials, leading members of Congress and distinguished persons from the private sector (including experts on China). It would be the mandate of the commission to review U.S.-China relations and publish recommendations prior to the time for the next renewal of MFN.

This year's Congressional debate on MFN has largely taken shape, and there will be little chance to move this proposal forward in Congress at the current time. I will, however, continue to develop this idea for use later, perhaps in connection with a move to override your veto if that stage is reached. Meanwhile, I would encourage you to consider it seriously as a way to broaden the circle of decision-making and deepen public understanding on U.S.-China relations.

Mr. President, I am convinced that an independent examination of our relations with China would conclude that the Administration's policy is generally correct. Such an examination could however, take up the issues in disagreement between the Executive and Legislative branches and make recommendations for resolving them so that we can avoid counterproductive political debate on this matter in the future.

I hope you will seriously consider the idea of forming a special commission on relations with China. Please be assured that this concept is offered in a positive way by one of your strongest supporters in Congress on this as well as other foreign policy issues.

With every best wish for the continued success of your policies.

Sincerely,

WILLIAM S. BROOMFIELD,  
Ranking Republican Member.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in opposition to H.R. 2212.

I had an opportunity to visit China with some other Members in November, and it was, indeed, an interesting experience. We had an opportunity to talk with Premier Li Peng and to discuss face to face on some very tough terms that had gone on in Tiananmen Square and in China.

But, really, having come back from that trip, my estimate is that isolating China is not in our best interest, and I would suggest to the Members here that ultimately it is whether we want to sacrifice American jobs, American trade, on the altar of somehow punishing the Chinese or whether we want to keep them somehow engaged through our trade process.

Make no mistake about it, Mr. Speaker, we are talking about potentially 100,000 American jobs that are directly tied to China and to trade with China; wheat, cotton, timber, chemicals, computers, and aircraft and many more are involved in this process. Trade relations that amount to \$20 billion a year will cease because of this kind of unwarranted legislation.

There has got to be a better way that we can influence what goes on within China than to shoot ourselves in the foot. Look some of the workers in the eye in your districts and tell them that

they are going to lose a job because we are trying to punish China; 100,000 potential American jobs.

How about those companies that have invested over \$40 billion in capital invested in China? What happens to Hong Kong, that pure form of capitalism that has developed over there? What happens with the future of Hong Kong if we deny them that kind of business?

If we eliminate China's MFN status, Hong Kong will lose 43,000 jobs as well as \$1.2 billion in income in the first year alone.

Let us not make that mistake. Let us work with China, trade with China, influence their policy through a constructive effort.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague on the Committee on Ways and Means, the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, some will contend today that revoking China's MFN status would terminate United States-China trade, or cause drastic price increases on Chinese products. This is hardly the case.

I looked at the top Chinese imports, and determined what the worst case per-unit price increase would be to the U.S. importer, if these items were to lose MFN tariff treatment and be subjected to column 2—or non-MFN—duties.

In unstuffed fashion dolls, the average per-unit cost to the U.S. importer would increase from \$4.48 to \$6.80. In footwear with uppers of over 90 percent rubber or plastic, the average per-unit cost would increase from \$4.27 to \$5.44. In footwear with leather uppers and rubber soles, the average per-unit cost would increase from \$8.43 to \$9.19. In footwear with 100 percent rubber or plastic outer soles, the average per-unit cost would increase from \$1.48 to \$1.63.

Even if all of the costs of the additional column 2 duties are passed on to the retail level, Chinese products would continue to enjoy a price advantage over higher cost competing products. Further, they would still represent a bargain to American consumers.

Also, as a nonmarket economy country, China will use its ability to absorb additional costs in order to expand its \$10 to \$15 billion trade surplus with the United States. Continued access to United States markets means continued access to the hard currency China desperately needs. MFN or no MFN, China is too shrewd to forgo trade with the United States.

If you do not believe me, however, consider an analysis by the established Hong Kong firm, Baring Securities, on the effects of revoking China's MFN status. I quote:

There is reason to believe that mainland-based manufacturers enjoy considerable room for maneuver in terms of their ability to control labor costs and profit margins, and that they would not boost prices in direct proportion to tariff increases.

Reluctance to sacrifice market share is prevalent among Asian industrialists. The Chinese Government can also be expected to devalue the renminbi—possibly even sharply—in order to facilitate the adjustment to the shock of losing MFN treatment.

Even if MFN status for China ceases, United States-China trade will not.

□ 1500

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in strong support of the Resolution of Disapproval, House Joint Resolution 263, and of H.R. 2212, legislation to condition future most-favored-nation [MFN] trade status on respect for basic freedoms in China and Tibet.

Mr. Speaker, we have had too much vagueness and too much ambiguity in the messages that we have been sending to the Chinese Government. That vagueness and that ambiguity must come to an end.

I am sure all of us in this body remember sitting glued in front of our television sets that June watching the struggle for freedom in China. We marveled at the stirring sight of millions of people taking to the streets in peaceful protest. They were not throwing rocks. They were not throwing Molotov cocktails. They carried no weapons. They were armed with the most powerful message of all: that the yearning for freedom is universal and ultimately irresistible.

We were all witnesses to that event. We saw the tanks and troops. We saw the courage of one simple man who resolutely stood before a column of advancing tanks and refused to let them pass. We saw the bloody square.

Today, many months after this stunning event, over 270 prodemocracy protesters remain in detention without trial. Execution and torture is still not uncommon.

Asia Watch recently reported that China is systematically exploiting the labor of prisoners to produce cheap goods for export.

China continues to be intransigent in loosening restrictions on foreign travel, and its already repressive emigration policies have become worse. In fact, the Department of State reports that China has tightened existing restrictions on foreign travel.

And, despite a pledge from the Chinese Government not to engage in nuclear proliferation, there is evidence that the Government continues to actively promote the transfer of nuclear weapons technology.

Mr. Speaker, today we must send a clear and unambiguous message.

A message of sympathy to the families of those who died in Tiananmen Square.

A message of solidarity to those who were courageous enough to risk their lives on behalf of freedom and democracy in China.

And a message to the Chinese Government that if it does not improve its human rights record, improve its treatment of dissidents, and cooperate in the establishment of an international nuclear nonproliferation regime, that most-favored-nation status for China will be gone.

The legislation before us sends precisely that message. Let us remain steadfast in our support of the Chinese people in their struggle for freedom.

Mr. Speaker, I strongly urge passage of this legislation.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, just about 1 year ago the United States continued the policy of unconditional extension of most-favored-nation trade status with China. That is the policy which the President proposes again.

The question we must ask is, How has it worked the past year? Has it produced change in China? Positive change? The answer, unfortunately, is "no". The prisoners are still unaccounted for. Prisoners are still in jail. Harassment of Chinese students still goes on in the United States, conducted by representatives of the Chinese mainland government. Jamming of the Voice of America still goes on, and as the unfavorable trade balance grows, China continues to dump products on the American market, manufactured by slave labor.

If a policy does not produce positive change, it is time to change a policy. That is what we should do. I think the preferable way to change it is to adopt the Pelosi proposal, of which I and others are cosponsors, calling for an extension of most-favored-nation trade status, but with some very clear strong conditions, that put China on notice as to what we expect during the coming year, if they are going to get an extension a year from now.

This is the best way to use incentives. This is the best way to use our leverage, to bring about change. It leaves open the other options, if this fails, for later. We can always move to revocation or even back to unconditional extension.

I believe that this conditioned extension of most-favored-nation trade status will best align the United States with the future leaders of China. It will send a message to them that, yes, we care about trade, but we also care about democracy, and China, we are on your side.

This proposal will also send the best message to the whole world, that the

United States is a leader, both in promoting trade and in the economics sphere, but we are a leader in standing up for freedom around the world. Trade and human rights do not have to be opposites. They can go together. We have to look at our relationship with China. A nation that respects human rights will respect economic rights, and vice versa. In the long term, a democratic China will be better for American trade and investment.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, these are matters of judgment, and reasonable people can differ, but I think there is a good reason to question the President's approach in this whole area.

Today he lifts sanctions on South Africa. Today he urges no conditions on MFN for China. The President is at least being consistent. He will fight military might with might, but he shies away from the use of sustained pressure when it comes to human oppression by other governments.

As he said today, "I have never been enthusiastic about sanctions in the first place, and when I end them," he says, "I will do it cheerfully."

However, I am afraid that rhetoric alone is not going to suffice. The history of humankind shows the opposite. At the very least here, there should be conditionality. Read the Amnesty International report on China. Hundreds of prisoners remain imprisoned; many new arrests of political and religious activists; government opponents sentenced to prison terms after unfair trials. Torture is rampant. I am afraid the jawboning is not likely to bring freedom to the people of China.

I suggest, as I said, at the least, there should be conditionality and firm conditionality on any MFN for China.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today in support of House Joint Resolution 2212, conditions on most-favored-nation [MFN] trade status for China in 1991.

My support for this resolution is based upon the fact that China needs to change its behavior if it is to retain the benefits of being a member of the family of nations. China's human rights record is deplorable. It continues to sell ballistic missiles to the Middle East, including Iraq and Iran. The government policy of coercive abortion, the brutal repression of dissent, and the continued occupation and destruction of Tibet makes it impossible to continue business as usual with China.

We keep hearing the promises of reform, but these promises are contradicted by actions. We can no longer follow a policy of appeasement, hoping that if we give a carrot up front then we will somehow gain influence over China's behavior. This policy has not worked, and I don't think continuing the policy gains us much. If we truly want to attain the ends which we all seek, we need to also have a credible threat.

There is no reason to be vindictive and cut off MFN status for fiscal year 1991. We are

not out to punish China, but, rather, to provide incentives for a modification of future behavior. House Joint Resolution 2212 does just this: Conditioning further MFN status on a reformation of Chinese policies on human rights, arms sales, abortion, and trade policy.

I understand the problems American exporters face with this situation. We do export \$5 billion in goods annually. But the \$15 billion worth of goods which we import—some of which is produced by prison labor—is far more important to China than our exports are to our total balance of trade. Furthermore, if the administration was truly concerned with United States business interests in China, more effort would be spent opening markets to United States products, and reducing China's unfair trade practices.

It is not my intent to shut the door on relations with China. This is a country rich in history and tradition, and could give much to the future. Nonetheless, the recent actions and policies of China make it morally intolerable to provide unconditional MFN status to China without some incentive to discontinue its deplorable behavior.

Mr. LAROCO. Mr. Speaker, on May 29, President Bush formally requested the renewal of most-favored-nation [MFN] trading status for the Peoples Republic of China. This is the same China which in June 1989 directed a massacre at Tiananmen Square where over 1,000 prodemocracy advocates were brutally murdered.

China was originally granted preferential trade treatment in 1980. The continuation of MFN status is conditional on an annual Presidential review. Revocation of this trade privilege would subject some 90 percent of Chinese imports to higher tariffs which, in turn, would require its exporters to pay nearly \$6 billion in additional duties. The bottom line is simple. A drastic reduction in annual foreign revenues would send a strong message a China's Government. The oppression of freedom can no longer be tolerated.

The reasons to suspend China's MFN status are obvious: widespread political oppression, the violent injustices done to its people, and the continued production and sale of nuclear-related weapons technology.

President Bush argues that using trade as a political weapon is unfair, and would punish the entire Chinese population instead of a handful of leaders in Beijing. The truth is that a handful of leaders has been punishing the Chinese population for decades. Restricting MFN status is our greatest chance to correct this injustice, and the best way to show the world that American assistance should not be taken for granted.

Last year, as in years past, the President urged the renewal of MFN trade status based on the economic importance of the relationship. He cited mutual benefits to both nations involved and a belief that, given time, the human rights record would improve.

Yet President Bush managed to ignore China's ongoing exploitation of prison labor. China produces large quantities of goods at a cheap rate because it forces its prisoners, many of whom were jailed for their prodemocratic beliefs, to work unpaid in factories under near slave-like conditions. With this type of unfair and inhumane competition,

it is no wonder American workers are finding it difficult to compete with less expensive Chinese-made products.

China also poses a threat to global safety. As the only major nuclear power which has refused to sign the Nuclear Non-Proliferation Treaty, it continues to promote the nuclear capabilities of several volatile nations. China has provided tritium to Pakistan, sent plutonium ingredients to India, aided in the construction of a bomb-producing nuclear reactor in Algeria, and shipped uranium to Brazil, Argentina, and South Africa.

Congress can be certain that the threatened removal of MFN would provide a much needed wakeup call. The time has come to make it known that China's lucrative trade relationship with America cannot be taken for granted.

In a commencement address at Yale University last month President Bush said that American foreign policy has always been "more than simply an expression of American interests. It's an extension of American ideals." I could not agree with him more—which is why I oppose his request for further support of an oppressive, antidemocratic regime.

Mr. Speaker, the unconditioned extension of MFN status clearly contradicts American interests abroad. It is time to admit that the President's policy toward China has not worked, and time to adopt a policy which will.

Mr. RAMSTAD. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill, which would condition the renewal of most-favored-nation [MFN] status for China.

Two years ago the world witnessed the horror of events that occurred in Tiananmen Square—tanks and troops advancing on unarmed students. China's human rights record remains deplorable. Since Tiananmen Square, the human rights situation has gotten worse and many of those intellectuals, students and workers that America's hearts went out to that day, are now languishing in the Chinese gulag.

Also, the administration's policy has not succeeded in stopping China's transfer of nuclear and missile technology to Third World countries, such as Syria and Pakistan, in violation of international law.

In addition, China's hardline restrictions on emigration violate the Jackson-Vanik statute which states that MFN trade status be reserved for countries with free and open emigration policies.

Turning a blind eye to China's flagrant violations of human rights and international agreements has obviously failed to bring reform. It's time for the administration to reexamine its China policy of engagement in terms of human rights, nonproliferation, global cooperation, and free trade.

The United States should use the leverage of MFN trading status to induce China to adopt free trade and legal arms shipment policies, as well as humane policies toward its own people.

H.R. 2212 is a reasonable and realistic approach to condition MFN to China. It renews MFN for China in 1991 and sets out achievable conditions for renewal in 1992.

Enactment of this bill will impose reasonable human rights conditions, lead to more releases of political prisoners, help reformers by

enabling them to argue internally that brutal repression has its external costs and make China think twice about failing to comply with international nonproliferation agreements.

Our Nation needs to send a clear message to the Chinese Government that its cruel policy of repression is unacceptable to civilized nations.

Mr. Speaker, we can send this message by passing H.R. 2212.

Mr. SKAGGS. Mr. Speaker, I urge the House to adopt Ms. PELOSI's resolution tying the continuation of MFN treatment for China next year to several well-considered conditions dealing with its human rights, trade, and arms sales policies.

It is tempting in this debate to see China as a cohesive national entity that is subject to the conventions of Western diplomacy and influence. As much as I would like to believe it, I have over time been persuaded that such is not the case. It follows that we must deal with China in some ways which recognize that it's different; that it's not always susceptible to our logic; and, that we've got to be smart, or we won't be very effective in accomplishing our objectives.

Likewise, we have to appreciate the fact that China's economy has to a significant extent become differentiated regionally. We need to deal with the reality that the forces for political reform have tended to be coincident with the forces for economic reform and liberalization, which in turn have been concentrated in those areas where trade with the West has been concentrated.

Thus, to a degree, I buy the argument that hitting China with denial or conditioning of MFN will hurt the emerging reform elements while exerting less effective influence than we might imagine on the reactionary old guard in charge in Beijing. And so I decided, after reflection, not to vote for Mr. SOLOMON's resolution to end MFN status immediately this year, as appealing as it was to me to seek vindication for the moral outrage we all feel about the despicable way the Chinese regime has treated its people.

On the other hand, it's wise—as today's analysis by the Democratic Study Group suggests—to remind ourselves of the origins of MFN in the context of the international trading rules of market-based economies, as most clearly codified in the GATT. That is, it is in a very real sense inherently contradictory to apply the underlying premises of MFN to trade with a country that has a centralized economy where there's only the most expedient relationship between cost and price. The application of normal free-market notions of tariffs, or dumping, or the like, to trade with such an economy is awkward, at best. The DSG study rightly asks whether the unilateral granting of MFN status strengthens or weakens the world trading system.

Nonetheless, we are now constrained by recent history to proceed as if applying the concept of MFN to an economy like China's represents a legitimate policy. We can't recapture our intellectual innocence or our trade practices purity at this point.

But neither can we afford to sell our souls. First, I believe that a great deal of the credibility and influence of this Nation around the world still depends upon our remaining true to

our principles. And second, I believe that ultimately even the Chinese Government, if not the current regime, then the next, will find it necessary to respond to our legitimate diplomacy, reinforced by well-crafted economic and trade policies that seek to move it to become a more responsible member of the community of nations, and to show a greater regard for the aspirations of its own people. The Chinese Government will simply see it as in its own enlightened self-interest to do so.

I am willing, then, to take the risk of some unwanted consequences to the economic-political reformer "good guys" in order to deliver a pointed message to the economic-political reactionary "bad guys."

The Pelosi resolution does the job of performing the requisite balancing act. It can and will be refined in conference. It is the best choice we have.

Mrs. MINK. Mr. Speaker, I rise to day to oppose the renewal of most favored nation trade status to the People's Republic of China. The Congress has played an active role in trade and tariff matters since the founding of the Republic. In these matters, we must maintain the right of the Congress to consider the human rights record of the countries we trade with. Our Nation stands for fundamental principles of hope, freedom, and democracy which we should actively promote in our diplomacy with other nations.

When the Chinese students in Tiananmen Square erected their own version of the Statue of Liberty, they were invoking a symbol which personifies—to the entire world—the highest ideals of our Nation. The Chinese students knew, as did Abraham Lincoln, that America's "reliance is in the love of liberty which God has planted in us. Our defense is in the spirit which prizes liberty as the heritage of all men, in all lands everywhere."

Mr. Speaker, most favored nation trade status for China must be evaluated against the human rights record of the government since the crackdown on Tiananmen Square. Unfortunately, the violations against human rights by Beijing have continued without even a brief pause. The rewarding of MFN 1 year ago has not moderated the behavior of the Chinese leadership.

The Government still prohibits free speech. Thousands have been arrested, and shot or sent to labor camps. The State Department has documented the use of cattle prods, electrodes, and beatings against prisoners. Some of the goods exported to the United States which received preferential trade treatment, were made by inmates in labor camps, which is a violation of U.S. law.

Most-favored-nation-trade status allows goods from an exporting country to be subject to the lowest U.S. tariffs. We should unconditionally extend this privileged treatment only to those nations who are making a significant effort to establish democratic freedoms within their borders.

Such is not the case with the Beijing leadership. They have not yet absorbed the wisdom of Thomas Jefferson when he said that "the care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."

Mr. Speaker, I am cosponsoring H.R. 2212, which bars MFN status for China in 1992 un-

less the President certifies that China has accounted for and released all citizens arrested, held without charges, or sentenced because of the peaceful protests surrounding the 1989 Tiananmen Square demonstrations. H.R. 2212 also requires that the President certify that China is making significant overall progress in several other human rights areas.

H.R. 2212 gives the Chinese Government an opportunity to demonstrate its commitment to basic human rights. It uses a carrot-and-stick approach to provide positive incentives for the Beijing leadership to begin the necessary reforms.

Mr. Speaker, I recognize the importance of trade with China, but we cannot have trade at any cost. Respecting our most important principles is of greater importance than economic gain. H.R. 2212 encourages the Beijing Government to respect human rights. More importantly, it sends a clear message to the freedom movement in China that we support their goals and aspirations. America, the land of hope and freedom, stands by the struggling protestors for democracy in China.

Mr. GRADISON. Mr. Speaker, I believe revoking China's most-favored-nation status is not in our national interest, nor is placing new conditions on next year's extension in our national interest. I urge my colleagues to defeat both the Solomon disapproval resolution and the Pelosi conditionality bill.

Most favored nation is the term used to designate countries which are eligible for normal U.S. tariff rates. It is not a privileged status accorded to special friends. Imports from countries without most-favored-nation [MFN] status are subject to much higher duty rates. Rates often so high they effectively prohibit trade. All countries, except a declining number of Communist countries, have MFN status, including South Africa, Libya, Iraq, and Iran. All Western democracies currently extend MFN treatment to China.

Last year, many Members attempted to end China's MFN status in response to the tragic events in Tiananmen Square and China's restrictions on human rights. Unfortunately conditions have not improved significantly since then, and we are again faced with the same dilemma.

The debate over China's MFN status should revolve around two issues: what is in the United States interest, and what is most likely to promote positive change in China.

Continuing our trade relationship with China is in our national interest. MFN was originally extended to China in 1980 to demonstrate the benefits of trade and a more open society. Since then, China has begun to dismantle its state-controlled economy and has significantly improved its human rights conditions compared to the conditions which existed prior to 1980.

Trade has acted as a stimulus for these changes and has been the primary channel for contact with America and for the transmittal of our democratic value system. The result has been the creation of a new generation of Chinese with expectations that the current authoritarian regime cannot hope to meet.

The United States currently imposes the most stringent sanctions on China of all Western democracies. Weapons deliveries and military cooperation remain suspended; the Unit-

ed States remains opposed to World Bank loans to China; high-level exchanges have been canceled; and the President has designated China as a Special 301 country for violation of United States intellectual property rights which could lead to further trade sanctions unless China improves its copyright laws.

The Chinese Government is unlikely to change its ways to meet most of the conditions Congress will probably place on extension of MFN—conditions others in the West are unwilling to require. China would, then, effectively lose its ability to export to the United States, and would most assuredly retaliate against our trade interests. The United States currently exports 5 billion dollars' worth of goods and services such as wheat, aerospace products, computers, electronic machinery, cotton, and fertilizer. Many United States companies stand to lose a substantial amount of their investment in the Chinese market. It could also adversely affect over \$4 billion of United States direct investment in China.

Some opponents of MFN for China argue that denying China MFN will improve our trade deficit. However, eliminating our bilateral trade deficit with China by cutting off trade with China is unlikely to have any beneficial effect on our total trade deficit. The cheap, low-value products that we import from China would likely be imported from some other cheap labor country and our high-value exports are likely to be replaced by exports from other Western industrialized countries. The result would be that American businesses would lose valuable export markets and American consumers would suffer.

We were all outraged by the massacre at Tiananmen Square, and continue to oppose the notable human rights abuses in China, but denying China MFN status is not the correct response. There are other more selective, and I think more effective, measures the United States can take to put pressure on China to improve its human rights conditions and to address concerns over arms proliferation and other issues that would damage United States interests less. Moreover, it is critical to the future development of China that America continue to influence the next generation of Chinese leaders, and the best way to transmit our values of democracy and the free enterprise is through exposure to trade. For all these reasons, China's MFN status should be allowed to continue. This isn't the most popular position or a politically expedient position to take, but I believe it's the right one.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 2212. It is time that we send a clear message that the United States will not ignore China's abhorrent human rights record, advanced weapons sales to countries around the world, and unfair trading practices with the United States.

The Chinese Government's brutal suppression of political dissidents is undisputed. We all recall the graphic violence and blatant disrespect for human life that took place during the government's massacre in Tiananmen Square. China has also refused to become a responsible member of the world community with regard to trade and arms control. Granting China unconditional most-favored-nation [MFN] status will only continue to reward China for its refusal to address these issues.

To those who say that cutting off MFN benefits to China will hurt United States economic interests, I ask: Are we really hurting ourselves by conditioning special trade benefits to a country that uses prison labor to produce products for international markets, and which has virtually no respect for United States copyrights and patents? China has exploited these factors to accumulate a massive trade surplus with the United States and amass huge foreign currency reserves which effectively protect it from outside pressures.

One analysis suggests that if the United States were to demand fair and balanced trade with China, our economy would have grown by as much as \$25 billion in 1990 and created an additional 400,000 jobs. Yet, despite the unfair trade practices and human rights abuses that have been documented in China over the last several years, the President is only too willing to grant to China the same trade status that we give our best trading partners. Not only is unconditional MFN status for China a slap in the face to the American principle of respect for human rights, it is a slap in the face to American workers and businesses as well.

In adopting H.R. 2212, we are putting China on notice that its MFN status is in jeopardy. At the same time, though, we give them an opportunity to take corrective action before MFN is revoked. The conditions outlined in this bill place China's MFN status in its own hands. If China makes progress on human rights, trade, and weapons proliferation, then it will be able to retain MFN status. If not, then MFN is automatically revoked.

Using MFN as leverage only works if the Chinese Government knows we are serious about taking this privilege away. Mr. Speaker, I strongly urge my colleagues to support H.R. 2212, and put some teeth into our relations with China by conditioning MFN status on real improvements in China's trade policies and abusive human rights practices.

Mr. GUARINI. Mr. Speaker, I have grave reservations regarding the wisdom of imposing conditions on the President's request to extend most-favored-nation [MFN] status to the People's Republic of China [PRC]. While reasonable men and women may differ, I believe that MFN is not an appropriate vehicle for achieving our political, social and foreign policy objectives in China. Moreover, I just don't believe that conditionality will work in this case. In fact, it is likely to be counter-productive, both in terms of improving China's internal situation and promoting America's self-interest.

Every Member of Congress has been revulsed by the repression of human rights in China, beginning with the Tiananmen Square massacre and continuing to this day. The PRC's use of prison labor is most disturbing, and the repression in Tibet is a tragedy.

All our problems with China are not confined to human rights. Proliferation of nuclear and nonnuclear arms is also a major concern. The sale of ballistic missiles to Pakistan and Syria and nuclear technology to Algeria cannot be overlooked.

Finally, our bilateral trading relationship is replete with difficulties. China's trade surplus with the United States is now second only to Japan's. China completely disregards intellec-

tual property rights, and market access for United States exports is becoming more and more difficult.

With all these problems, it is only natural that we should think of revoking or imposing conditions on most-favored-nation status for China. However, the issue that we must confront is whether such action would be productive. China is *sui generis*, and what might work with other countries could backfire with China.

An historical perspective will help us assess our options. We are not dealing with a typical country, but the Middle Kingdom. How such a country, steeped in thousands of years of tradition, will respond to outside pressure, is by no means clear.

In evaluating China's susceptibility to economic pressure, we must remember that historically, China has resisted the allure of foreign trade, especially with the West. Efforts by the British, French and the Americans to open the China trade during the first half of the nineteenth century were stoutly opposed by Peking. Only by going to war were the Western Powers able to open up China for trade.

The Chinese did not willingly accept their defeat in the Anglo-Chinese War of 1839-42, which resulted in trade, albeit circumscribed, with the West. The ruling Manchu dynasty was begrudging in granting concessions to the Western trading powers. In part, this stemmed from strong domestic opposition to the Western incursions. Indeed, so great was the domestic dissatisfaction with Manchus' inability to effectively oppose foreign incursions that a revolt against the regime ensued on a scale unknown in the West, claiming millions of lives.

The dynasty survived these challenges, but embarked on a self-strengthening movement, designed to make it possible to sever all ties with the West. For many Chinese, this movement did not go far enough. The Boxer Rebellion of the late 19th century was xenophobic in character, motivated in part by the goal of modernizing the country so that China would be strong enough to break the foreign powers' domination of the country.

In 1911, China overthrew the monarchy and became a republic, but in name only. Traditions proved too powerful, and Western style democracy just did not take hold. What little support there was for democracy came from Western-educated students, many of whom had gone to school in the United States supported by remission of the Boxer Indemnity. Following the suppression of the Boxer Rebellion, the United States and the other powers imposed a huge financial indemnity on China. Some years later, the United States remitted the indemnity to educate Chinese students in the United States in order to gain the goodwill of the future leaders of China.

The Chinese Nationalists, or Kuomintang, came to power in 1927, led by Chiang K'ai-shek. To many Americans, Chiang, married to a Methodist, represented the accession of Western values in China. Nothing could be further from the truth. He was an old fashioned warlord, who proved incapable of overcoming the nationalistic appeal of the Communists, and eventually was deposed.

The year 1949 brought Mao and the Communists to power, and relations with the Unit-

ed States could not have been worse, nor China more isolated, until Richard Nixon made his dramatic visit to China over 20 years later. And, during this period of isolation, human rights abuses were perpetrated on a far greater scale than we see today.

There are some ironies here when we look back at our relations with China during the fifties and sixties. The Republican Party, led by Senator Joe McCarthy, pushed for a moralistic, hard-line China policy. Even minimal contact with China was discouraged; you broke the law just visiting China. Many Republicans argued that the largest country in the world should be completely isolated. Conversely, many Democrats recommended a more pragmatic approach, arguing that the United States should recognize reality, deal with the Chinese Communists, and hope that this contact would eventually improve their conduct. I note that we have somewhat of a role reversal today between our two great political parties.

If we condition or revoke MFN, it will lead to reduced foreign trade and contact with China. I have concluded that this will strengthen the hands of the octogenarian leadership in Beijing by playing to the strong isolationist and anti-foreign sentiment in China and will prevent the emerging mercantile class from developing into a force that can challenge the current leadership.

The entrepreneurs of southern China will find it more difficult to mount a political challenge to the hard-line Communist leadership if United States trade benefits are withdrawn. The entrepreneurs need more time to gain in strength. Only by strengthening the mercantile class and promoting further contact with the West will we achieve democracy in China.

In addition to undermining the emerging mercantile class in China, cutting off or revoking MFN will place the United States at a severe disadvantage with our trading partners. No other industrialized country is now using or contemplating the use of trade as political leverage against China. If we act to cut off MFN, we will be acting alone. History has shown that economic pressure does not work when pursued unilaterally instead of on a multilateral basis, as was done with respect to South Africa or Iraq.

There are other, more targeted options than removing most-favored-nation status available to the United States that will enable us to press our grievances without undermining the very forces of change in China that we seek to assist.

Some people believe that when faced with the loss of huge trade revenues, the Chinese will ameliorate their behavior. But Chinese history suggests that this is not likely to happen, especially if our action forces China into isolationism. Throughout its modern history, contact with the West has produced positive changes. Isolation from the West has led to greater repression and human rights abuses. Just look at the Western-educated students that formed the core of the May 4th movement in 1919 or the Democracy movement, which was crushed some 70 years later, in Tiananmen Square.

Mr. Speaker, we must be very careful in deciding our course of action. Cracking down on China might make us feel good, but will it produce the kinds of changes that are needed

in that country? We all share the same goals for China, but how do we achieve them? Not, in my judgment, by driving China into isolationism. Depriving China of trade revenues will force it to rely even more on weapons sales to generate needed revenue.

Almost a century ago, the Christian missionaries sent to China reported that the Chinese were proud, resistant to the Christian message of damnation and guilt. How resistant to conditions, sanctions really, will the Chinese be today? And, if conditions are called for, will we impose ones that can be realistically achieved? Many of the conditions contained in H.R. 2212 cannot realistically be achieved. More important, imposing any conditions at all on China will likely have just the opposite effect of what we are trying to achieve.

The preferable course of action is to continue to foster our trading relationship with China and to maintain and increase our contacts with that country. The octogenarians that lead China cannot last forever. We must be patient and not sacrifice our most promising opportunity to promote democracy in China, as well as a very significant trading relationship that supports thousands of jobs in the United States. To do otherwise would not only be short-sighted but would ignore the lessons of history, most especially Chinese history.

Finally, Mr. Speaker, when this debate is over, Congress should reexamine the entire nature of MFN status. Is MFN an appropriate vehicle for achieving political, social, and diplomatic objectives? Has conditionality been an effective tool in the past for achieving our goals or has it been counterproductive? Can we reconcile giving MFN status to countries like Burma, Syria, and Iraq while denying this status to China and the Soviet Union. This debate has made it abundantly evident why the United States should develop a coherent policy regarding MFN and the use and limitations of trade as a political and diplomatic tool.

Mr. JONES of North Carolina. Mr. Speaker, during this debate Members should know of a serious difficulty in trade relations between the United States and China.

Two U.S.-flag shipping companies provide service between our two nations. They compete with two Chinese-flag companies. This occurs pursuant to a bilateral maritime agreement signed several years ago.

Unfortunately, we continue to hear disturbing reports that China imposes severe and unfair doing-business restrictions on United States shipping lines. There are bars to United States carriers opening branch offices in China. There are impediments to our carriers collecting their lawfully filed tariffs or rates. Our carriers are prevented from conducting intermodal operations by running their own feeder vessels between Hong Kong and China.

We don't put similar restrictions on Chinese carriers doing business here. United States-flag carriers should receive fair and equal treatment while doing business in China, and our Government and this Congress should insist that they get it.

Currently, the Federal Maritime Commission has opened a formal investigation of these allegations. If the regulatory agency substantiates the charges, it can impose sanctions on Chinese shipping lines doing business in the United States.

As chairman of the House Merchant Marine and Fisheries Committee, I commend the Federal Maritime Commission for its aggressive use of the Foreign Shipping Practices Act, a 1988 statute that I sponsored.

China wants to keep most-favored-nation status. President Bush wants China to have it. In return, the United States must insist that China not discriminate against our companies doing business there. China must promptly eliminate the unfair burdens it places on United States-flag shipping.

Mr. LIGHTFOOT. Mr. Speaker, I rise today in support of unconditionally extending most-favored-nation treatment to the People's Republic of China.

My support for unconditional extension of MFN to the People's Republic of China in no way means I agree with or support all of that Government's policies. I do have deep concerns with China's human rights conditions, detainment of political prisoners, and family-planning practices. My past votes demonstrate these concerns. However, after carefully studying this situation, I have come to the conclusion that revoking MFN at this time is not in the best interests of the Chinese people or the American people. It has been the renewal of MFN that has granted the people of China the right to emigrate more freely. MFN has also prompted the Chinese Government to adopt more liberal foreign travel policies for its citizens. Students are now able to study and travel abroad. Other Chinese citizens have been allowed to return to China to visit friends and family and depart again without restrictions.

Furthermore, by denying MFN to the People's Republic of China, not only will the Chinese people suffer through restrictive emigration and travel policies, but they will endure economic hardships as well. The most market-oriented segments of the Chinese economy—the area the United States has worked the hardest to bolster—could be devastated. Southern China and Hong Kong, which currently enjoy strong economies based on free enterprise, could be stifled in their efforts to push for a market-driven economy. Eliminating MFN could mean these regions would fall prey to the hard-line centralist government that wants to exercise more control over enterprises in Southern China.

In addition, if MFN is not extended, American business, consumers, and agriculture will suffer. Without MFN, China would most likely retaliate against United States products and turn to other countries to meet their needs. Companies like McDonnell Douglas and Boeing would lose billions of dollars in aircraft sales; computer and electronic companies could suffer; and the U.S. agricultural industry would be set back hundreds of millions of dollars. Currently, China is one of the largest markets for United States agricultural products. We should be looking for ways to boost our farmers' incomes instead of taking away from them.

I believe the best way to approach China and achieve favorable results is to remain engaged, through MFN, with the PRC. Since 1980, when most-favored-nation treatment was first granted to China, international trade and investment have served as the catalyst for promoting reform in China. Through MFN, the

United States will have an active presence which offers an avenue to promote the American values of freedom and democracy, and the ideals which accompany them.

The United States currently has an agenda to address human rights, arms control, and other issues of concern. The Bush administration has achieved favorable results through their program. I believe Congress should allow the President to continue pushing for change along these lines, and grant unconditional MFN to China in order to promote the best interests of Chinese and American citizens alike.

Mr. STARK. Mr. Speaker, I stand in strong support of H.R. 2212, the Pelosi bill on MFN for China. Conditional MFN is our best leverage to get China to improve its record on human rights and nuclear and missile proliferation.

I am especially concerned about proliferation. China has sold nuclear weapons technology to countries all over the world. During the 1980's, the People's Republic of China sold: uranium-enrichment technology to Pakistan and Iraq, nuclear-weapons design to Pakistan, beginning in 1983, a nuclear reactor to Algeria too big for research and too small to generate power reliably, important nuclear equipment, materials, and technology to Iran, North Korea, India, South Africa, Argentina, and Brazil.

China also supplied many of these countries with missile technology as well. They are currently delivering M-11 missiles to Pakistan and are negotiating to sell M-9 missiles to Syria. Both of these are nuclear-capable missiles with ranges that exceed MTCR limits.

Under the Pelosi bill, the President can only renew MFN if he certifies that China is not contributing to nuclear and missile proliferation and is adhering to the MTCR export control guidelines on nuclear capable missiles.

The existing sanctions address foreign companies which sell missile technology—they are less effective when a Communist government is selling missiles. And, there are no sanctions for foreign companies or governments that sell nuclear-weapons technology.

These conditions can be met. China sells nuclear and missile technology to raise hard currency. Losing MFN will cost China billions of dollars in hard currency. This is a calculus China's leaders can understand.

Mr. YATRON. Mr. Speaker, I support the passage of H.R. 2212. I commend the gentlelady from California, Congresswoman PELOSI, for introducing this legislation and the other sponsors for their leadership on this initiative.

Given the events of the past year, such as the continuing human rights violations in China, the sale of ballistic missile technology to Pakistan, the skyrocketing United States trade deficit with China, and China's export of prison-made goods to the United States, China appears to no longer warrant MFN.

President Bush has decided to extend China's most-favored-nation trade status for another year. The human rights situation in China has not improved, if anything, the situation has gotten demonstrably worse—labor camps continue to grow, Chinese citizens continue to languish in prisons without charge or trial, and security police continue to occupy press offices.

The President has stated that conditions in China are better than they were in 1975. However, the administration failed to mention that they are worse than they were in 1978, when, for a short time, Chinese citizens enjoyed greater freedom than they do today. To harken back to the end of the Cultural Revolution, one of the worst periods in China's recent history, is to set the lowest possible point of reference by which to measure human right gains in China.

Mr. Speaker, in truth, what is taking place in China today has been going on for decades—forced labor is nothing new, China sold billions of dollars worth of nuclear and missile technology around the world during the 1980's, and China never respected intellectual property rights or basic human rights.

Anything less than strong economic pressure will result in more meaningless gestures from the repressive regime in Beijing. China will not change its policies unless it is induced by the strongest possible means, which in this case is the repeal of MFN. Therefore, Mr. Speaker, I urge my colleagues to vote for H.R. 2212.

Mr. GREEN of New York. Mr. Speaker, the Congress has been united in expressing horror over the events which took place in Tiananmen Square 2 years ago, and the wave of repression that has since followed in China. Where we have not all agreed, however, is on the best approach to take in order to improve the human-rights climate in China. I rise today in strong support of Representative PELOSI's bill, because I think her approach of applying strong conditions to the renewal of most-favored-nation [MFN] trading status provides the best way for this country to continue to press the leadership in China for reform, especially in the area of human rights.

China has enjoyed unconditional and uninterrupted MFN status since 1980; yet China's egregious record on human rights, arms proliferation, and unfair trading practices has not improved, even after the international outcry over Tiananmen Square 2 years ago. So I do not see how it can be argued that taking a business-as-usual approach and renewing MFN status unconditionally is going to get us anywhere.

In the area of human rights, the Chinese record remains dismal. In the aftermath of the massacre in Tiananmen Square, an estimated 1,000 democracy and reform advocates were killed, and thousands, perhaps tens of thousands, were imprisoned. Most recently, Amnesty International's 1991 report notes:

Hundreds of prisoners of conscience remained in prison throughout 1990, including many detained without charge or trial. There were many new arrests of political and religious activists, advocates of Tibetan independence and others. Torture of detainees by police and harsh conditions of detention continued to be reported. A dramatic increase in the number of death sentences and executions was recorded \* \* \*

Further, China remains the only major nuclear power which refuses to sign the Nuclear Non-Proliferation Treaty, and continues to assist nations such as Pakistan, India, Algeria, and others in developing nuclear-weapons capabilities. This reckless disregard for the international regime to contain nuclear proliferation must be condemned in the strongest possible

terms by the United States. China is still not a party to the Missile Control Technology Regime. Clearly MFN status, which provides the Chinese with \$3 to \$6 billion in foreign currency earnings, provides our Nation with substantial leverage over Chinese proliferation policies. Chinese exports to the United States are reported to bring to China three times as much hard currency as arms sales since 1983.

In yet another area, United States-China trade involved \$20 billion in exchange in 1990—\$15.2 billion in imports from China, and only \$4.8 billion in exports to China. This \$10.4 billion trade deficit is the third largest for the United States. Our trade deficit with China has grown for 6 consecutive years. Reportedly, a good share of this deficit is fueled by the use of prison labor for export production, trade barriers, and a lack of respect for U.S. intellectual property rights.

Finally, on the longstanding problem of freedom for the people of Tibet, our country must insist that Beijing recognize the rights of all Tibetans to express themselves politically and religiously. When Congress received the Dalai Lama a few months ago, he maintained that during the 40 years of Chinese rule in Tibet, an estimated 1.2 million Tibetans have died at the hands of the Chinese, and over 6,000 monasteries and temples have been destroyed.

In summary, by conditioning MFN we provide the Chinese leadership with clear incentives to pursue reform in the areas which deeply concern us. At the same time, by conditioning rather than revoking MFN, we have not isolated those whom we seek to support within China. If we are simply going to cut off trade at this point, we are not likely to achieve improvement in China. Those elements in China who are likely to be the most reformist are in fact those elements that through trade have the most exposure to the world at large. If we totally cut ourselves off from those forces by revoking MFN, it seems to me we do a disservice rather than a service to the cause of reform within Communist China.

In closing, while this is a complicated issue, we must make a choice, and I strongly urge my colleagues to support the Pelosi legislation conditioning MFN. I appeal to the President to review his opposition to this thoughtful and measured approach.

Mrs. LLOYD. Mr. Speaker, I rise today in strong support of the bill crafted by Ms. PELOSI and others, H.R. 2212, the disapproval of most-favored-nation status for China for 1992. As a cosponsor of this important legislation I am particularly interested in seeing its immediate passage and if necessary, a successful veto override.

Successful and profitable trade relationships between the United States and other countries are an intrinsic part of the U.S. economy and require special attention and nurturing. I believe trade preferences, like MFN, should not be awarded carelessly and should reflect the U.S. commitment to democratic ideals.

Our foreign policy stance has traditionally been to foster democratic growth abroad and when democratic ideas have been threatened or subverted in any way, we have always been extremely critical. In the interest of maintaining a consistent and successful foreign

policy, we cannot grant most-favored-nation status to China. Tiananmen Square, coercive abortion practices, the jailing of political dissidents, forced prison labor and a host of other reasons clearly demonstrate that China is not tolerating democratic change and is in fact squashing any resistance to the status quo.

The conditions for MFN for China set forth in the Pelosi bill are not outrageous by any means. They are logical, humane, and democracy fostering ideas that, if adopted, could do a great deal to encourage China to rethink its current practices. Further they are aimed at closing the \$10 billion trade deficit we have with the People's Republic of China.

This body has already approved one questionable trade bill in passing the fast track legislation earlier this year. I hope we will be more careful when considering approval of MFN for China for 1992.

Mr. HUGHES. Mr. Speaker, President Bush and the Chinese Government have told us that continued trade between our two countries is essential if we are to work together in other areas. Supporters of most-favored-nation status have told us that we will be more successful in our relations with China by encouraging democracy through continued trade.

We have tried that approach, it has failed, and the time has come to stand up for American principles and American jobs. The time has come to disapprove most-favored-nation status for China by passing House Joint Resolution 263. This bill does not end trade altogether, it merely takes away preferred trading status.

It is true that some of the people in China who trade with us favor democracy and capitalism more than the Communist leadership. However, their influence has not made any significant change in the human rights conditions in China in the 2 years since the bloody massacre at Tiananmen Square.

It puzzles me that President Bush asks us to cut off family planning funds for the entire world that are administered by the U.N. Population Fund because China forces many women to have abortions, yet when the Chinese killed and imprisoned democracy activists he rewards them by extending trade preferences. What is to stop the Chinese from funding the abortion program out of the profits from their \$10 billion trade surplus with the United States?

Similarly, I am sure that there are plenty of capitalist minded people in Cuba who would love to do business with us and show their fellow Cubans the advantages of free enterprise, but we have an embargo against trade with Cuba. What principle justifies such favorable treatment for China?

A few United States companies are making a nice profit on their business in China, but many more companies are being wiped out by unfair competition from Chinese imports. Chinese products are sometimes built by prison labor, sometimes labeled as being produced elsewhere, and never produced in a situation where free market competition for raw materials, labor rates, and other business costs is reflected in the final price.

When American textile workers and other workers lose their jobs to Chinese sweatshops, it is not because they can not compete,

it is because our leaders and our trade officials are not standing up for American principles and American jobs.

Our trade deficit with China was over \$10 billion last year, and it will be significantly higher this year. Meanwhile, the Chinese seem to be punishing us for Tiananmen Square, as United States exports to China have actually dropped over the past 2 years.

Our colleague from New York, Mr. SOLOMON, has wisely recognized that the time has come to back up our words with actions. I believe that his bill, House Joint Resolution 263, is the best approach.

I would also like to recognize the dedication of Congresswoman PELOSI and her work on this issue as well as that of Mr. SOLARZ and Mr. PEASE. Their bill, H.R. 2212, makes an important contribution to the debate by proposing to extend MFN status for a year and then linking further extensions to human rights standards.

However, I do not believe that the basic assumptions of H.R. 2212 are realistic. If that is the case, the only difference between the Pelosi bill and the Solomon bill is that under H.R. 2212, China has another year to profit from yet another huge trade surplus, and American workers must face another year of unfair competition from China.

Mr. Speaker, we have given economic cooperation a chance. The time has come to take up the cause of those who held up a model of our Statue of Liberty as their emblem and to part company with those who smashed it to pieces.

Mr. KENNEDY. Mr. Speaker, today, President Bush removed economic sanctions against South Africa and announced his firm support for unconditional trade with China. At a time when human rights and democratic reform should be the backbone of U.S. foreign policy, the President has moved to undermine every moral principle that U.S. policy is built upon for short run political gain.

Despite Beijing's willingness to punish peaceful dissent, the President continues to support China's MFN status. Despite its spread of nuclear technology, the administration has not swayed from sponsoring China's access to United States markets. And despite China's use of prison labor to manufacture exports, the administration is willing to make it easier for China to sell those products to American consumers.

From Ethiopia to Eastern Europe, the United States has conditioned continued relations on human rights, free elections and democratic rule. But for China, this administration has allowed tyranny to go unchecked. Despite the death of the Warsaw Pact and the disarray of the Soviet Union, the administration continues to hold tightly to the China card.

Today we have the opportunity to reverse that policy. By supporting the Pelosi bill, we can condition MFN on ending Chinese nuclear proliferation, torture, and religious persecution. By supporting the Pelosi bill, we can require Beijing to open secret trials, allow freedom of speech and improve prison conditions. And by accepting the Pelosi language, we can condition future trade on China's adherence to the Joint Hong Kong Declaration.

Condition MFN and we renew U.S. moral authority to the world. Condition MFN and we

can add new value to the China card. Condition MFN and we renew our commitment to the Chinese people.

Last year we were assured that China would take steps to improve its policies. But today we stand here to recognize that those policies have only worsened. Clearly, the Chinese Government can no longer be trusted to keep its word.

If we are serious about our commitment to human rights, freedom and democracy, then we should be serious about holding China responsible for its actions. If we are serious about promoting responsible trade relations that actually make a difference, then support the Pelosi bill. If we are serious about the new world order, then conditioning trade is a fundamental part of any future policy.

Mr. KLECZKA. Mr. Speaker, today the House again considers most-favored-nation [MFN] trade status with the People's Republic of China. Trade under MFN represents a long-standing principle of cooperation in commerce to benefit both trading partners. It is an outreach of international relations among nations.

This nondiscriminatory trade treatment is a privilege the U.S. grants to nations which practice internationally accepted standards of conduct. MFN status is afforded to nations which respect human rights and basic freedoms, adhere to international agreements and conduct nonrestrictive trade.

China has flagrantly violated these norms. Its history of human rights abuses, the reported proliferation of nuclear weapons and technology, and unauthorized occupation of the nation of Tibet have breached accepted international standards and provoked outcry from the world community. By granting unconditional MFN status, the United States would indirectly condone China's unacceptable practices. MFN status should not be renewed until and unless China's abuses are corrected.

The brutal and bloody suppression of prodemocracy advocates in Tiananmen Square two summers ago has not been forgotten. Despite international pressure, the Chinese Government has not acted to improve its human rights record. We continue to receive reports of torture, religious persecution, imprisonment without charge or trial, and harassment of Chinese citizens presently in the United States.

The U.S. must respond, and can do so effectively through trade policy. However, under the administration's trade policy since the Tiananmen massacre, the only success we have seen is China's success at increasing the United States trade deficit. The United States trade deficit with China was over \$10 billion in 1990, and it continues to increase this year. We must not appease China.

For these reasons, I urge you to deny MFN trade status to China in 1991, and support the legislation introduced by the gentlewoman from California, [Ms. PELOSI], which makes MFN for China in 1992 conditional on improvements in numerous human rights matters discussed here today. H.R. 2212, as amended, addresses the human rights, arms control, and trade concerns which demand improvements. It is worthy of our support.

Mr. Speaker, it is time this Nation sends a message to China by using its trade leverage. It is the best way to summon a response from

them on these important international concerns.

Mr. ROEMER. Mr. Speaker, I rise in opposition to both resolutions today which would deny or place conditions on most-favored-nation status for China. I do so not because I believe that China's human rights, trade, and arms proliferation records are admirable, but because I believe these resolutions will not achieve their desired results.

Everyone in this body agrees that China has committed atrocities in the area of human rights, and our reaction today is understandable. We are all outraged by what happened to students and citizens in Beijing during the Tiananmen crackdown in 1989. We also should not and cannot tolerate forced labor in concentration camps. Congress wants to do something and should do something. The question is what we do; the means by which we achieve it; and what is the result of our action. I believe that we already have the necessary and required means to begin to address each one of our concerns in China, whether it be utilizing "Super 301" enforcement provisions for unfair trade practices, or insisting that China join the missile technology control regime to address arms proliferation.

China remains today one of the most dogmatic and rigidly Communist societies in the world. The Chinese Government is still ruled by an informal confederation of elders that practice an old school style of communism. This point was brought dramatically to light when the first open expressions of democratic rebellion appeared in the streets of Beijing. When it appeared that the central government was threatened, the reaction of the Chinese leadership was swift and brutal.

Some would argue that this is the very reason that we must deny MFN status to the Chinese. They must be taught a lesson. However, I believe that an outright denial of MFN, or the placing of unrealistic conditions upon that status, might have precisely the opposite effect.

It is true that Congress has a rich tradition in safeguarding human rights for people everywhere by promoting democracy and defending liberty abroad. However, we will best preserve the rights of China's millions of people by voting to extend MFN status for another year. The democratic spirit is alive and continuing to percolate in China, albeit below the surface. Particularly in China's southern provinces, the progress of entrepreneurial efforts and industrialization is critical to the ability of the United States to influence events through our cooperative industrial efforts. Southern China has been indelibly infected with a thirst for free market business endeavors. In addition, many political freedoms have been extended to a growing number of Chinese citizens. Having visited this region in 1988, I have witnessed some of this metamorphosis.

These developments are the real harbingers of democracy in China, and they need our help to continue. Their proponents do not deserve to be deserted when the central government in Beijing is, by many accounts, in a period of serious retraction. The resolutions before us today may well only punish those who hope to encourage China's growth and increasing democratization through capitalism. We must proceed slowly so as not to hurt the very people we hope to help—those within the

government who are pushing for free market reform and a more open democratic society.

These resolutions could have precisely the opposite effect claimed by their sponsors—they could strengthen hard-liners in China who want to distance that country from the United States, they might further isolate China in the world community, and cause China to move backwards on human rights. Without trade and economic links to the United States, including very important exchanges between the two countries which encourage exposure of an increasing number of Chinese to American democracy, the aging Chinese leadership could continue to become isolated and less inclined to address human rights and other concerns. Alternatively, we can extend MFN for 1 year and continue to press for our concerns. If the situation does not improve in China, we can always re-visit this issue after applying the "carrots and sticks" that we currently have in our diplomatic and economic arsenals. It also should be noted that we currently extend MFN status to over 100 nations. We should not apply unfair and unrealistic standards to MFN with China selectively.

Finally, we must consider carefully the implications of this action on United States businesses, our overall trade balance, and our future trade relationships in the Pacific rim area. United States exports to China create jobs in the United States aircraft, machinery, and other industries, as well as provide markets for United States agricultural products such as fertilizer, cotton, and wheat. Our farmers should not be forced to bear continued hardships because of the use of food and commerce as leverage points with China. Furthermore, if the United States cuts off MFN to China, these exports—and the United States jobs they create—will go to United States competitors in Japan, West Germany, and other Western nations—nations which continue to provide MFN status to China.

In summary, Mr. Speaker, I strongly believe that the measures before us today are unrealistic in their expectations, and that they will only encourage China to slip further back from reform into the abyss of communism. I urge my colleagues to renew MFN for China for an additional year, and give the President's program of very specifically targeted sanctions and rigorous trade enforcement measures time to work.

I ask unanimous consent that a Wall Street Journal article be entered into the RECORD:

CHINA'S ENTREPRENEURS ARE THRIVING IN SPITE OF POLITICAL CRACKDOWN

(By James McGregor)

GUANGZHOU, CHINA.—Listen to the divergent sounds of the new China, the one born in the aftermath of the Tiananmen Square massacre two years ago.

At the New Brightness Flower Garden Night Club in this southern city, a young man in jeans and a black leather jacket mockingly sings Maoist revolutionary ballads to a disco beat. He brushes his waistlength hair back as he launches into the old Mao tune "I Love Beijing's Tiananmen." The audience laughs, relishing the irony. Nearby, people gather in noisy restaurants to discuss business, celebrate a family milestone or talk openly with foreigners. The city is alive with enterprise and ideas.

Switch now to Beijing, 1,200 miles to the north, the seat of government and well-

spring of Communist ideology. Here, Communist Party leaders intone well-worn political slogans and jail anyone who speaks his mind. The People's Daily newspaper, the party's mouthpiece, publishes ponderous essays on topics like whether to address women as "Miss" or "Comrade." Nightlife is virtually absent, talk with foreign journalists is fearfully avoided and the only Chinese patronizing the better restaurants are the government elite, dining at government expense.

SHIFTING POWER

This is the split personality that has emerged in China since government troops gunned down the nation's democracy movement on June 4, 1989. The elderly Marxist ideologues who rose to lead the country after Tiananmen failed to turn back the clock in the southern city of Guangzhou and other free-wheeling coastal areas as they had hoped. Instead, by dithering over political ideology and failing to devise clear economic policies, they have unwittingly handed much of the initiative for the nation's development to pragmatic leaders in China's provinces and larger cities. By focusing on political repression and propaganda campaigns, Beijing's top leaders are in some ways making themselves irrelevant.

"The agenda is being set by the provinces," says David Shambaugh, a professor of Chinese politics at the University of London, who is now in Beijing conducting research. "The center is trying to keep up with the political and economic realities of what is going on outside of Beijing and then turning around and trying to seize the reform mantle as their own."

A senior Communist Party official in central China puts it more bluntly: "Beijing, Beijing, who has time to listen to Beijing? I've got lots of problems, and Beijing doesn't offer me solutions."

LOST MOMENTUM

Before Tiananmen Square, Beijing bubbled with ideas. Zhao Ziyang, the former party chief who was deposed by conservatives during the demonstrations, had formed think tanks and let many others do the same. Researchers studied Europe, Japan and America looking for ways to make China's government more stable and effective. Beijing's universities churned out a blizzard of reports on free markets, foreign management techniques, modern banking and Western social-welfare systems—all in the hope of transforming China and pulling it from its troubled past.

In contrast, the new party chief, Jiang Zemin, is busy these days visiting police stations and military posts to enlist help in "building an ideological Great Wall to resist peaceful evolution." "Peaceful evolution" is the leadership's term for what it sees as a Western plot to subvert communism by infecting it with capitalist and democratic ideas.

At the same time, Premier Li Peng, representing the old-guard hard-liners, is trying to revive state-owned factories, two-thirds of which are losing money. His latest endeavor is investing \$105 billion in new equipment over the next five years while training "socialist entrepreneurs" who will "rely on the leadership of the party to bring out the enthusiasm and creativity of workers and staff members."

To be sure, the government is allowing some Beijing thinkers who were generating pre-Tiananmen reforms to tinker at the edges of economic policy. The government has enacted some price reforms and devalued the Chinese yuan. And there are renewed

plans to allow some people in urban centers to buy their homes.

But the changes are tentative and incremental. Many of Beijing's most capable researchers either have left the country or are keeping their heads down. "They still waste our time at political-study sessions, but nobody pays attention," says a middle-aged writer who is trying to get a visa to the U.S. for his daughter. "Everybody just goes through the motions, even the party people who are in charge."

Instead, people looking for innovative discussion generally look outside the capitol. This apparently includes even the aging leader Deng Xiaoping. After he visited Shanghai recently, the city's Liberation Daily published articles, believed ordered by Mr. Deng, that constituted the first public call for bold economic change since Tiananmen.

#### GOING LOCAL

Two months later, a conference to study Mr. Deng's philosophy of economic pragmatism was convened not in Beijing, but in Chengdu, the remote capitol of Sichuan Province. A group of European and Hong Kong financiers have launched a new \$39 million China venture capital fund that has bylaws limiting its investments to China's coast, where the financiers can deal with local governments.

"It's not that we want to bypass the central government, but if we work with local governments we can get things done," says Frank Tsui, director of the venture, China Assets Management Ltd.

Just about anywhere one travels in China—from the northeastern province of Liaoning, where the smokestacks of aged state factories have gone cold, to the rural southwestern province of Sichuan, where tiny farm plots can't keep the huge population employed—local government leaders have adopted a common survival technique. For their own protection, they keep an ear cocked toward Beijing to pick up the latest political gossip. But their attention is focused on China's coast, where foreign investors and export-oriented factories are giving Chinese workers a better standard of living.

"Local government and party leaders listen to Beijing as much as they have to and then they do the practical things necessary to improve the lives of people they are responsible for," says a Guangdong Province businessman, who is close to local officials. "The leadership, no matter how much they want to turn things back, is pulled along by the momentum of reform."

#### LOOKING SOUTH

Over the past two years, Guangdong and its capital Guangzhou, or Canton, have risen ever-higher as a symbol of China's future, just as Beijing has come to represent its past. It is difficult to find a local government leader in China who isn't trying to emulate this prosperous province, which abuts Hong Kong.

The numbers tell why. Guangdong is the site of 13,320 projects involving foreign investment, about half of all such projects in China. With this \$13 billion in foreign capital, Guangdong has built a manufacturing machine that exported \$10.5 billion worth of goods last year, about 17% of China's total.

Per-capita income here is almost double the national average, and bank deposits in the province are swelling. Building walls are covered with ads for consumer products, not communist slogans. And companies here motivate workers with profits and material in-

centives, not dogma about selfless socialist enthusiasm.

Beijing is leaving Guangdong and other coastal areas alone largely because it is hooked on the export revenue these islands of enterprise bring in. Exports from China reached 19% of the gross national product in 1990, up from 12% in 1988, the year before Tiananmen. When Mr. Deng first launched reforms in 1978, exports accounted for only 4% of GNP. China's economy has become so dependent on exports that the debate under way in Washington this week over whether to continue the most-favored-nation trade status for China is looming large here. If the favorable tariff arrangement should be withdrawn, as many in Congress want, China's already-fragile economy could be sent into a tailspin.

#### BUDGET DRAIN

Economists say China's non-state factories, which are its export engine, last year accounted for 70% of the nation's industrial growth. While the coastal provinces where these factories are situated are flush with cash, Beijing is projecting a \$10 billion budget deficit for the central government this year. Almost one-third of the government's budget goes to providing price subsidies for urban consumers and propping up money-losing state industries. Production from those state-run factories grew by only 2.9% last year. At the same time, the output of enterprises involving foreign investment jumped 56%.

Two years after the Tiananmen bloodshed, China has become so dependent on exports and foreign investment that Beijing has little choice but to continue courting foreign investors and private entrepreneurs—the very forces it worries may ultimately destroy the party's grip on power.

"Even during the turmoil I was not scared; I figured it was impossible for the country to turn back," says Huang Quan, a Guangzhou entrepreneur who employs 38 people in a private factory producing jade pendants. "I believe the government had to think, 'If we change the policy, where will all of these people work?'"

Mr. STOKES. Mr. Speaker, I rise in strong support of H.R. 2212, which establishes conditions on the granting of most-favored-nation status to the People's Republic of China in 1992. I want to take this opportunity to commend my colleague, the gentlewoman from California [Ms. PELOS], who in conjunction with Mr. SOLARZ and Mr. PEASE introduced this intelligent and thoughtful legislation. H.R. 2212 crafts a reasonable compromise between those who would want to extend MFN status to China unconditionally, and those who argue for denial of MFN status immediately.

Mr. Speaker, we must not forget the Tiananmen Square massacre or the Chinese government's brutal suppression of student protestors. Rather, we must answer the Chinese peoples cry for freedom and democracy by continuing to press for adherence to international human rights standards. H.R. 2212 permits most-favored-nation trade status for China in 1991, but establishes a number of conditions for the granting of MFN trade status in 1992.

Under H.R. 2212, the President must certify that China has accounted for and released those citizens who were arrested, held without being charged, or sentenced because of the peaceful protests in Tiananmen Square in support of democratic reforms. Also, the Presi-

dent must certify that China is making significant overall progress toward the lifting of press restrictions; the prevention of torture and inhumane prison conditions; an end to intimidation and harassment of Chinese citizens in the United States; and curbing gross human rights violations, especially in Tibet.

In addition to these human rights conditions, H.R. 2212 includes additional conditions which the President must certify before MFN status can be granted for 1992. These additional conditions include: the cessation of the export of goods produced by forced prison labor; assurances that China is not assisting non-nuclear nations in acquiring or developing nuclear weapons; and ending the practice of coercive abortion and involuntary sterilization.

All of the conditions embodied in H.R. 2212 are reasonable standards which we should expect any nation wishing to acquire most-favored-nation trading status to satisfy. H.R. 2212 also provides China with a full year to make progress toward the satisfaction of these conditions before jeopardizing their trade status with the United States. Certainly no one could argue that the language of H.R. 2212 would impose too heavy a burden on the Chinese Government, or that the conditions are unduly harsh.

Mr. Speaker, H.R. 2212 is a fair and just bill which allows China the opportunity to reform their conduct, and make progress toward internationally recognized standards of human rights, without being punished. If there is no progress toward the goals established in this bill in China after a full year, then the denial of further favorable trade status will convey the message to the Chinese Government that their conduct will not be tolerated by the international community. I strongly urge all my colleagues to take a stand for human rights, and vote for passage of H.R. 2212.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 2212, which would permit the extension of most-favored-nation [MFN] trade status for the remainder of 1991, but which would bar MFN status in 1992 unless the President certifies to Congress that China has met certain important conditions.

Specifically, the President would be required to certify that China has accounted for and released all persons who were arrested, held without being charged, or sentenced to prison because of their participation in the peaceful protests surrounding the 1989 demonstrations in Tiananmen Square. The President would also have to certify that China is making significant overall progress to prevent gross violations of human rights, including against Tibetans removing press restrictions; ending intimidation and harassment of Chinese citizens in the United States; granting access by humanitarian and human rights groups to prisoners, their trials, and places of detention; and ending bans on peaceful demonstrations.

An additional en bloc amendment offered by the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, would also establish a few additional important conditions. The President would have to further certify that China has taken steps to prevent the export of goods to the United States made with prison labor; that China is not assisting nonnuclear countries in acquiring or developing nuclear weapons directly or indirectly; and that China has

ended its programs of coerced abortions or involuntary sterilization.

Mr. Speaker, millions of Americans and millions more around the world will recall the unforgettable image on our television screens after the weeks of vigil when finally the peaceful demonstrators who stood were met with tanks and guns which crushed the democracy movement in 1989. These individuals came to symbolize the courage of thousands of Chinese who protested peacefully for a more open and just society. The response of the Chinese Government was not to engage the demonstrators in meaningful dialog about compromise or democratization. Instead, the Chinese leadership after some artful dodging opted to commit force and the resulting deaths occurred on the streets of Beijing. Hundreds were killed as the world watched in horror. Thousands more fled for their lives. A few of the fortunate ones escaped from China and are living in exile around the world continuing to work for the day when China will be free from such tyranny.

The response of the Bush administration since 1989 has been to pursue a failed policy of accommodation with the Chinese leadership. For the past 2 years, President Bush has maintained and now seeks to renew China's MFN trade status while working to waive or weaken every significant military or economic sanction which Congress has sought to impose on China to modify its policies.

What has the Bush administration's policy of accommodation with the Chinese leadership gained? Instead of promoting moderation, it has emboldened the Chinese Government to become more repressive than ever.

China's record on human rights is one of the most deplorable in the world today. Major international human rights groups, such as Asia Watch and Amnesty International, have documented literally hundreds of cases of gross violations of human rights. Thousands of prodemocracy demonstrators have been shot, forced into labor camps, or have simply disappeared with no further trace. Even the State Department itself has documented the use of cattle prods, electrodes, and beatings against Chinese prisoners. China's policy of coerced abortions and forced sterilizations is contrary to any minimal standards of decency and respect for human rights and life.

There is no free emigration in China today. Emigration is strictly controlled and those most desperate to leave have no realistic opportunity of doing so.

China's export of nuclear technology and missiles continues unabated. Despite promises made to National Security Advisor Brent Scowcroft during his secret visit to Beijing only weeks after the Tiananmen Square massacre, China has not stopped or reduced its missile sales to the Middle East, including Iraq. China continues to refuse to permit international inspection of its nuclear weapons facilities.

Finally, the record shows that China has enjoyed a trade windfall from having MFN status while the United States has been denied the access to the Chinese market that it deserves. Meanwhile, U.S. jobs have disappeared in clothing, textiles, and other industries.

Since 1982, China has had consistent trade surpluses with the United States. During the past decade, China's trade surplus with the

United States increased from \$2.1 billion in 1980 to \$10.4 billion last year. Since 1989, Chinese exports to the United States have nearly doubled, while United States exports to China have actually fallen. China's trade surplus with the United States is now second only to our adverse balance with Japan. Indeed, China appears to have targeted the United States market as Chinese exports to the United States have increased more than 700 percent since 1980, while their exports to the rest of the world have only increased by 56 percent.

This consistent and growing trade surplus has allowed China to amass huge United States currency reserves which, along with continuing limitations on United States entry into the Chinese market, have cost American jobs. By one estimate, if United States trade with China were on an equal footing, a half a million new United States jobs would be created.

Mr. Speaker, the conditions in H.R. 2212 are very reasonable, are in the U.S. national interest, and most importantly, such conditions are totally achievable if China makes the commitment to do so. Indeed, the bill gives China another full year to comply with such conditions. China's leadership has it within its own power to determine now whether MFN status will continue to be extended beyond next year. I urge my colleagues to join me in voting for H.R. 2212.

□ 1510

Mr. CRANE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

DISAPPROVING THE EXTENSION OF MFN TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to section 2 of H.R. 189, it is now in order to consider House Joint Resolution 263.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to H.R. 189, I call up the joint resolution (H.J. Res. 263) disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China.

The Clerk read the joint resolution, as follows:

H.J. RES. 263

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on May 29, 1991, with respect to the People's Republic of China.

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

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

Mr. Speaker, House Joint Resolution 263 would rescind China's most-favored-nation [MFN] status, effective 60 days after enactment. I strongly urge my colleagues to oppose the resolution.

Mr. Speaker, Members who support House Joint Resolution 263 will argue today that the United States must send a clear and unmistakable signal to the Chinese leadership—that civilized people find China's behavior in the area of human rights, and many of its foreign policy actions, to be unacceptable. I fully agree. But voting for House Joint Resolution 263 is not the proper way to send that signal.

A vote to cut off China's MFN status is a vote to cut off all potential influence by the United States over Chinese behavior. I will be the first to admit that we have not been as successful as any of us would like in bringing about improvements in China's behavior in recent years. However, I believe that our best hope for influencing Chinese behavior in the future is to remain engaged in trade with China now. We have been able to gain the release of some prisoners. We have been able, for the first time, to draw China into discussions about limiting arms transfers to the Middle East. What would have been the situation if the United States had severed its most important trade ties with China? Would China have cooperated in the United Nations' efforts to mount a coalition force against Iraqi aggression? The answer is clearly "no."

Mr. Speaker, I urge my colleagues not to vote to return China to its isolationist past. Such an action would only play into the hands of China's hard-line leaders, who would love nothing more than to see their western-oriented provinces and their people brought back under central control.

Later today, Members will have the opportunity to vote on the Pelosi bill which establishes tough new conditions that China must meet in order to qualify for a continuation of most-favored-nation status in 1992. That bill sends a strong message to China's leaders, but keeps the door open to important contacts and improved relations with the Chinese people.

I urge my colleagues to oppose House Joint Resolution 263.

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

Mr. Speaker, let me also thank the committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] and the Ways and Means Committee for reporting my bill to the floor.

I speak today with a conscious sense of how improbable this moment might be.

Mr. Speaker, no Member of this House has carried more water for the Reagan administration and the Bush

administration than I have over the last 11 years, but I must rise today in opposition to the proposal to renew most-favored-nation treatment for the Communist People's Republic of China.

The resolution before us, House Joint Resolution 263, which I introduced with a bipartisan group of 16 cosponsors, would overturn President Bush's recommendation of May 29 that most-favored-nation trade status for China be renewed for another year. China's MFN status would be terminated the day this joint resolution is enacted.

Mr. Speaker, I do not offer this joint resolution lightly, but I do offer it as a way of making an essential point. Our country does not owe most-favored-nation status to any country, much less to a country with a nonmarket economy.

Our first concern should always be to demonstrate that there are tangible rewards for those countries that embrace freedom around this world. At a time when China is not moving toward reform in either its politics or its economy, and at a time when China is taking no substantive steps to open its own markets to American products, why should China be enjoying a \$10 billion trade surplus against the United States? That annual trade surplus in China's favor is now moving toward \$15 billion, the second largest such deficit in the world, the first being our trade deficit with—who do you think? Japan.

What has China done in return for the benefits that MFN brings? Here is what they have done, Mr. Speaker:

Certainly we all know that hundreds, probably thousands, of Chinese citizens remain in detention throughout the country and they have no prospect of ever receiving a free, a fair, or an open trial. Now we learn that prisons and labor camps are the source of exports that are coming into this country.

Read the New York Times and the Los Angeles Times. Goods produced by slave labor are coming into this country right now today, this very moment.

We know that political indoctrination has been reintroduced as standard fare in Chinese schools. We know the rights of college students, particularly, and all citizens generally to leave the country have been curtailed, almost eliminated altogether.

Jackson-Vanik, Mr. Speaker, the law of the land here in America is regularly violated in China. We know the subjugation of Tibet continues without a letup.

What an irony it is that our country has just fought a war over the very same principle that is at stake in Tibet right now: the right of a small country to live in peace and be free from the intimidation of a larger neighbor that covets its resources.

Just last week, Mr. Speaker, a prominent Catholic bishop in China was arrested, evidently in retaliation for the Pope having appointed a new cardinal

to serve the needs of Catholic believers in China.

Another article that appeared in the Los Angeles Times and the New York Times says that executed prisoners in China now have their kidneys being sold in other parts of the world. What kind of human rights are these, particularly in a Chinese culture where the entire body is revered and means so much at burial time?

Then we consider China's continued flaunting of international norms, its ongoing sales of missiles and nuclear technology to other countries without any regard for international safeguards and inspection procedures. Chinese sales of ballistic missiles to just about every belligerent state in the Middle East have been well known for years, played up on the papers every day in recent weeks. On top of all this we have learned in recent days of Chinese sales of nuclear technology to Algeria, and possibly Iran. Where in the world is that going to lead to down the road?

Mr. Speaker, and my colleagues, this picture is as clear as it is ugly. The Chinese leadership functions as a law unto itself. The Chinese leadership functions as if it enjoys immunity against the tidal wave of freedom that began sweeping across the globe in the 1980's.

Mr. Speaker, an unconditional renewal of MFN, as the administration has recommended, can only serve to reinforce the illusions under which the Chinese leadership operates today. It can only serve to reinforce their attitude that they can write their own rules and do whatever they want to.

Mr. Speaker, MFN status was first extended to China 11 years ago, over my no vote. At the same time, this Congress made a conscious decision to withhold such status from another Communist nation called the Soviet Union. A policy of firmness and the persistent application of pressure against the Soviet Union have resulted in the collapse of communism in that country, and the Warsaw Pact nations, and all over the world, except in China.

Mr. Speaker, we should do no less when it comes to China. Let us not forget that the Chinese Government is a vicious Communist dictatorship, and we have no business being a partner in keeping these thugs propped up in power, which is what we are doing.

I will conclude, Mr. Speaker, by citing an editorial from the New York Times dated April 26, 1991. The editorial takes note of the compelling evidence that China has an active policy of using labor camps for the manufacture of export items destined for markets in the United States, Germany, and Japan.

Extending trade privileges to a gulag economy offends the most basic American values.

And the editorial concludes by saying:

For the past decade, China has been granted waivers on the reasoning that growing

trade relations will bring the Chinese people human rights gains as well as economic benefits.

This year, such reasoning will be hard to sustain without gagging on the idea of Gulag work gangs.

□ 1520

Mr. Speaker, the time has come to stand up for what is right. The time has come to call the bluff of these Chinese leaders. The time has come to say that our Nation's preeminent role in upholding human rights around the world does not stop at the Chinese border.

Mr. Speaker, vote yes on this joint resolution. Take away MFN status now, and the old men in the Great Hall of the people will get the word. If we begin seeing reforms in China we can reinstate this MFN tomorrow.

We can reinstate it 3 months from now. If the Chinese leaders are sincere, we will see some reforms there; but if they are not, we will see the same thing that has taken place since all of us stood on this floor 1 year ago and some on both sides of the aisle said, "Let's give them another year."

Well, ladies and gentlemen, we gave them another year, and things got worse. People are dying, human rights are being denied to human beings, and that is wrong.

That is why I say pass the Solomon resolution today, and we will see in 3 months whether they are sincere or not. If they do make some reforms, I will be the first to introduce the resolution and to push Members on all sides of the aisle to reinstate MFN for China.

Let us see if it works.

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

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I urge the adoption of the resolution pending, ending most-favored-nation treatment for China.

This is not a debate about how best to move China in the direction of human rights.

This is a debate about whether or not that is relevant.

The position of the Bush administration is very clear: Human rights, schmun rights; the Bush administration regards our introduction of human rights into this debate as an eccentricity.

The President thinks that foreign policy is about big issues, the balance of power, stability in the world. Free speech for dissidents does not really come on to his radar screen. Nor, when he is talking about these kinds of issues, do side issues like jobs in America or our domestic economy. No one thinks the Chinese have any intention to buy very much from the United States. They have a mercantilist society. Talking about free trade with

China is like talking about trade in pork products with Israel. It is not something in which they have a great deal of interest.

The Chinese have, as my friend from New York has pointed out, a large surplus with the United States, and it is growing. They will very soon have, if they do not already have, the largest ratio in their favor because they believe in selling to us goods that are, by and large, not made in anything remotely resembling a market economy, and not buying anything from us in return.

And to George Bush, for whom domestic policy is really an interference in his workday, for George Bush the key is for us to make the leaders of China happy. It is to curry favor with the people who run the People's Republic of China so they will vote more with us in the United Nations, so they will agree with us on the solution in Kampuchea, so they will defer more to America's role in the world.

The President is not interested in pursuing human rights. And the notion that we will get more from the Chinese by engaging with them obviously is not something that people believe. If that was the case, we would be trading with Cuba. If that was the case, he would not have supported some of the sanctions he supported in the past in Central America.

The President thinks it is in the interest of the United States as a world power to deal with China, and the insistence on most-favored-nation status with China looks more like the insistence on continuing the trade with Iraq, more than anything else.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

#### RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

##### DISAPPROVING THE EXTENSION OF MFN TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, House Joint Resolution 263, while well meaning, represents an extreme and counterproductive response by the United States against the immoral practices committed by the Communist government of China against its own people.

Yes, we all want to take action against Chinese soldiers beating, torturing, and crushing peacefully protesting students with tanks in Tiananmen Square. But we must ask ourselves, "How do we do it to gain the most?"

In my opinion, denying MFN would lose far more than we could hope to gain for the Chinese people, about whom we are all deeply concerned.

Congress must seriously consider the consequences of withdrawing normal tariff treatment for China and this ending, for all practical purposes, any significant United States trade with that country.

It would seriously erode American influence there and would play into the hands of the hard liners in the Chinese Government at the expense of citizens and leaders seeking economic and political reform.

Under current law, MFN for China is conditioned only on emigration policies. The annual renewal procedures were designed to promote free emigration and to remove MFN only if China, or any other nonmarket country abandoned free emigration policies or made no effort to improve and reform their practices.

Although China's record is not perfect in this regard, they have continued to apply a relatively free emigration policy.

The principal restraint on emigration is not Chinese policy, but the capacity and willingness of other nations to absorb Chinese immigrants.

In addition, China continues to pursue a relatively open foreign travel policy; 255,000 people were issued passports for private travel in 1990, more than a threefold increase since 1986.

Emigration policies should not become the mask to punish China for other human rights violations. Such deplorable human rights abuses must be addressed directly, preferably with a unified U.S. policy that Congress and the President have formulated together.

Can returning China to isolationism, undermining United States business and investment in that country, tossing aside jobs generated by \$5 billion in United States exports, and abandoning reformist elements in China be justified by the United States in trying to achieve its human rights and foreign policy goals?

I think not.

The United States shoulders a great responsibility not only for ourselves but also for the interests of the Chinese people and of China's neighbors, such as Hong Kong, Korea, and Taiwan, who could be seriously harmed by United States actions which could destabilize the region.

The stakes are high and Congress should pursue a wise, objective, and effective course.

I urge my colleagues to vote "no" on House Joint Resolution 263.

The SPEAKER pro tempore (Mr. TORRES). The Chair would advise that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 26 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 18 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Speaker, let me say I rise in support of the Solomon amendment. My general position on trade, I guess, is clear in this Chamber: It is for free trade, that we should not have many trade barriers. I am one who is reluctant in general to use trade as a lever, as a policy, as a 2 by 4.

But, Mr. Speaker, enough is enough already. China has violated every norm in every place we look. The human rights issue is well told. There has not been any liberation, there has not been any change, and there are times, as we all would agree, that the trade weapon, the trade lever should be used to help human rights.

We stand today, just as everyone agrees that the sanctions have had a real effect on South Africa, sanctions can have an effect on human rights in China.

But it goes beyond that. Mr. Speaker, in the economic area China has not been a good neighbor. China has been a country that has taken advantage every step of the way.

□ 1530

Mr. Speaker, they have imposed tariff and nontariff administrative controls to restrict foreign firms' access to its domestic markets. No protection of copyrights or trademarks. That one gets under my skin.

Mr. Speaker, I say, "If you want to be part of the international community, if you want to have huge balance-of-trade surpluses with our country and others, then at the very least join the community of nations and protect copyrights and trademarks. The allocation of foreign exchange is a means to control imports and the export of products made by prison labor to the United States and elsewhere. You add it up, and everywhere you look on the economic area, China doesn't deserve MFN status."

Then, Mr. Speaker, their weapons sales. Who do the scoundrels of the world look to to buy the most evil of weapons, the missiles that can deliver the chemical and even, possibly, atomic warheads? They look to China.

It is rare that the gentleman from New York [Mr. SOLOMON] and myself are on the same side. On this we are. We have to say to the Chinese people and to the Government of China, "Enough is enough. No MFN until you reform up and down the line."

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

Let me respond to the previous speaker, the gentleman from New York [Mr. SCHUMER], because Mr. SCHUMER is right on target. If you look back to 1980, when most-favored-nation treatment was first given to the People's

Republic of China, we set up bilateral trade arrangements pursuant to House Concurrent Resolution 204. As approved by Congress, that resolution committed the United States and China to develop bilateral trade, provided that the United States and China would not discriminate against each other in their imports and exports; and, second we committed each nation to protect the patents, the trademarks, the copyrights, and industrial rights of the other nation.

How much in violation can they be of their bilateral obligations; never mind most favored nation?

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a distinguished member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Speaker, I rise in strong support of House Joint Resolution 263.

According to section 402 of title IV of the Trade Act of 1974, the true factor in determining whether a Communist country should receive MFN treatment is whether it maintains an emigration policy that is free and open, or is becoming free and open.

China's emigration policy, never free and open, has only become more restrictive since the Tiananmen Square massacre.

Since Tiananmen, the Chinese Government has required exit permit and passport applicants to file two new reports describing their performance during Tiananmen Square.

Regrettably, these reports, which are expected to be confessional in nature, are being used to restrict free emigration.

Also instituted after Tiananmen is the so-called cultivation fee that must be paid to the Chinese Government by students wishing to go abroad for self-financed graduate studies.

Given that this fee amounts to what the average Chinese college graduate earns over an 8-year period of time, this clearly precludes free movement and open emigration.

Existence of the cultivation fee also undermines a primary objective of the 1974 Trade Act: To deny MFN treatment to countries which impose more than a nominal fee, tax or fine on those citizens wishing to emigrate.

During 1984 debate on the Romania MFN issue, many of us opposed renewing that country's MFN status because it had instituted a similar fee. This fee, known as the education tax, had to be paid to the Government by those wishing to leave Romania, and amounted to what the average Romanian citizen earned over 3 to 5 years. Back then, our colleague PHIL CRANE justifiably referred to this onerous tax as a form of ransom. China's cultivation fee is no different.

Consider an excerpt from a May 1991 Library of Congress report on China's emigration policy. I quote:

Since the Tiananmen Square Massacre, the central authorities have made it more difficult for people to leave the country.

These additional controls very much seem to be aimed at discouraging people who disagree with the policies of the hardliners from leaving the country, either for shorter stays abroad or for emigration.

Even the State Department concedes that—and I quote

Existing restrictions on foreign travel were tightened in 1989.

Regrettably, though it admits that China's policy has worsened since Tiananmen, the State Department contends that China's emigration policy is open because it fills the annual U.S. permanent immigrant visa quota of 17,000 people.

While State has its own interpretation of the law, the 1974 Trade Act does not specify or imply that the degree of openness of a country's emigration policy should be based solely on whether it fills the U.S. quota.

According to the portion of the 1974 Ways and Means Committee report devoted to section 402, Congress sought—and I quote—"to assure the continued dedication of the United States to fundamental human rights." Congress is just as concerned about the fate of those seeking to leave Communist nations on a temporary basis, as it is for those struggling to become permanent immigrants elsewhere.

The fact remains that the People's Republic of China does not meet the 1974 Trade Act's freedom of emigration requirements, and that its MFN status should be revoked immediately.

I strongly urge my colleagues to vote "aye" on House Joint Resolution 263.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, colleagues of the House. We are all trying to accomplish the goal of improved human rights, greater openness in the society of China and perhaps even one day a democratic government there. The question of course is: How do we go about that?

Mr. Speaker, I think we need to remind ourselves what was the condition in China before 1972, when we began trade, travel, cultural exchanges, and other initiatives with that country under President Nixon. There is no question but that the human rights situation in China at that time was far, far worse than it is today even with the tragedy of Tiananmen Square. Since we began trading with China, since we opened diplomatic relations, and since we have had cultural exchanges and other visits with China, the situation has changed dramatically for the better. Now, it seems to me that what we are seeing today is an attempt to turn back the clock.

Earlier today one of my colleagues said on the floor of this House that this was just a Boeing initiative. Mr. Speaker, I represent a lot of people who

work for Boeing. Those planes, my colleagues, do not assemble themselves. Working men and women build those planes and their jobs should count for something. Yes, we sell Boeing airplanes to China, and let me tell my colleagues what would happen if this initiative goes through. The Europeans will sell airplanes to China. We will have literally shot ourselves in the foot in the hopes that it will make us feel good. That does not make sense.

Mr. Speaker, what we need to do is adopt some, realistic conditions on MFN with China, but not turn our backs on President Nixon's initiatives at opening this country. With trade relations we can sit down with our Chinese friends and say to them, "We want better human rights in your country," as many of us who have traveled there have had the opportunities to do. If we turn back this clock, we completely squelch the opportunity to have that kind of exchange, and it makes no sense whatsoever.

□ 1540

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, first of all I want to compliment the gentlewoman from California [Ms. FELOS] on her efforts in the area of human rights. The reason I am up here, however, has to do with another area, and that is the area of the proliferation of weapons of mass destruction and the proliferation of weapons, period.

The gentleman from Florida [Mr. GIBBONS] was in the chair during the hearings on MFN, and I pointed out that one of the lessons we got out of the war against Iraq and one of the reasons why we went to war against Saddam Hussein was because the man had potentially weapons of mass destruction. Now we are sending our people over there and threatening a second war if we cannot get our hands on the enriched uranium that he can use to create a nuclear device, and I do not think anyone has any doubt that he would use that if he had the opportunity. We went to war because we did not want aggression and we did not want a number of things, but one of the key elements was that we wanted to stop the spread of weapons of mass destruction.

Mr. Speaker, let me tell the Members what the Chinese have done. By the way, the administration put pressure on the Chinese not to become a giant proliferator of weapons of mass destruction. Last year they made the argument, "Trust us. Most-favored-nation status supports the reform process. Give us a year to work out our differences with the Chinese Government without denying MFN."

That is what they said last year. What have we gotten? Well, let me tell the Members this. China has sold Alge-

ria a nuclear reactor that is too large for research and too small for commercial power generation, but ideal for nuclear weapons production. Algeria has not signed the nuclear non-proliferation treaty.

In the 1980's China has given Pakistan the complete design of a tested nuclear weapon, plus enough weapons-grade uranium to fuel two nuclear weapons. China has also sold nuclear technology to India.

Can we imagine the fact that the Chinese Government has armed both the Pakistanis and the Indians with nuclear material and given them the ability to have a nuclear weapon. The Indians and Pakistanis have marched against one another a number of times in recent years, and do not be surprised if one morning we wake up, if this trend continues, to find a report on the network news that the Indians and the Pakistanis have exchanged nuclear weapons.

Mr. Speaker, let me tell the Members that the Chinese have also sold nuclear technology to South Africa, Argentina, and Brazil. This is a terrible thing.

Mr. Speaker, if we want to stand up for a new world order, a world in which we are not going to see the proliferation of sophisticated weapons and weapons of mass destruction, we have got to stand up right now against the Chinese and deny them the opportunity for MFN.

I am going to vote for Solomon, and I may have to end up voicing for Rostenkowski because it puts a number of reservations in there. But the bottom line is that we had better learn a lesson from what happened over there, and we had better stand up against countries that want to take us down the path toward greater sophisticated weaponry and the possibility of nuclear war.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the chairman of the committee very much for yielding time to me.

Mr. Speaker, for many years our country was engaged in the game of playing the China card. The China card was a diplomatic strategy whereby cozying up to the nation of China would help us in isolating the Soviet Union, Poland, Czechoslovakia, Hungary, and East Germany. That China card, as part of this great geopolitical strategy, was very important to us.

But with the fall of the Berlin Wall and with democracy breaking out all over Eastern Europe, as we turn over the China card in 1991, it is a deuce; it does not get us anything.

Although for many years we turned a blind eye to the nuclear export policy of China, to its human rights abuses, and to its prison labor policies, all of those things which may have made some sense in a larger geopolitical sense over a 20-year period, in 1991 it is

ancestor worship. We are taking a policy which over 20 years may have made some sense, but no longer, because over the next couple of years, in fact, we may be using the Soviet Union, Czechoslovakia, Hungary, Poland, and East Germany to isolate the Chinese. It will be just the flip of what it has been since the early 1970's.

So let us at least reform our policies to reflect the reality of the world in which we live. Here is a criminal nation, a nation which over the last several years has sold nuclear-related materials to both Pakistan and India, to both Brazil and Argentina, to both Iran and Iraq, and to Algeria. It goes on. The list is endless. It is a criminal nation, and if we want to look at the world through Kissingerian eyes, perhaps we had to turn a blind eye to some of these practices, but no longer, not in 1991.

Mr. Speaker, this legislation which is being proposed today is critically important for us to change the direction of our foreign policies to reflect the world as it exists today. We owe the people of China and the world no less.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. SOLOMON. Mr. Speaker, let me at the same time yield 3 minutes to the gentleman from California [Mr. LANTOS].

The SPEAKER pro tempore (Mr. TORRES). The gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished colleagues for yielding time to me.

Mr. Speaker, I rise in the strongest possible support for the resolution of the gentleman from New York [Mr. SOLOMON] to terminate most-favored-nation treatment for China. My distinguished colleagues have given all their reasons for my support: An abominable human rights record, a persecution of the entire population of Tibet, an irresponsible export of weapons of mass destruction, and the use of prison labor indiscriminately. But I would like to approach the issue from a somewhat different vantage point.

This is not a vote on isolation. What the administration is doing, it is expressing its preference for the central Communist regime in every place on this planet where there are new and democratic forces trying to grope for a pluralistic and freer society. In China this administration is on the side of the central Communist government, the octogenarians who are too old to learn that there are new winds sweeping across this globe, winds of democracy and pluralism, the views that the young men and women of Tiananmen Square expressed.

This policy is made of the same cloth that is opposing Slovenia and Croatia in Yugoslavia. This administration is

siding with the central Communist government in Serbia against the forces which are striving for pluralism and freedom and democracy in Croatia and Slovenia, in the Republic of Kosovo and elsewhere. This administration is expressing its preference for the Central Government in the Soviet Union, not for the democratically elected governments of the Republics of Latvia, Lithuania, and Estonia and now Russia.

We just greeted in this House the first democratically elected leader of Russia in 1,000 years of Russian history, but in China we are rejecting the forces of pluralism and freedom and democracy, and we are about to kowtow to the regime that used tanks to destroy those Chinese young people just 2 years ago.

□ 1550

On July 4, 215 years ago, King George wrote in his diary, "Nothing extraordinary happened today." Little did he realize what an extraordinary thing happened on the 4th of July, 1776.

Extraordinary things are happening in China. People are putting their lives on the line. Remarkable things are happening in Tibet, where peace loving monks and nuns are striking out for freedom, and the Chinese Communist regime is torturing them, persecuting them, and killing them.

Remarkable things are happening in what we used to call Yugoslavia. Men and women are striking out for freedom. Two dozen young Slovenes were mowed down by the Central Government's tanks. And that is the side that this administration is supporting when it is supporting most-favored-nation treatment to China.

We have got to tell the whole world, the people who just brought down the Berlin Wall, yesterday, we have got to tell the people in Tibet that we stand with the wave of the future, that the wave of the future is not the Chinese Communist regime in Beijing. Those people will be thrown on the dust bin of history, when we will honor and cherish the young men and women whose lives were destroyed with the tanks of the Chinese Communist regime. We must take away most-favored-nation treatment from China, and we must do it now.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. LANTOS. I am pleased to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I just want to underscore the centrality of the point the gentleman from California [Mr. LANTOS] is making. He is a deep student of foreign affairs, a devoted human rights advocate, and his point about this worldwide passion for order over liberty that is becoming central in this administration is a terribly important point. I want to thank the gentleman for making the

point, and hope that people will pay serious attention to its implications.

Mr. LANTOS. Mr. Speaker, reclaiming my time, I thank my friend for his comment. Let me just say, I deeply appreciate stability, but not stability at any cost. Stability at the price of human lives, of freedom, of dignity, of pluralism, is stability at too high a price, and we should not buy it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the chairman for yielding the time.

Mr. Speaker, it pains me greatly to have to disagree with my very good friend, the gentleman from California [Mr. LANTOS], and the distinguished gentleman from New York [Mr. SOLOMON]. But I do rise in reluctant, but strong, opposition to this resolution.

Mr. Speaker, if I thought for a moment that by adopting the Solomon resolution taking away MFN status from China we could facilitate the release of political prisoners, or an accounting of those who have been incarcerated, or contribute to greater freedom of religion and of the press, or bring to an end the export of goods produced by prison labor, or induce a more responsible Chinese foreign policy with respect to the transfer of nuclear technology and intermediate range ballistic missiles, I would strongly support this resolution. But the fact of the matter is that the adoption of this resolution will in no way whatsoever advance all of those eminently worthwhile objectives.

Mr. Speaker, thinking that we can bring the Chinese leadership to its knees by taking away MFN status from China is a complete and total illusion. For over two decades we had a comprehensive economic embargo against China, and we did not bring about any improvement in the human rights situation in that country by virtue of the economic isolation we imposed upon it.

For reasons of face alone, it is inconceivable that the Chinese leaders, once we take away MFN status, will come crawling on their knees to America saying, "Mea culpa. We have been wrong. We will make all of the changes you would like us to make."

The truth of the matter is, not only won't the adoption of this resolution not produce any progress on human rights, it is likely to have all sorts of counterproductive consequences. It will hurt American consumers who benefit from the importation of lower priced Chinese goods. We will deal a crippling blow to the economy of Hong Kong, which benefits greatly from the transshipment of Chinese goods to the United States, which benefits from MFN.

Mr. Speaker, by taking away MFN we will undermine the economic viability of the coastal provinces in China, which are the engines of economic re-

form in that country. There is considerable anecdotal evidence that many of the intellectuals who are in the forefront of the subterranean struggle for political and economic reform in China do not want MFN status taken away from them, because they fear that if MFN is taken away, there will be an overall and further crackdown in China, which will make the human rights situation even worse than it is today.

So I would suggest that if we are really concerned about human rights in China, the way to go is not to take away MFN completely, but to establish reasonable and responsible conditions on MFN, which we will have an opportunity to do a little bit later this afternoon.

I urge the House to reject the Solomon resolution.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise today to support the resolution (H.J. Res. 263) disapproving the extension of most-favored-nation trade status for the People's Republic of China [PRC]. After the speech of the gentleman from California [Mr. LANTOS] it may sound parochial, but I am opposing MFN for China because I do not care to trade away 50,000 textile and apparel jobs in my district so that the Communist Chinese Government can receive the perks associated with preferential trade status. With U.S. textile and apparel jobs already hit hard by unfair trade practices of foreign nations, I cannot stand idly by and see more jobs exported—many of them in my congressional district.

China is the single largest supplier of textiles and apparel to the United States, accounting for almost 14 percent of all United States textile and apparel imports. Yet, China continues to violate United States law by mislabeling textile products and shipping them through third countries. In 1990 alone, it is estimated that more than 2 billion dollars' worth of textiles and apparel entered the United States fraudulently. Furthermore, China has been exposed for use of prison labor to assemble apparel with the specific purpose of exporting to the United States. The textile industry faces enough of a challenge competing against a Chinese hourly wage rate of 37 cents compared to the United States hourly wage of almost \$10.

I have been told that denying MFN to China would jeopardize some \$5 billion the United States exports to China and hurt those industries that have substantial direct investment in China. This may be true in the short term, but in the long run, the Communist Chinese Government will realize that the United States is not going to ignore its unlawful and immoral behavior. China must reform if it wants MFN status. At

that time, the United States will reap the benefits of a stable, more democratic China, willing to play fair in today's competitive marketplace.

We all have to vote our conscience, and my conscience says "no" to MFN for China.

Let us aid Mexico instead.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Florida.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Florida [Mr. SMITH] is recognized for 2 minutes.

Mr. SMITH of Florida. Mr. Speaker, I thank both gentlemen for yielding.

Mr. Speaker, we are looking at something that is interesting. We have the historical basis on which to support the Solomon resolution. Many times we take this floor and we are dealing in the dark. It is a matter of conjecture. Oh, it may happen; it may not happen. We do not know for sure. We ought to do it this way; we ought to do it that way.

But history is here for us to read. The reality is, it is a myth. Those Members who stand in this well or at the tables and tell us that by voting against this we will ensure that the coming year will be better than the previous year as far as China and its human rights record and its treatment of its citizens, are in fact flying in the face of history.

Mr. Speaker, we gave them last year MFN after giving them all of our concerns in public debate. What did they do? Not only did they not make better their human rights record, but they went further. They sold technology in the form of missiles, technology that we had provided, to other countries around the world. They clamped down and executed prisoners that had been in prison previously. Once they got what they wanted, they were content to stick it up our nose, if one wants to be graphic about it.

We sent an envoy. The President of the United States sent an envoy to China to try to talk and deal with them.

□ 1600

He was sent home with a scold like he was a little child by the old men in Peking who do not think we ought to meddle in their internal affairs but we ought to give them the benefit of MFN so that they can then send more imports to the United States than we send to them and, therefore, build up a trade surplus of almost \$11 billion, estimated to be \$16 billion next year, per capita by virtue of imports, the largest trade surplus in the world.

Let us not lose jobs to the Chinese and at the same time subsidize the lack of human rights in that country, the intolerable treatment of their citizens. History now beseeches Members to

vote for the Solomon resolution to deny them MFN. It is the only thing an American should do.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

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

What is the motivation of the President of the United States for wishing to extend this trade status to the Chinese for another year? What is his motivation? Does he want to become an honorary King of Siam? Does he want to be enriched personally, or is it because he believes strongly, does our President, that it is in the best interests of our country, of the future of our society that we maintain the relationship with the emerging China that he seeks with this continuation of the trade status?

Even the critics of the President over here say it is not that he is not interested in human rights. He is not interested in this or that. He is only interested in doing what is best for the country. Of course. And that is why we must accord him, as the chief executive of our country, the privilege of supporting him in this foreign policy matter. It is easier and better for our country to follow the leadership of the elected President of the United States in the enunciation, the execution of foreign policy than to adhere to 535 Members of Congress who have 535 different ways of executing foreign policy.

Mr. SOLOMON. Mr. Speaker, if the gentleman from Illinois [Mr. ROSTENKOWSKI] has no further speakers other than his summation, I yield myself the balance of the time.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from New York [Mr. SOLOMON] is recognized for 3½ minutes.

Mr. SOLOMON. Mr. Speaker, for the past 11 years, we have denied the Soviet Union most-favored-nation status. And what has happened over that 11-year period? After we spent billions and billions of dollars building up our own military at the expense of the American taxpayers, the end result is that democracy has broken out all over Eastern and Central Europe. And we can be very proud of that because of the sacrifices the American people made.

During that same 11-year period, we have given most-favored-nation status to the People's Republic of China. And what has happened? Violations of human rights have become worse and worse and worse. And in the last 2 years, they have just become absolutely intolerable.

I would just ask the Members to consider one thing: If China's MFN is taken away today, that does not mean China can never get it back. If China's MFN is revoked, there is nothing to stop the President from coming back to Congress in a few months if condi-

tions so warrant and asking us to restore it. And I wish that would happen.

If the Government of China shapes up, we could give MFN back to them, and China would respect the United States for it.

The problem we face today is simply the fact that China does not take us seriously. China does not believe our commitment to human rights and democracy. They do not believe it because we continue to wink at their abuses.

The time for excusing China's behavior, Mr. Speaker, is over. Let us pass this resolution today and show the regime in China that we mean what we say. I am going to vote for the Solomon resolution. I am also going to vote for the Pelosi resolution and the accompanying amendments that were passed overwhelmingly in the Committee on Ways and Means.

This entire body should do that and send these two bills to the Senate, and do my colleagues know what? China would wake up in a hurry. What happens to all the trade with China? Chinese goods are coming via Hong Kong, where they change the label and say, "Made in Hong Kong" and then send them to this country. They send them over to Macao, and they change the label and say "Made in Macao" and send them here. More and more of my people are unemployed. I say to hell with the \$15 billion deficit in trade with China. Let us send a message they will not forget.

I urge support of the Solomon resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GIBBONS], chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, when I got up this morning to wash my face I said, "This is going to be a miserable day." And it is for me a miserable day because I knew I was going to face some of my finest friends and their best oratory orating about what we should do about China. It is not a simple proposition. If things are bad in China today, and they are bad, they were horrible when we started on this negotiation of trade with them about 15 years ago. They had just completed or almost completed the Cultural Revolution in which hundreds of thousands, perhaps millions of Chinese lost their lives.

China is a poor, pitiful country, and horribly led. But history teaches that if we are going to do anything about China, and we should do something about China, because they are all human beings like we are and one out of every five people on Earth is Chinese. They are poor. They are ill-housed, ill-fed, ill-clothed, and ill-led. But it is our human responsibility to do something about it.

And what should we do? Should we isolate China again as we did for 35

years, 35 disastrous years, or should we continue to work with the Chinese?

Now, I would bow to no person in this House about my support of human rights. I think my record proves it. I probably have listened to more people talk about China than anybody in this House, and I have probably lectured the Chinese more than anybody in this House.

It occurs to me that the wise and most sensible thing to do is to reject the Solomon proposal, which in effect could lead to the isolation of China again, and then to proceed to the debate on the Pelosi proposal which puts some stringent conditions upon most-favored-nation treatment for China. For if we withdraw from China, there is no one else on Earth who is going there like we do and demanding conditions for their trade and talking and working with the Chinese people to try to improve the human conditions within China.

The last time China opened itself up to Western influence, it was pillaged by the Europeans, and they fought the Japanese for 25 years to keep them from overrunning and subjugating their country. The Chinese trust the Americans. They look to America, and it is no mere accident that the great demonstrations at Tiananmen Square that ended so tragically, that it was the American symbol of freedom that had to be torn down by the Chinese Army.

If we continue to construct this policy that we have had toward China for the last 15 years, then I think there is hope for those one-fifth of all the people on Earth, poor people, pitiful people, ill-clothed, ill-housed, ill-fed, and ill-led. But there is hope if we will continue our contact with them to continue to work for them and to set a good example for them and to try to educate them so that they can have a more prosperous economy, a greater opportunity for personal freedom and liberty, and that should be the role of America.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of the Solomon amendment.

Mr. Speaker, I rise on behalf of the resolution. The Chinese Government repeatedly has violated every standard of international conduct. They have demonstrated they are a government apart from their people, over their people, and against their people. As Americans, we cannot stand idly by while the values and ideals we cherish are crushed by communism's tanks.

The Chinese Communists believe that the world outside, especially Americans, do not care what they do to their citizens. They believe we forget easily and care only about shallow values and self-interest. Because they do not understand us, they do not realize that

We will not forget the young man standing in front of a line of tanks pleading for his people. We will not forget the toppling of the Goddess of Democracy, built in the image of our beloved Statue of Liberty. These are memories for a lifetime.

Revoking MFN status is the proper response for the Congress to take. The Chinese Government is exploiting their trade relationship with the United States.

In the first year after Tiananmen, the Chinese trade surplus with the United States grew by almost 50 percent. According to the USTR's 1991 report on foreign trade barriers, "tariff rates range from 120 to 170 percent" on consumer goods. Compared to this, even standard tariff rates in the United States are generous. We should also notice that tariffs and barriers are highest on consumer goods, products which might provide a better life for the Chinese people. The Chinese Communists are acquiring our hard currency, denying their people the benefits of their work, and propping-up their corrupt system on the back of American trade.

In our opposition to the Communist Government however, we should take care not to harm the innocent people of that country. President Bush raises some valid points about potential harm to those we are seeking to help. In the next year, I believe that Congress should study ways to limit the damage done to the people of China by changes in our trade relationship. We should look at making adjustments to help the budding private enterprise, the Western-looking regions of the country. This would be the approach the Communist leaders in Beijing would fear the most—turning our back to them, extending our hand to their people.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if the Chinese are going to take the hard line with their citizens, we have to take the hard line with China. The Solomon amendment is the only route.

Mr. SOLOMON. Mr. Speaker, the gentleman is a major cosponsor of that resolution, and I appreciate his remarks.

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

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 189, the previous question is ordered.

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

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

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

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

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 204, not voting 6, as follows:

[Roll No. 203]

YEAS—223

Abercrombie	Hatcher	Payne (NJ)
Ackerman	Hayes (IL)	Pelosi
Andrews (ME)	Hayes (LA)	Perkins
Andrews (NJ)	Hefley	Porter
Annunzio	Hefner	Poshard
Anthony	Herger	Price
Applegate	Hertel	Quillen
Atkins	Hochbruckner	Rahall
Balienger	Horn	Rangel
Barnard	Hoyer	Ravenel
Barton	Hrbbard	Ray
Bennett	Hughes	Richardson
Berman	Hunter	Ridge
Bertram	Hntto	Riggs
Bevill	James	Ritter
Bilbray	Jefferson	Rogers
Bonior	Jenkins	Rohrabacher
Borski	Jones (GA)	Ros-Lehtinen
Boxer	Jones (NC)	Rose
Browder	Kanjorski	Roybal
Bruce	Kasich	Russo
Bryant	Kennedy	Sabo
Bunning	Kildee	Sanders
Burton	Kleczka	Sawyer
Bustamante	Kolter	Scheuer
Campbell (CO)	Kostmayer	Schroeder
Cardin	Kyl	Schulze
Carper	LaFalce	Schumer
Clay	Lantos	Sensenbrenner
Coble	Lehman (CA)	Shuster
Coleman (TX)	Levin (MI)	Sikorski
Collins (IL)	Levine (CA)	Sisisky
Collins (MD)	Lewis (FL)	Slaughter (NY)
Condit	Lewis (GA)	Smith (FL)
Conyers	Lipinski	Smith (NJ)
Costello	Lloyd	Smith (TX)
Cox (CA)	Lowey (NY)	Manton
Cramer	Markey	Martinez
Danzemeyer	Martinez	Mavroules
DeFazio	McCandless	McCurdy
Dellums	McCurdy	McGrath
Derrick	McGrath	McHugh
Dickinson	McGrath	McMillan (NC)
Dixon	McGrath	McNulty
Donnelly	McGrath	McNulty
Doolittle	McGrath	Miller (GA)
Dorman (CA)	McGrath	Mineta
Downey	McGrath	Mink
Duncan	McGrath	Moakley
Durbin	McGrath	Molinar
Dwyer	McGrath	Mollohan
Early	McGrath	Moorhead
Eckart	McGrath	Moran
Edwards (CA)	McGrath	Morella
Edwards (OK)	McGrath	Mrazek
Edwards (TX)	McGrath	Natober
Engel	McGrath	Neal (MA)
Erdreich	McGrath	Neal (NC)
Espy	McGrath	Nowak
Evans	McGrath	Oaker
Fish	McGrath	Oberstar
Flake	McGrath	Obey
Foglietta	McGrath	Olin
Ford (MD)	McGrath	Oliver
Ford (TN)	McGrath	Owens (NY)
Frank (MA)	McGrath	Owens (UT)
Frost	McGrath	Pallone
Gaydos	McGrath	Panetta
Gejdenson	McGrath	Parker
Gephardt	McGrath	Patterson
Gilman	McGrath	Paxon
Gonzalez	McGrath	
Gordon	McGrath	
Hall (OH)	McGrath	
Hancock	McGrath	
Harris	McGrath	

NAYS—204

Alexander	Bateman	Broomfield
Allard	Bayless	Brown
Anderson	Bentley	Byron
Andrews (TX)	Berenter	Callahan
Archer	Bilirakis	Camp
Armey	Billey	Campbell (CA)
Aspin	Boehlert	Carr
AuCoin	Boehner	Chandler
Bacchus	Boucher	Chapman
Baker	Brewster	Clement
Barrett	Brooks	Clinger

Coleman (MO)	Johnson (CT)	Pickett
Combest	Johnson (SD)	Pickle
Cooper	Johnson (TX)	Fursell
Coughlin	Johnston	Ramstad
Cox (IL)	Jontz	Reed
Coyne	Kaptur	Regula
Crane	Kennelly	Rhodes
Cunningham	Klug	Rinaldo
Darden	Kolbe	Roberts
Davis	Kopetski	Roemer
de la Garza	Lagomarsino	Rostenkowski
DeLauro	Lancaster	Roth
Dicks	LaRocco	Roukema
Dingell	Laughlin	Roland
Dooley	Leach	Sangmeister
Dorgan (ND)	Lehman (FL)	Santorum
Dreier	Lent	Sarpalius
Dymally	Lewis (CA)	Saxton
Emerson	Lightfoot	Schaefer
English	Livingston	Schiff
Ewing	Long	Sharp
Fascell	Lowery (CA)	Shaw
Fawell	Luken	Shays
Fazio	Machtley	Skaggs
Feighan	Marlenee	Skelton
Fields	Martin	Slattery
Franks (CT)	Matsui	Slaughter (VA)
Gallely	Mazzoli	Smith (IA)
Gallo	McCloskey	Smith (OR)
Gekas	McCollum	Solarz
Geran	McCreery	Spence
Gibbons	McDade	Stallings
Gilchrest	McDermott	Stenholm
Gilmor	McMillen (MD)	Stump
Gingrich	Meyers	Sundquist
Glickman	Michel	Swift
Goodling	Miller (OH)	Tanner
Goss	Miller (WA)	Taylor (NC)
Gradison	Montgomery	Thomas (CA)
Grandy	Moody	Thomas (WV)
Green	Morrison	Torres
Guarini	Murphy	Upton
Gunderson	Martha	Vander Jagt
Hall (TX)	Myers	Volkmer
Hamilton	Nagle	Vucanovich
Hammerschmidt	Nichols	Walsh
Hansen	Nussle	Weber
Hastert	Ortiz	Williams
Henry	Orton	Wyden
Hoagland	Oxley	Young (AK)
Hobson	Packard	Young (FL)
Holloway	Payne (VA)	Zeliff
Horton	Pease	Zimmer
Houghton	Penny	
Huckaby	Peterson (FL)	
Hyde	Peterson (MN)	
Ireland	Petri	

NOT VOTING—6

DeLay	Hopkins	Jacobs
Gray	Inhofe	Serrano

□ 1633

Messrs. HAMMERSCHMIDT, DOOLEY, GUNDERSON, ROTH, CARR, NAGLE, SMITH of Oregon, HALL of Texas, and GEREN of Texas changed their vote from "yea" to "nay."

Mr. WISE of West Virginia, WILSON, MCCURDY, HAYES of Illinois, and MRAZEK changed their vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

REGARDING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to section 4 of House Resolution 189, it is now in order to consider the bill, H.R. 2212.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 189, I call up the bill, H.R. 2212, regarding the

extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The Clerk read the bill, as follows:

H.R. 2212

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

**TITLE I—PRECONDITIONS FOR THE RECEIPT BY CHINA OF NONDISCRIMINATORY TREATMENT**

**SEC. 101. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.**

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under subsection (d) of section 402 of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such subsection, that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) accounted for those citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing;

(2) has made significant progress in—

(A) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China and Tibet;

(B) ending religious persecution in the People's Republic of China and Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(C) removing restrictions in the People's Republic of China and Tibet, on freedom of the press and on broadcasts by the Voice of America;

(D) terminating the acts of intimidation and harassment of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(E) ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention;

(F) ensuring freedom from torture and from inhumane prison conditions; and

(G) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989,

(3) is adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(b) DEFINITIONS.—For the purposes of subsection (a)—

(1) The term "acts of intimidation and harassment" in paragraph (2)(D) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) The term "gross violations of internationally recognized human rights" in

paragraph (2)(A) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) The term "significant process" in paragraph (2) means the implementation and faithful execution of measures that will lead to the termination of the repressive practices identified in subparagraphs (A) through (G) of that paragraph.

**SEC. 102. REPORT BY THE PRESIDENT.**

If the President recommends in 1992 that the waiver authority referred to in section 101 be extended to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, implemented the measures listed in section 101(a).

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 1 hour, and the gentleman from Texas [Mr. ARCHER] will be recognized for 1 hour.

**COMMITTEE AMENDMENTS**

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments:

Page 3, strike out lines 1 through 4.

Page 3, line 5, strike out "SEC. 101." and insert "SECTION 1."

Page 3, strike lines 13 through 15 and insert the following: President—

(1) reports in the document required to be submitted by such subsection, that the government of that country—

Page 3, line 20, redesignate paragraph (1) as subparagraph (A).

Page 3, line 24, redesignate subparagraph (A) as clause (i).

Page 3, line 24, in clause (i), as redesignated, strike out "accounted for those" and insert "provided an accounting of".

Page 4, line 4, redesignate subparagraph (B) as clause (ii).

Page 4, line 7, redesignate paragraph (2) as subparagraph (B).

Page 4, line 7, in subparagraph (B), as redesignated, insert "overall" before "significant progress".

Page 4, line 9, redesignate subparagraph (A) as clause (i).

Page 4, line 2, clause (i), as redesignated, strike out "China and" and insert "China, including".

Page 4, line 14, redesignate subparagraph (B) as clause (ii).

Page 4, lines 15 and 16, in clause (ii), as redesignated, strike out "and Tibet" and insert "including Tibet".

Page 4, line 21, redesignate subparagraph (C) as clause (iii).

Page 4, line 22, in clause (iii), as redesignated, strike out "and Tibet" and insert "including Tibet".

Page 5, line 1, redesignate subparagraph (D) as clause (iv).

Page 5, line 6, redesignate subparagraph (E) as clause (v).

Page 5, line 2, in clause (v), as redesignated, insert "or humanitarian" after "monitoring".

Page 5, line 11, redesignate subparagraph (F) as clause (vi).

Page 5, line 14, redesignate subparagraph (G) as clause (vii).

Page 5, line 16, in clause (vii), as redesignated, strike "and" and insert a comma.

Page 5, line 17, redesignate subparagraph (3) as subparagraph (C).

Page 5, line 20, in subparagraph (C), as redesignated, strike the period and insert a comma.

Page 5, after line 20, insert the following:

(D) does not support or administer any program of coercive abortion or involuntary sterilization.

(E) has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear weapons state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices.

(F) has provided clear and unequivocal assurances that it will not contribute to the proliferation of missiles and is a Missile Technology Control Regime adherent with respect, at least, to countries, in the Middle East and South Asia.

(G) has taken appropriate steps to prevent the exportation of products made by prisoners and detainees assigned to labor camps, prisons, detention centers and other facilities holding detainees and has allowed United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect, and

(H) has moderated its position regarding the access of the Republic of China (Taiwan) to the General Agreement on Tariffs and Trade; and

(2) based on the assurances referred to in paragraph (1)(E) and all other information available to the United States Government, has made the certifications and submitted the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99-183, 99 Stat. 1174).

Page 7, line 10, strike out "(2)(D)" and insert "(1)(B)(iv)".

Page 7, line 21, strike out "(2)(A)" and insert "(1)(B)(i)".

Page 8, line 5, strike out "process" and insert "progress".

Page 8, line 6, strike out "(2)" and insert "(1)(B)".

Page 8, line 6 and 7, strike out "and faithful execution".

Page 8, line 7, insert "meaningfully reduce or" before "lead to".

Page 8, lines 9 and 10, strike "subparagraphs (A) through (G) of".

Page 8, insert after line 10, the following:

(5) The terms "missile" and "Missile Technology Control Regime adherent" in paragraph (1)(F) have the respective meanings given them in section 74 of the Arms Export Control Act (22 U.S.C. 2797c) and the phrase "countries in the Middle East and South Asia" in such paragraph means Morocco, Algeria, Tunisia, Libya, Sudan, Egypt, Israel, Lebanon, Jordan, Syria, Iraq, Iran, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, Yemen, India, and Pakistan.

Page 8, line 21, strike out "102." and insert "2."

Page 8, line 23, strike out "authority".

Page 8, line 23, strike out "101 be extended" and insert "1 be continued with respect".

Page 9, line 4, strike out "implemented" and insert "implemented".  
Page 9, line 5, strike out "101" and insert "1".

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

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

There was no objection.

□ 1640

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

Mr. Speaker, H.R. 2212 establishes a number of new conditions—in addition to those contained in current law—which China must meet in order for the President to recommend a continuation of China's most-favored-nation [MFN] status in 1992. I urge adoption of the bill.

But first, I want to commend our colleague, NANCY PELOSI for her tireless efforts in keeping the issue of China's human rights behavior so squarely before the eyes of Congress and the American people. Any improvements in this area will be in large part because of her dedicated legislative efforts.

Mr. Speaker, the conditions contained in H.R. 2212 as reported from the Committee on Ways and Means relate to the overall human rights situation in China and various trade and foreign policy concerns. The bill requires that China account for citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during the 1989 demonstrations in Tiananmen Square; and that China release such citizens. It requires that China end the proliferation of missiles and nuclear technology; end forced abortion and sterilization; take steps to end exports of goods made by prison labor; and take action in a number of other areas. Finally, the bill contains seven objectives relating to human rights, in which overall significant progress must be made before the President may recommend extension of China's MFN status in 1992.

I would have preferred to see the conditions of H.R. 2212 limited to human rights concerns. After all, the genesis of the bill was the unprovoked and bloody crackdown on nonviolent demonstrators in Tiananmen Square in 1989—the worst possible kind of human rights violation.

Despite my reservations about H.R. 2212 and the committee amendments that have been offered en bloc, I will not stand in the way of their adoption by the House. I am prepared to support the bill, as amended by the committee, with the hope that we can improve the bill in conference with the other body. Our collective objective should be to produce a bill that the President can

sign, rather than a bill we know he will veto. Passing a bill that provokes such a veto—a veto that will probably be sustained—will only give us a hollow victory, and will frustrate our common goal of significant change in Chinese policy and behavior.

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

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

Mr. Speaker, I rise in strong opposition to H.R. 2212. It is a bill which is elaborate in its scope and good intentions. In effect, however, it's a bill which would result in an end to normal tariff treatment, MFN, for China after 1 year and the removal of the United States as a major influence for economic and political change in that country.

Congress should not be lured into a web of theoretical leverage and false punishments. It should instead maintain a clear focus on the likely consequences of this legislation.

If we care about influencing improved Human Rights, a country of the stature of the United States cannot afford to walk away from its relationship with a country of such indisputable importance, however strained that relationship has become and despite the harsh leadership that is currently in power.

The question should be, "What is the most effective policy to promote and achieve our human rights and foreign policy objectives?" H.R. 2212 is emphatically not the answer.

If anything, it could cause a dangerous reaction by the Chinese Government that will further harm the Chinese people and destabilize the entire region. Hong Kong is particularly vulnerable.

H.R. 2212 establishes strict new inflexible conditions for renewal of MFN for China in 1992. The distinguished chairman of the Ways and Means Committee has already explained the bill's provisions.

However, I want to emphasize that the result of this legislation will be to end MFN and, consequently, all meaningful trade with that country.

Would we successfully influence Chinese actions by this tactic? Can we successfully impose the United States Constitution, our human rights standards, and our way of life on a country with its own traditions and culture? Because China now falters under a repressive regime, should the Chinese people, the citizens of Hong Kong, our own businesses and investments in the region, and United States exporters pay the price for our actions today?

China has not responded, and likely will not respond, while the Congress and the President are locked in battle over United States-China policy.

A more productive approach would be for the Congress and the President to work together to develop targeted

sanctions and incentives designed to achieve results rather than to undermine U.S. influence.

The President has already announced a long list of sanctions ranging from an end to trade and development programs to restrictions on textile imports to rejection of licenses for satellite projects and other high technology exports.

H.R. 2212, though a tempting ultimatum, is the wrong approach at the wrong time. The hard-liners would be happy with this bill, but the Chinese people will suffer further repression and isolation. I urge my colleagues to vote "no" on H.R. 2212.

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

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding me this time.

Mr. Speaker, it is with great pride that I come to the well today to present to the House of Representatives H.R. 2212, a bill which renews most-favored-nation for China this year, but its renewal for next year is conditioned on improvements in human rights in China.

Mr. Speaker, I bring with me to the well a familiar picture to many of us here. This House of Representatives, Mr. Speaker, has been a bastion of democracy. You, the Members of the House of Representatives, voted to support and protect the Chinese students in America. You also voted last year overwhelmingly to condition renewal of most-favored-nation status to China.

□ 1650

Mr. Speaker, we see before us this familiar picture of a man before the tanks and can recall our impressions of seeing the live shots of this brave, courageous, young man there in Tiananmen Square. We have an opportunity today in this Chamber to stand with that man in support of democracy. That day the shot heard around the world 200 years ago was heard in Tiananmen Square. Hopefully today it will reverberate in the Capitol and over into the Senate.

Mr. Speaker, I am pleased to thank the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI] for his patience, assistance, and his support in this legislation; the gentleman from Florida [Mr. GIBBONS] whom I can always count on for his good advice; the gentleman from New York [Mr. SOLARZ] for his advice and counsel as well. Special thanks to the gentleman from Ohio [Mr. PEASE] for using his good offices to work on the Committee on Ways and Means to bring a consensus around this legislation.

I say to the gentleman from Texas [Mr. ARCHER] that this bill is optimistic. It is an optimistic bill. It is a bill that says we renew most-favored-na-

tion status with China with conditions because we believe these conditions are reasonable, and they are conditions that the Chinese Government should and can easily meet.

The gentleman from Illinois [Mr. ROSTENKOWSKI] has briefly touched on what the bill does. I will only say that it calls for the release of those prisoners who were arrested in events leading up to and surrounding Tiananmen Square, prisoners of conscience who demonstrated nonviolently for democracy in China.

First, at the outset may I say, Mr. Speaker, that my colleagues can vote for both bills. They can vote "yes" on Solomon, as many of them have already done, and they can vote "yes" on Pelosi. Solomon addresses renewal of most-favored-nation for 1991. My bill addresses it for 1992.

I would also like to thank over 150 Members of the House who cosponsored this legislation, enabling me to bring it to the floor with such great support and especially those colleagues from trade areas like mine where it is not all up-side to vote for conditioning most-favored-nation renewal. We have walked this ground before, as I said, in promoting and supporting those who promote democracy in China.

Now I would like to just talk about the bill for a moment, if I may. Mr. Speaker, I am glad that the debate today has generated so much conversation among our colleagues, and I would like to address three issues.

First, Mr. Speaker, is the human rights issue, and to those who say that things have gotten better since 1990, I say they have not gotten better since 1989. The trend which was going in a positive direction has now turned the corner and is coming down. The human rights report that was given by Amnesty International yesterday documents the imprisonments, the beatings, the torture, the repression that continues in China and that has worsened since 1989. The gentleman from Virginia [Mr. WOLF], our colleague who has a special interest in religious freedom in China, has talked about Bishop Fan of Shanghai who was arrested a few weeks ago in China in response to the Pope naming a Chinese cardinal.

On trade, the Chinese Government has erected barriers to our products. We know that. I would just like to comment on that a little more specifically—\$6 million in 1989, \$10 billion in 1990, a projected \$15 billion in 1991. That, Mr. Speaker, is the increase in the trade surplus the Chinese Government has with us.

No less an authority than the CIA issued a report on protectionism and trade with China, and in it they say that there is little appetite for economic reform in China.

Mr. Speaker, I would also like to quote from Senator JEFF BINGAMAN, who was quoted in the same article

when at a hearing on China's trade policy at the Joint Economic Committee. He said that, "It looks like the United States is one of the biggest chumps in the Western world." We look hopeless.

Mr. Speaker, we are not hopeless. We have opportunity, and we have opportunity today.

I pointed out the trade deficit in relationship to human rights, because that is what equals leverage for us. I do not believe that China will give up.

We have a unique opportunity to use our leverage to release those people who risked their lives for democratic reform. Given China's \$10, \$12, \$15 billion trade advantage with the United States, the Chinese Government has a strong incentive to make changes that would qualify it for 1992.

Because I do not have much time, I would just like to share with Members of the body this watch. Some have said that Tiananmen Square is something we should put behind us, and I wish we can, and maybe we can today by passing this bill. This was a watch given to the soldiers who crushed the rebellion. Each soldier was given a watch engraved with the words: "For suppressing the turmoil, June 1989." I think that this watch, instead of an award or reward for crushing the demonstrations, should be a reminder to the Chinese authorities that their time is running out, that they are yesterday and the young people who demonstrated for democracy are tomorrow. And it is ironic that this watch that they gave as a reward to their soldiers who crushed the unarmed students would be used here today to help us keep the time on this debate to condition most-favored-nation status on China's renewal on improving human rights there.

Mr. Speaker, I thank my colleagues and urge them to support H.R. 2212.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], a respected member of the Committee on Ways and Means and the ranking member on the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I rise today in opposition to H.R. 2212. I share my colleagues' abhorrence of Beijing's blatant disregard for human rights, its refusal to fully open its market to American goods, and its defiance of multilateral efforts to ban totally the sale of weapons technology to all third world countries. However, I believe that the steps we are attempting to take today will do little, if anything, to encourage the People's Republic of China to improve its behavior. It is foolhardy to believe that the Chinese will accept a list of conditions spelling out how their Government should conduct its internal affairs in order to engage in normal trade, since no other country imposes such conditions. MFN would therefore be withdrawn. Perhaps not this year, but certainly next year.

Make no mistake about it, H.R. 2212 translates into a 1-year plant closing notice for many companies operating in China.

In my mind, there is no better way to show Beijing that we disapprove of its actions than by rewarding Taiwan for its advances in freedom and democracy. As every good parent knows, rewarding change is the most effective means of improving behavior. The administration has it within its power to drive this message home to Beijing by supporting Taiwan's application to the GATT.

Short of taking this action, I support the measure which will be offered later today in the form of a motion to recommit with instructions, which gives the President the flexibility to determine whether progress in a number of areas has been made in China. This approach makes sense because it allows us to maintain a relationship with China and offers Beijing a blueprint for change. More contact with China—not less—is the best way to bring about greater freedom and respect for human dignity.

Nobody understands the need for continued United States presence in China better than the people of Hong Kong. Sir David Wilson, Governor of Hong Kong, sums it up best:

We must do everything possible to ensure that, in 1997, Hong Kong's capitalist system, and the rights and freedoms enjoyed by its people, are still flourishing and have the strength to survive the inevitable shock of the change of sovereignty. United States withdrawal of China's MFN status could bring about an economic recession that would jeopardize all our efforts.

The people of Hong Kong have as great an interest as anyone in an enlightened and outward-looking China. We believe that continued trade, contact, and communication with China will encourage openness, and that the withdrawal of MFN status would bring about a more isolationist mentality. This would be in the interest of neither Hong Kong nor the United States.

We also must not forget the effect removal of MFN would have here at home. Because China is a major supplier of low-cost shoes, apparel, toys, and electronics, raising tariffs and prices on these inexpensive products would disproportionately hurt lower income consumers. In addition, it has been estimated by the toy manufacturers of America that loss of MFN would result in approximately 25,000 United States jobs, and at least 300,000 jobs in China being placed in jeopardy in the toy industry alone.

Last month, on my way to the White House to meet with the President on the very issue which is before us today, I drove past the Commerce Department building. From my car, I noticed the inscription above the west entrance, which reads: "Commerce Defies Every Wind Outrides Every Tempest and Invades Every Zone."

I believe there is a great deal of wisdom in this poetic phrase, and I hope

that my colleagues will consider its message as we deliberate today over whether to allow commerce and all that it encompasses to prevail.

I urge my colleagues to vote no on H.R. 2212 and to support the motion to recommit with instructions.

□ 1700

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we begin this debate by declaring with the President, we have no desire to isolate China.

But we ask him to see what is obvious: Embracing China without conditions or reservations has failed to modify her behavior. And her behavior must be changed.

We granted MFN status to China as the stirrings of the democracy movement started just 2 years ago, when the rulers and the ruled looked to America for a sign.

Within weeks after MFN status was granted, the tanks rolled over students, thousands were imprisoned, reforms were reversed, freedom was denied, and tyranny prevailed.

When we granted MFN we provided moral encouragement to the Government and to the people who held the guns, and we left the students, the protestors, and the captives in their thrall.

Then the President did in private what he promised not to do in public. While in the open he scorned China's hardened regime, in secret his emissaries drank their champagne.

While in public he renewed China's privileged trading status, in private he watched them terrorize their people, prepare missile sales to Syria and Pakistan, spread nuclear weapons technology to Algeria, and rack up a \$10 billion trade surplus in this country.

Unbalanced and unfair trade with the United States builds China economically, increases its reserves of foreign capital, and makes China more self-sufficient and less prone to our appeals for human rights and restraint.

And American workers are the ones who get hurt by unconditioned trade: By some estimates, we've lost 400,000 American jobs.

Tragically and ironically, the President's policy is isolating China and insulating her regime from our influence.

This policy does not work. When we help China, they scorn us.

We should no longer reward this failure with more help for China—especially when that help comes without conditions and at the cost of American jobs and American values.

We should be using trade with strings to pull them toward reform.

Today, we say to China: You've got one year of open trade with America to clean up your act.

One year to respect the rights of your people.

One year to remove restrictions on your press.

One year to stop shopping goods produced by prison labor in American markets.

One year to end the trafficking and profiteering in nuclear weapons.

One year to stop this disgusting and coercive policy placing limits on family size.

One year, China; 1 year.

Mr. Speaker, no other nation has greater moral authority or economic capacity to enforce these demands on China.

Throughout our 214-year history, our Nation has actively and aggressively rolled the waters, so that a wave of freedom spreading from our shores would touch every continent in the world.

When it comes to furthering freedom and liberty, America makes waves, and always will.

Franklin Roosevelt, probably our greatest President, and one of our finest orators, said it best: "We defend and we build a way of life, not for America alone but for all mankind."

Through a determined process of engagement and leadership for democracy, we have said to the downtrodden, the oppressed, the enslaved, and the tyrannized, your cause is our fight too. And not by military means alone.

Granting and withdrawing the privilege of trading in America's marketplace is an effective means for prying open the locked jaws of liberty or to confront the behavior of tyrants.

I deeply disagree with the administration's decision to dismantle sanctions against South Africa before South Africa has finally dismantled apartheid.

But even the administration must acknowledge that the sanctions then-President Reagan and then-Vice-President Bush opposed 5 years ago brought us closer today to a truly democratic system of majority rule in that country.

Sanctions succeed.

Even now, the Bush administration relies on economic sanctions against Iraq. We have used trade sanctions to win majority rule in Zimbabwe, to free Soviet Jews, and to speed the overdue departure of dictators in Africa, and Central and South America.

And there is now perhaps unique agreement in the Congress that this special American commitment and strength should be used, in a measured and effective way, to bring about needed change and reform in China—change that would immeasurably improve the lives of the Chinese people, change that would ultimately enhance the security of the world.

So let us make waves that will touch the tides of the South China Sea.

In this great era of renaissance for the rights of man, we know from the

words of Walesa and Havel and Mandela and countless others that these actions are not just idealistic, they work.

And now they must be permitted to work in China.

We congratulate the gentlewoman from California for her courage, we thank the distinguished Chairman of the Ways and Means Committee for his leadership, and we urge our colleagues to support this important legislation.

Finally, Mr. Speaker, I urge my colleagues to support this important legislation for the human rights of people in China and across the world.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

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

I would like to take a few minutes to talk about most-favored-nation status, what it means when we say the words "most-favored-nation." That seems to give the connotation that we are going to give these people the finest deal in the world.

Actually, it is somewhat of a misnomer. There are two columns in the tariff schedule, column one and column two. It is very simple. We have laid out certain rules and regulations and laws to determine whether one's products come in under column one or column two.

Column two treatment is for Communists or nonmarket economy countries. Why? Why do we have a higher rate or a greater charge for nonmarket economy or Communist countries? Let us think about that for a minute.

Suppose you are a businessman and you are selling widgets that you manufacture in the United States of America, and you pay your employees Social Security and you pay the local school taxes and you pay your county taxes and your water taxes and your State taxes and your Federal taxes and you are part of the community. You pay to have the roads done. If you need a railroad siding, you pay to run the railroad siding. If you need more electricity, you pay the local utility to get more electricity. If you add more equipment that uses more electricity or gas, you pay to get that. So all of these costs are involved in the product, this widget, that is being produced.

You are in direct competition with this same product being produced in a nonmarket economy country. Is it fair? Is it a level playing field? Let us look.

Does the manufacturer in a nonmarket economy country pay for the electricity? No, not usually. Does he pay his employees? The money may come through him but the amount of pay is dictated by the state. Does he pay for the railroad that takes the product to market? No. Does he pay for the overhead? No.

If he wants to expand his production, how does he do it? He does not do it. A

central planner somewhere in the capital city makes a decision that he is going to expand his production, and they tell him to do it.

The point being, we are not comparing apples and oranges. This widget made in a nonmarket economy country, it is virtually impossible to determine an honest, fair cost on it. So how is the cost determined? How is the price of this product determined on the world market?

Well, those same central planners sit up there and they say, how much hard currency do we need?

□ 1710

Where are we going to sell this product? How much are we going to get for it? What do we have to sell it for, to penetrate certain markets?

That is how the price is determined. The price is not determined by the cost of his employees and the cost of the electricity, his school taxes, and other things that he has.

So why do we have two columns? Does it make sense? Of course it makes sense. It was, you might say, in a way to either protect or insulate the domestic producer from totally unfair competition, from someone who did not care about market economy.

Mr. Speaker, let me tell Members, Adam Smith never envisioned a world in which nations would develop product lines to secure hard currency. So we need two columns, column 1 and column 2.

In this instance we have a law in the United States of America, and that law says you get most-favored-nation status even if you are a nonmarket economy country, if you are leaning toward freer immigration. That is our little way of saying we want the world to be a wonderful, rosy place, where everybody can try to be as free and open as we are. We know it is not going to happen, but it is our little wedge, to say we are asking this one little thing. Just make your immigration freer, let your people travel and see what the rest of the world is like, have a taste of freedom, if you are not afraid to open that door just a little crack.

That is why we have MFN. That is why we have column 1 and column 2. That is what this debate is all about.

Mr. Speaker, if we follow the rules and regulations and laws, we will send this message. We will vote for Pelosi, and send a very strong message, that we will no longer stand for that type of abuse around the world.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from California [Ms. PELOSI] showed us a picture today that is forever etched in our memory. It is of a young man stop-

ping a column of tanks in Tiananmen Square. When it happened, and even now, I wonder as I look at that young man, what kind of inner courage must it have taken to walk in front of that line of tanks, and I wonder what kind of nerve we will have today as policymakers in trying to deal with China.

Mr. Speaker, I represent farmers who sell a great deal of grain to China. That trade is important to us. I do not want to do anything today that jeopardizes that trade. We have had experience with the Soviet grain embargo a decade ago that suggests that that approach shoots ourselves in the foot.

But the question today is not about a grain embargo or a trade embargo. The question is should we extend most-favored-nation status to China.

I think we should extend MFN to China, but I believe, as the gentleman from California [Ms. PELOSI] does, that we ought to extend MFN with conditions.

The barbarian behavior of the Chinese cannot be ignored, and it cannot be excused. We cannot pretend that Tiananmen Square did not happen. It did. The issues of human rights, prison labor, nuclear proliferation, and more are not insignificant. They are issues that we have the responsibility to raise.

China now has a \$10 billion surplus with us. To my constituents who want continued trade with China, I would say instead of wringing our hands, worrying, and being nervous that if we impose conditions on MFN, China will buy less from us, we should expect, yes, demand, that China buy more from us to reduce that trade deficit.

We should also expect and demand that China begin to behave like responsible citizens of the world, respectful of the rights of other human beings. So let's extend MFN to China, but let's do it with the conditions in the Pelosi bill. It is the right thing to do.

Mr. SCHULZE. Mr. Speaker, I yield 4½ minutes to the gentleman from Iowa [Mr. GRANDY], a member of the Committee on Ways and Means.

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in opposition to the Pelosi amendment and in support of a condition-free MFN status, because I believe we may ultimately convince the Beijing government to alter its oppressive human rights policies, but I do not believe we will ever coerce them. Mr. Speaker, I would relate a personal anecdote here. I was one of the first American television actors to actually work in the People's Republic of China back in 1983. I can recall one day in Shanghai, we finished our shooting early, got back on the bus, and went to the Chinese location manager. We said, "Okay, we are ready to go to the next location. Let's go."

He paused and said, "Yes, but the next location is not ready for you."

Mr. Speaker, what I think he was giving us an important clue to that Chinese frame of mind that we are attempting to change today by conditioning MFN status. Because what that Chinese location manager was saying to our film company in 1983 is the same thing President Yang Shangkun is saying to us, today when he says, "If you get tough with China, China will not be pushed." He says, "The more pressure you apply, the less China will give in."

So when we beat our breasts and decry Chinese arms sales to the Middle East, he points out, correctly, that the United States deals in arms to the same region, in many cases to the same country.

When we sanctimoniously proclaim MFN should not be extended to nations that destroy their own people, he points out, correctly, that our Nation currently extends MFN status to Syria, one of the cardinal suppressors of human rights on the planet, and our recent ally in the gulf war.

Rightly or wrongly, Mr. Speaker, when we preach to the Chinese, we find ourselves guilty of the same things we accuse them of; namely, operating in their own self-interest.

Then we argue that sanctions do have a positive effect, as in the case of South Africa.

Mr. Speaker, South Africa is a country of 65 million people, and even then we needed a coalition of nations united against apartheid. China is a nation of well over 1 billion people, and we stand alone.

If we really seek to isolate them, let us at least admit to ourselves that the first people to suffer if we withdraw MFN status will not be the Chinese people, it will be the American people.

The gentleman from Kansas [Mr. ROBERTS] has talked about the effects of another grain embargo on American wheat farmers. But he is not just speaking for wheat farmers, he is speaking for all cash grain and oil seed farmers who are seeing prices reduced systematically every year, who know that their only recourse to profit is export, and if grain sits in bins, it will not be sold. The price will be depressed, and farmers all over this country will lose money. We either sell it, or we smell it.

Mr. Speaker, there are others who are caught in this crossfire of our good intentions. I have a letter from the Tyco Toy Co., based in New Jersey. They say:

Tyco relies heavily upon imports of toys manufactured in the People's Republic of China because it enables us to be competitive in the United States market, providing toys children want at prices their parents can afford.

In addition, at least 1,400 United States jobs in our company, as well as countless additional jobs in other firms with whom we do business, are dependent upon Chinese production.

Were the United States to discontinue extending MFN duty treatment to Chinese

products, we would be severely affected. Duty rates would skyrocket from an average of 6 percent to 70 percent, effectively destroying our ability to provide low-cost quality products to consumers and very likely requiring us to cut back on related U.S. employment.

Mr. Speaker, finally, if we truly wish to subvert communism, then let us continue to use the one weapon the leaders of Beijing truly fear. They call it evolutionism. It is their term for our supposed U.S. policy of attempting to undermine totalitarianism with trade and investment.

Mr. Speaker, evolutionism is alive and well in southern China. Streets there are devoid of the socialist slogans we see in Beijing. Factories there presently operate outside of China's centrally planned economy.

Unfortunately, the Pelosi amendment, although well intentioned, is, as the gentleman from Illinois [Mr. CRANE] said, a plant closing notice for the forces of evolutionism, which are the only influence we will ever have to get China to move to the next location.

Mr. Speaker, let me just say in speaking about southern China, the dominant influence there is Hong Kong right now. If we strip away MFN, the chance that Hong Kong may ultimately reform China will be lost, and the assurance that China will reform Hong Kong will be guaranteed.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise in support of the Pelosi amendment.

Mr. Speaker, I rise today in support of H.R. 2212, which has been offered by our distinguished colleague, the gentlewoman from California, NANCY PELOSI. She has done a remarkable job pursuing this legislation, and she should be commended for her perseverance.

My support for placing conditions on most-favored-nation to China stems not from any desire to isolate that important country or see our bilateral relations ruined. Indeed, I am sympathetic to some of the President's arguments that greater economic contacts between the United States and China is one way to encourage political reforms. For the last 2 years since the Chinese Government ordered the massacre at Tiananmen Square, we pursued just such a policy. I think it is fair to say that President Bush has gone the extra mile in attempting to persuade the Chinese Government, through high level contacts and economic ties, to change its foreign and domestic policies.

But there comes a point, Mr. Speaker, when we must make a candid assessment of our relations with China and take appropriate steps to enact a policy which is consistent with our values and our interests. The fact is that the Chinese Government has treated the United States and President Bush's policy of accommodation with utter contempt. Despite the President's best efforts, China remains one of the world's most oppressive societies. The aging dictators in the Communist Party continue to deny the Chinese people even the

most basic human rights. People are routinely persecuted for their political and religious beliefs. The destruction of what is left of Tibet's culture continues unabated. Hundreds of those arrested in the aftermath of Tiananmen Square have been tortured, sent to kangaroo courts and political re-education camps, or simply disappeared. At a time when democratic change is taking hold in much of the world, China remains a glaring exception.

But if its internal policies are not enough to warrant placing conditions on China's MFN status, surely its foreign policies do. Mr. Speaker, in recent years we have seen China unleash an arms proliferation policy in the Third World that is dangerous, irresponsible, and presents a direct threat to our interests and allies. China has sold nuclear weapons technology to Iran, Iraq, North Korea, Algeria, India, and Pakistan. It has sold nuclear-capable ballistic missiles to Syria, Pakistan, and Saudi Arabia. And in the effort to gain U.N. approval to take military action against Saddam Hussein in the Persian Gulf war, the best President Bush could get from the Chinese Government was an abstention in the Security Council.

Furthermore, China has taken advantage of its current MFN status by enacting unfair trade and labor policies, including more than \$400 million in annual thefts of United States intellectual property rights and protected trademarks, that have caused our trade deficit to reach \$10 billion. China also continues to bar Taiwan, which has the 13th largest economy in the world and is our 6th largest trading partner, from gaining entry into the General Agreement on Tariffs and Trade.

Given these factors, Mr. Speaker, I believe that the Pelosi bill, which gives the Government of China 1 year to address these concerns, is a reasonable approach to this complicated issue. I understand that some industries in America will be negatively impacted if China fails to meet the conditions in this bill and is denied MFN status next year. But American businesses and workers are already being hurt by China's unfair trade practices.

Moreover, we are not placing unreasonable demands on China. By insisting that the Government of China improve its human rights record, stop selling dangerous, sophisticated military technology to radical Third World regimes, and change its unfair trade practices, we are merely asking China to act like a responsible world power and abide by civilized rules of behavior. The President's policy of the last 2 years, unfortunately, has failed to accomplish this minimum objective. The Pelosi bill will give strength and purpose to our policy toward China, and I urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2212 which conditions the renewal of MFN for China on improvements in basic human rights. I want to commend my colleagues in their bipartisan effort to bring this resolution to the House floor; particularly I want to note the strong leadership and relentless commitment shown by Congresswoman

PELOSI on this issue of critical importance to the United States and to the people of China.

In May 1989, when Soviet President Gorbachev made his historic visit to Beijing, hundreds of thousands of students staged a sit-in at Tiananmen Square, demanding that the Chinese Government recognize and respond to their pro-democracy movement and calling for a direct dialog between the demonstrators and the leaders. Thousands of them went on a hunger strike to underscore their appeal. In Beijing, Shanghai, and other cities, hundreds of thousands of citizens staged demonstrations and marches in support of the students' actions. On May 17, an estimated 2 million people took to the streets in Beijing in a show of solidarity for the students on strike. Those people included the rank and file of China: office workers, drivers, journalists, factory workers and civil servants.

On May 30, students and teachers created a 3-meter tall white statue of the Goddess of Liberty and erected it at the center of Tiananmen Square, facing Mao's portrait.

This short-lived counter-revolution ended tragically and brutally. In the early morning hours of June 4, the People's Liberation Army broke the uneasy stand-off in the square, opening fire on all those who dared stand up for freedom. Thousands of unarmed people were killed and untold numbers were injured. After the massacre a massive witch-hunt ensued; hundreds were summarily detained and later dozens were executed.

Mr. Speaker, it is important to remember these facts because this is not ancient history. The people responsible for the Tiananmen Square massacre are still the leaders of China today. We need to be clear as to the type of signal we are sending and to whom. I have no doubt that President Bush is genuinely committed to achieving democratic reform in China. But the administration's policy will not lead to that result.

Two years after the brutal massacre and 1 year after this administration successfully recommended a 12-month extension of the Jackson-Vanik amendment waiver authority—China has no freedom of the press, no freedom of assembly, no freedom of speech, no freedom of conscience, no right to emigrate, no representative government, and no self-determination. What there is in China—according to the Department of State's own report—are thousands of political prisoners, repression spanning the breadth of the country at every level, fear, forced labor, and torture.

In short, within the walls of China there is no realistic alternative to political and spiritual bondage. It is a society that remains tense, ruled by a government that has been successful in

quashing virtually all open expression of dissent. Systematically depriving its citizens of any possibility to exercise the most fundamental human rights and robbing them of the social and economic rights it claims to champion, China is a nation engaged in a dangerous waiting game, each citizen seeking to outlive a regime almost universally viewed as illegitimate.

Respect for human rights and fundamental liberties cannot be brought about solely by external pressure from the West in general or the United States in particular, crucial though this is. Ultimately, fulfillment of China's human rights obligations will only occur when its leaders recognizes the inevitable futility of trying to rule by force. The more vicious and cruel the leadership becomes, the more profound will be the people's reaction to it.

The administration is right that withholding MFN trading status may not be enough to pressure the Chinese regime to change its behavior in specific and critical areas. But while withholding MFN alone may not be enough, it is a start. Moral rhetoric alone may not force powerful regimes to respect the basic human rights of their citizens, but backing up our words with deeds may.

Over the past few years we have witnessed signs the world over indicating an increasing acceptance of a more open and constructive discussion of human rights problems and more promising action toward the realization of stated human rights goals. A collective consensus recognizing the dignity of the individual has emerged as a political issue with immense moral force in every region. Broad, widely-shared concepts of human rights, fundamental freedoms and social justice have surfaced. These compelling political issues have moved from the periphery to the center stage of world politics—certainly nowhere more so than at Tiananmen Square.

But if we are to prevent respect for human rights from being no more than the transitory hallmark of one short-lived era in international relations, if we are to ensure that they are an enduring principle upon which nations act, then we must here today apply those principles in our relations with the Chinese leadership. There should be no mistaking our message: The United States will not help underwrite the totalitarian regime in China or anywhere else.

Eleven years ago as a Presidential candidate, President Bush criticized the Carter administration for sacrificing strategic interests for human rights. At that time, candidate Bush stated:

We should not impose our standard of human rights on every country around the world. China is a good example. We must improve relations, but if we start dictating to them or cutting them off because of human

rights, we will diminish our strategic interests.

This is not only flawed reasoning but short-term thinking. First, the United States is not trying to dictate human rights standards to China. These are standards which the Chinese Government has itself endorsed in the universal declaration of human rights. And they are the standards to which the Chinese people—the people of Tiananmen Square—clearly want their government held.

Second, United States strategic interests are better served by a China controlled by prodemocracy forces rather than dictators. As we have learned in country after country in Europe, the United States develops its strongest alliances, engenders its greatest respect, and ensures its lasting security when we stand firmly and unequivocally for the principles upon which our own Nation was founded. To the degree that our actions must affect the Chinese nation, let it not be at the expense of individual freedoms and human dignity.

On behalf of those seeking individual rights and democracy in China and throughout the world—I urge my colleagues to support this resolution and insist that certain basic human rights be respected before renewal of MFN is granted again.

□ 1720

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding time to me.

Mr. Speaker, I rise in support of the bill, H.R. 2212, a measure designed to establish conditions for extension of MFN to the People's Republic of China. As an original cosponsor of this measure, I appreciate that it now includes a number of provisions that I believe strengthen the bill and bring balance and consistency to an array of human rights issues which mar United States-Republic of China relations.

Included in the bill from the last Congress is the provisions requiring that significant progress be made in ending religious persecution in China and Tibet, and releasing leaders and members of religious groups who have been detained, incarcerated, or under house arrest because of their religious activities. Mr. Speaker, religious freedom, in my view, is the most rudimentary of human rights. Perhaps troubled by the uprooting of communism throughout Eastern Europe, and particularly in Romania, and the role played by the church in these countries, Beijing has now initiated a nationwide crackdown on religion that is unprecedented.

Ever since my return from the PRC in late March, which I would point out parenthetically, along with my good

friend, the gentleman from Virginia, Mr. FRANK WOLF, and others, we met with Li Peng and a number of other high leaders, we have been receiving firsthand reports that the house church movement and a number of other religious leaders, including bishops, have been under increased repression and there have been more arrests, more detentions, and more incarcerations for a number of years.

Mr. Speaker, I am also very pleased that the bill reflects one of my deepest concerns, a concern with regard to the one-child-per-couple policy and the use of coercive abortion and coercive sterilization against the Chinese women and children. One of the most succinct analyses I have seen of the Chinese population control program is found in Dr. Aird's book in which he points out that "the Chinese program remains highly coercive, not because of local deviations from central policies but as a direct, inevitable and intentional consequence of those policies."

Dr. Aird points out that foreign organizations and individuals that laud the Chinese program or provide financial or technical assistance for any aspect of it place themselves in the position of supporting the program as a whole.

Mr. Speaker, I believe we have an obligation to be consistent in decrying these human rights abuses at every juncture, whether it be in MFN or in such things as the Kemp-Kasten language.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, there was a time when the realities of the cold war caused compromises of some of our most basic principles. From Marcos in the Philippines to the Shah himself, the cold, hard realities of the cold war required some compromises.

But is is a new time. The cold war has ended. America is secure and the need to compromise our basic principles has ended.

America can now return to her most noble and highest of traditions as the defender of basic human rights. The Pelosi resolution embodies this reality. Only the fact that we are divided today can surprise anyone, for demonstrators are jailed, trade laws are trampled, arms are sold to those who threaten our forces. Nuclear technology is used against our interests. Indeed, one wonders in this administration what must someone do to be the least favored nation if someone could commit all of these acts and be the most favored?

Mr. Speaker, there are those who will bring freedom one day to China. But today they have no allies, no weapons, no tanks but us. Our voices are their only weapon, this institution their only potential ally. Someday they will prevail, because freedom always prevails, and on that day it will be remembered by 1 billion Chinese either the

United States stood with a few ailing leaders intent on stopping the forces of freedom or America stood with those who would be free, who wage this fight today.

Let it be remembered in this hour of need America stood firm, America stood with freedom and it will never be forgotten.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Speaker, I voted against the resolution to disapprove most-favored-nation status for China, and I will also vote no on the Pelosi resolution, H.R. 2212, to extend MFN status but with unworkable and unrealistic conditions.

China has a deplorable record on human rights. There is no one in this House that condones the way the Chinese have treated prodemocracy supporters. And, in fact, Congress has gone on record to send this message to the Chinese Government.

This debate today, however, is about more than just sending signals about human rights or messages condemning the hardliners in the Chinese Government. The MFN debate is about taking action to foster the move to democracy in China and, so importantly, it is about our trade relationship with 1½ billion people and the impact that trade has on American business and industry.

Both our Government and the private sector, and our allies and trading partners, have invested more than just money. We've helped sow the seeds of democracy and free enterprise in China.

As any farmer will tell you, once you plant a crop, you have to nurture it and then prepare for the elements. If the weather is good you can expect a bountiful harvest.

In China, the seeds of democracy that were planted with the help of our Government have survived through some bad weather and now need our patience and support in order to be harvested.

American business and agriculture have invested heavily in the development of democracy in China. The contacts made by American business people in China, and business exchange programs, have helped the Chinese better understand our Government and the free market system.

It is this knowledge—it is the exposure to the "Sun" that shines on the free and open system—that can keep the seeds of democracy growing and developing.

Disapproving MFN for China, or extending it with such realistic conditions, denies that flow of information and experience to those we want to help and encourage.

Disapproving MFN also slaps American business, especially American agriculture in the face.

Except for Hong Kong and Macau, we have invested more than any country in China, more than \$4.11 billion since 1979. We had more than \$5 billion in exports to China last year, and we imported more than \$15 billion in 1990.

Regarding our wheat exports, which totaled \$511 million last year, the Congressional Research Service [CRS] recently completed a re-

port on the impact that the loss of MFN, and subsequent retaliation by the Chinese, could have on United States wheat prices.

Wheat prices are expected to drop by 27 cents, or 10 percent, from levels we could expect to earn if we continued MFN. The report continues to state "psychological effects of losing one of our biggest foreign wheat markets might push prices down even further in future time periods."

The most alarming aspect of this report, which I encourage my colleagues to review, pointed out that if one used 1990 wheat production data, rejecting MFN to China could result in a total Government and private wheat sector loss of more than \$740 million.

What are we going to tell our constituents who will lose their jobs because of the loss of Chinese exports and imports?

And may I remind this body that it was our strong export markets that softened the blow of the recent economic recession on our economy. Had we not had such a strong export capability, the layoffs and unemployment rates could have been much worse.

While I have no doubt of the sincerity of my colleagues who oppose unconditional renewal of MFN status, I cannot agree with their alternative, the Pelosi bill now before use.

I urge my colleagues to support the President's proposal for MFN renewal and, in doing so, I'm urging you to support both the forces of democracy in China and American business and agriculture.

Do not vote to again isolate China, leaving it only to the repressive regime that existed prior to the opening of their society to Western ideas. And do not vote to take away a valuable market for American trade.

Mr. BARRETT. Mr. Speaker, I thank the gentleman for yielding time to me. I did not support House Joint Resolution 263, and I cannot support H.R. 2212 and would ask my colleagues to do likewise.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the Pelosi resolution.

Mr. Speaker, I rise today in support of extending the most-favored-nation status to the People's Republic of China and in opposition to House Joint Resolution 263 and H.R. 2212 for three basic reasons.

First, my primary concern is for the American farmer. Denial or conditioning of MFN will result in the closing of the market for United States grain in China. Our agricultural exports to China were valued at over \$800 million in 1990 and China is the largest market for United States wheat.

Moreover, I am afraid that, through the denial or conditioning of MFN status, the United States will be entirely shut out of the China grain market. Competitors in Europe will quickly move in and fill the void in the Chinese market. Other agricultural products will be hurt by this as well. Corn, for example, is the preferred feed grain and will lose United States market share to cheap feed wheat if Chinese wheat markets are lost. This is the last thing the Iowa agricultural economy needs as it begins to recover from severe spring flooding.

Second, the Chinese people will be punished for the actions of their repressive Government. It is estimated that failure to extend MFN status to China will cost South China's export industries up to 2 million jobs. Through American investment and contact, Chinese workers have benefited from jobs and an enhanced well-being. Losing this contact will hurt the workers the most and not the Government heads in Beijing.

Finally, I, too, am appalled by China's poor record with respect to human rights, sales of weapons to our enemies, and religious persecution. But I do not believe that we should use denial of MFN status to solve political problems. Our country should pursue other avenues to punish the Government of China for its action rather than using the American farmers, workers, and industries as pawns in an international game of strategy.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER], a member of the Committee on Ways and Means.

□ 1730

Mr. CHANDLER. Mr. Speaker, I rise in opposition to H.R. 2212.

Mr. Speaker, not one of us thinks that Tiananmen Square was anything but a horrible tragedy. Not one of us will stand here and defend China and its human rights record, because it is indefensible.

However, how do we accomplish the goal of improving this record, a goal we all share? Will it work to literally cut off trade with China? My belief is that it will not.

Let me point out something else. Is there anything wrong with standing up for American workers? There is a two-way trade with China in the State of Washington that in 1990 amounted to over \$3 billion. China bought planes, wheat, forest products, electronics, and cattle from Washington State. Those products, Mr. Speaker, were produced by Washington workers, men and women whose jobs depend upon trade, trade, yes, with the People's Republic of China.

We will have later today a motion to recommit and a substitute, essentially the Archer amendment, which we considered in the Committee on Ways and Means that embodies recognition of the goals we all share. It calls for the President, in extending MFN for China, to consider human rights, political prisoners, religious persecution, free press, access for human rights groups to prisons and trials in China, the kind of conditions which I think are not only realistic but will be useful in attempting to achieve our goals. But these sanctions will not impose penalties on the totally innocent American worker.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill which would establish

conditions for the renewal of China's most-favored-nation status for China in 1992.

I am frankly mystified by the President's continued reluctance to apply any significant pressure on the Chinese Government when there has been no meaningful improvement in that Government's behavior since the Tiananmen Square massacre.

The administration seems to believe that it can buy internal reforms in China through trade preferences and economic assistance.

This approach is reminiscent of the administration's efforts to buy improved relations with Saddam Hussein. We all know the tragic consequences of the administration's failure to impose sanctions on Iraq. Apparently the President and his advisors have learned nothing from past mistakes.

Today, the administration wishes us to turn our backs on China's abuse of human rights in Tibet, its brutal repression of its own people, and its crucial role in the proliferation of nuclear and missile technology and extend most-favored-nation status without question or condition.

Such a policy is shameful and doomed to fail.

China remains the world's most egregious outlaw state on nuclear and missile proliferation. China has in recent years supplied sensitive nuclear and/or missile technology to Pakistan, India, Argentina, Brazil, South Africa, Iran, Iraq, Saudi Arabia, Syria, and Algeria. Despite repeated assurances to the contrary, the Chinese still provide the one-stop shopping center for any nation that wants to get into the nuclear club.

The human rights situation has not improved one iota. Prodemocracy demonstrators are still in prison; untold scores have been executed. Torture is rampant. And many have simply disappeared.

The repression in Tibet continues unabated. A de facto state of martial law was in place as China celebrated the 40th anniversary of what China calls Tibet's liberation in May. I assure you, no Tibetans were celebrating that anniversary.

And now, new reports have surfaced that China is using forced prison labor to produce exports. Are these the Chinese labor practices we want to endorse by giving preferential trade treatment to Chinese products? Mr. Speaker, we are allowing China to reap a projected \$15 billion trade surplus with the United States this year largely at the expense of American textile workers, not to mention the abuse of jailed Chinese.

If we unconditionally extend MFN this year, we will be saying to the Beijing leadership that executing prodemocracy activists is OK, that giving Algeria the bomb is acceptable, that selling missiles to the Middle East is fine with us. I do not believe this is the message that we want to send to the People's Republic of China.

Mr. Speaker, I urge my colleagues to support H.R. 2212. It tells the Chinese Government in no uncertain terms what improvements must be made if it is to receive most-favored-nation status in 1992.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I rise in support of the resolution.

I oppose granting most-favored-nation [MFN] status to China. MFN status should be a privilege and a reward for upholding values of freedom and democracy. These standards do not apply to the Communist-controlled regime in Beijing which does not observe basic freedoms of assembly, speech, or religion or provide for free and fair elections. I am particularly concerned with China's policies in the following areas:

First, China has demonstrated time and time again its flagrant disregard for nonproliferation regimes. In fact, China is significantly responsible for the proliferation of ballistic missiles in the Third World and to nations with interests inimical to ours. These ballistic missiles could 1 day carry weapons of mass destruction aimed at American troops, our allies, or even, potentially, the continental United States. The Chinese have sold the Algerians and the Pakistanis nuclear reactors; sold the Saudi Arabians billions of dollars worth of intermediate-range ballistic missiles; and have offered nuclear-capable missiles to Syria, Libya, Iran and Pakistan.

Despite recent indications to the contrary, there does not appear to be any unanimity in the Chinese Government that this practice will stop. In late March Chinese Foreign Minister Qian Qichen announced that China was not a founding member of the 15-member Missile Technology Control Regime [MTCR] and "should not be called upon to assume corresponding responsibilities." Will we have to wait until the Chinese sell their CSS-4, which has a range of 16,300 km, to take seriously the threat posed by the proliferation of Chinese ballistic missiles?

Advocates of MFN for China will argue that diplomacy will stem the tide of proliferation. I disagree. It is what the Senate Committee on Governmental Affairs called the China Syndrome.

A pattern of events and activities—driven by bureaucracies and fostered by distorted and unadjusted notions of economic and strategic interests—that has for decades frustrated the achievement of \* \* \* non-proliferation objectives.

Chinese proliferation policies are an affront to American efforts to enhance world stability and provide for the protection of her citizens and should not be rewarded with unconditional MFN status.

Second, the Chinese carry out a policy of forced sterilization and abortion

if a woman has already given birth to a child. This practice is an egregious violation of the human rights of the family. In 1988 I helped a Chinese couple from my district stay in the United States after the Chinese Government ordered them home to abort the child she was carrying. Their offense was that she did not have a birth coupon from the government which would have allowed her to exceed the "one-couple, one-child" policy.

Third, under the Jackson-Vanik statute, the decision on whether to extend MFN to Communist countries hinges largely on whether they permit free and open emigration, and on their human rights practices. The present constitution of the People's Republic of China does not accord Chinese citizens the right of free emigration. Since the Tiananmen Square massacre of June 4, 1989, the central authorities have made it more difficult for people to leave the country. Human rights abuses against the citizens of Tibet amount to nothing less than genocide.

Finally, the Chinese are illegally dumping products on the American market made by prisoners in concentration camps. And, they continue to support some of the most ruthless mass murders of this century—the Khmer Rouge in Cambodia. It is unacceptable for the United States to help the Chinese Government continue to coerce its own people and the people of other countries. For all of these reasons, I oppose MFN status for China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I strongly support this resolution. I commend the gentlewoman from California for her perseverance and leadership in this matter.

Mr. Speaker, I rise in support of H.R. 2212 to condition next year's renewal of most-favored-nation status for the People's Republic of China on progress on human rights. I commend the author of the legislation, Ms. PELOSI, for her determination and dedication to this important issue and of the chairmen of the Committee on Ways and Means, Mr. ROSTENKOWSKI, and its Subcommittee on Trade, Mr. GIBBONS, for their leadership in bringing this measure before the House.

Mr. Speaker, like most of our colleagues, I shared the outrage and dismay of the American people—indeed, of freedom lovers everywhere—as we witnessed the brutal massacre of unarmed Chinese students and peaceful democracy activists in Tiananmen Square 2 years ago. I supported the imposition of tough sanctions against the Government of the PRC to express our displeasure with this deplorable and tragic event and with the ongoing human rights violations in China and Tibet. Through those actions, the Congress made clear to the Chinese Government that there is no excuse for their inexcusable treatment of the Chinese and Tibetan people.

At the same time, I realize that efforts to support democratic reform and respect for

human rights in China cannot take place in a vacuum. We must find a way to reconcile our abhorrence of Chinese human rights abuses with the need to strengthen whatever reform tendencies may exist inside the PRC. I believe the approach offered in H.R. 2212, which establishes progress in the human rights field, including an accounting and release of political prisoners, as a precondition for China's MFN renewal next year, is both reasonable and necessary.

Mr. Speaker, according to the independent and respected human rights organization Asia Watch, Chinese prisons and labor camps hold more political prisoners today than at any time since the bloody and repressive period of the Cultural Revolution. The estimates of those arrested in the aftermath of the June 1989 crackdown on the democracy movement range from several thousand to as high as 30,000. This is in addition to thousands more who have been imprisoned for the nonviolent expression of their political or religious views over the last 10 years. Among those long-term political prisoners being held in solitary confinement is Wei Jingsheng, the renowned Democracy Wall activist, who has been imprisoned for over 12 years, much of that time in solitary confinement.

Until the Government of the People's Republic of China demonstrates its willingness to abide by international standards of human rights and the rule of law, it should not expect to reap the benefits of membership in the community of civilized nations. I hope that the Chinese leadership will take seriously the action of the Congress today and will soon improve significantly its record of respect for internationally recognized human rights. By passage of this measure today, the Government of the PRC is put on notice that, without such steps, the relationship between the United States and China will be seriously, and perhaps irreparably, harmed.

Mr. Speaker, I urge immediate adoption of this measure.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I have a question to ask of those who are still arguing that we should renew most-favored-nation status for China without conditions. How brutal does the Chinese Government have to be before we decide that it is no longer acceptable to carry on business as usual with Beijing's aging and autocratic tyrants? They have rolled tanks over the bodies of students who had the courage to risk their lives for freedom. They have left thousands of others to languish in Chinese prisons, facing torture and conditions any of us would consider inhumane. They have sold weapons and nuclear technology without regard for the devastation they may have wrought. They continue to brutalize the people of Tibet—and they even had the gall to celebrate the 40th anniversary of that country's occupation. Finally, they turn their backs on the very notion of civilized free trade by closing their market to most American-made imports. The real question

is: How can the President—or anyone else for that matter—justify this behavior by smiling benevolently at Beijing's tyrants?

Some argue that cutting off MFN will weaken any leverage we may have to press Beijing to improve its human rights record. Then it would follow that they would be enthusiastic supporters of H.R. 2212, the Pelosi, Pease, Solarz bill, which would grant MFN this year while conditioning renewal of MFN next year. That would give the ruling clique in Beijing plenty of time to take steps that all of us would agree are essential if the Government has any intention of returning to the path of civilized conduct.

We must decide whether we will stand with Fang Lizhi and the Chinese students and democracy activists who have spoken out in support of H.R. 2212, or whether we follow the President in conducting business as usual.

We must decide whether we will stand with those who represent China's future as a nation of free people, or with a group of frightened old despots who represent China's past. I urge my colleagues to support H.R. 2212.

Mr. Speaker, I urge my colleagues to vote for the future and to support H.R. 2212.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, I rise in support of renewing China's most-favored-nation [MFN] status for another year.

MFN status simply allows goods from a country to receive the lowest U.S. tariffs available to the exports of any other nation—virtually every nation on the globe already has MFN status, however, current law requires that Communist nations can have such status only if the President annually requests that they be accorded MFN status and Congress does not disapprove the request.

No one defends China's human rights abuses, but to me, there are two fundamental questions at hand: First, will cutting off MFN status improve China's internal situation, or will it actually have a detrimental effect—strengthening its hard-liners, isolating China in the world community and causing China to move backward on human rights? Second, so long as our allies continue to grant MFN status to China, and stand ready and willing to take our existing agricultural markets in China, will cutting off MFN amount to a political and moral gesture that largely has the effect of punishing American farmers?

I believe that terminating the trade links to the United States will cause the aging Chinese leadership to become even more isolated and less inclined to meet United States and international human rights concerns. A reduction in trade reduces the interaction of people and ideas between the two nations—exposure to the ideas and the prosperity of the west that gave rise to the prodemocracy movement in

the first place. MFN status encourages the Chinese government to remain engaged in the family of nations.

There are, of course, and will continue to be, a number of sanctions against the Chinese that are imposed even while MFN status is in place. Secretary Baker has pointed out in his letter to Congress that the administration will continue to impose targeted sanctions against the Chinese, such as termination of military exchanges and the denial of certain export licenses. The export of U.S. supercomputers, communications satellites and high technology equipment that may have military applications will remain in place. These sanctions are correctly aimed at halting Chinese proliferation of missile and nuclear weapons technology, and future actions can be taken by the Administration if improvements in Chinese policy are not forthcoming.

The second matter is whether ending MFN for China will cause American farmers to be the only real losers. It is almost certain that the termination of United States MFN status for China will result in retaliation against American exporters. The \$5 billion in United States exports to China will almost certainly go to American competitors in Japan, West Germany and other western nations which have always provided MFN to China. The Australians and Canadians as well as Europeans are especially anxious to take American grain markets from the United States.

According to a recent Congressional Research Service study, the termination of Chinese grain purchases would cause already depressed wheat prices to plunge by another 27 cents per bushel, or about 10 percent. This is a double-barreled loser, since this price decline would cost the Federal Government \$500 million in higher grain deficiency payments while farmers would still lose \$125 million on next year's crop.

China went from the 60th largest customer of American farm products in 1986 to the 8th largest in 1989. Wheat accounted for 80 percent of the \$1.4 billion sales in 1989, and 60 percent of the \$800 million in ag sales last year.

In sum, I believe that MFN status to China should be extended for 1 more year, after which this issue will necessarily be revisited by both the President and Congress. Failure to do so will be counter-productive from both a human rights and an economic perspective.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BATEMAN].

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

Mr. Speaker, I rise today in opposition to House Joint Resolution 263 and to H.R. 2212 regarding most-favored-nation [MFN] treatment for the People's Republic of China. While some have urged revoking MFN status as a means of forcing China to respond to our concerns over human rights violations, arms proliferation, and trade disputes, I am convinced that withdrawing MFN, or attaching unattainable conditions, would actually destroy our Nation's dialog with the Chinese Government on these very issues and adversely impact

our ability to affect any positive social, political, and economic change in China.

Despite ongoing United States sanctions against China, I understand the desire of many of my colleagues to send a strong message to the leadership of China—that the United States and its people condemn the actions taken by those leaders against their own citizens in Tiananmen Square in June 1989. Like all freedom-loving Americans, I watched the violence in Tiananmen Square. It repulsed me, the same as I am sure it appalled all Americans. That kind of brutality brings forth an emotional response—the complete rejection of China's authoritarian regime. However, the issue remains: Is revoking MFN status the proper vehicle to affect change? Visceral reactions aside, I believe it is not.

Despite rhetoric to the contrary, the administration and Congress share the same long-term United States foreign policy goals in China. Both want to see greater respect for human rights, a stronger Chinese commitment to global nonproliferation objectives, an end to unfair trade practices, as well as political and economic reforms in China. At question is how best to achieve these goals. I believe strongly that renewal of MFN promotes these objectives.

While some would have the public believe that the People's Republic of China does not deserve to be treated in a most-favored manner, the fact of the matter is that the granting of MFN status to a country is not a special favor and does not mean that country receives the most favorable tariff treatment in the United States. The term most-favored-nation is itself a misnomer; MFN treatment simply refers to a policy of nondiscrimination in trade. Despite its name, MFN status is actually the standard means of conducting international trade and does not signify approval of a government or its policies.

Although it is the standard basis of trade worldwide, MFN tariff treatment is, in fact, not the lowest tariff treatment possible on exports to the U.S. The U.S. has MFN treatment agreements with 160 countries. Such treatment provides that nations will not use tariff rates to discriminate against other nations. However, over 160 developing countries also receive additional, lower tariff benefits under the generalized system of preferences [GSP], in order to promote trade-based economic development. Only 11 countries do not enjoy the benefits of GSP or an MFN relationship with the U.S. Therefore, contrary to opponents' assertions, terminating MFN for China, a developing country, would deny tariff treatment that is not only routine for most developed countries, but also already less favorable than that accorded many other developing countries.

Critics of extending MFN status also argue that the United States should punish the hardline Chinese leadership for its actions in Tiananmen Square. However, I believe that the removal of MFN would punish not so much the leadership of China as it would penalize those Chinese who United States foreign policy ostensibly seeks to help.

China's MFN status over the past decade is widely recognized to have helped bring about greater political and economic liberalization in China. Foreign trade and investment continue to keep China open to the outside world and support the economic forces that have been driving political and social change. In turn, this phenomenon has encouraged a loosening of state control and has promoted better conditions for human rights and personal freedom.

As we debate this matter, we must not overlook the harsh economic consequences the withdrawal of MFN status would have on the commercial regions of China, Hong Kong, and the many United States businesses operating throughout these countries. Loss of MFN status would result in tariff increases at least tenfold greater on the majority of China's exports to the United States. Most of these exports come from special economic zones in China's southern coastal areas. These areas have operated for years in a greatly liberalized, free-market-type of atmosphere, and are widely thought to be at odds with the leadership in Beijing over many policy issues. The loss of MFN would do far more economic damage to these entrepreneurs and reform advocates, the very people the United States wishes to cultivate, than to China's leadership or to central government revenues.

The loss of MFN status would also create enormous new problems for Hong Kong, one of America's best trading partners, at a time when the colony can least afford anything that undermines confidence in its future. The health of Hong Kong's economy is increasingly tied to the growth of south China's export industry. China is Hong Kong's largest trading partner, accounting for 39 percent of total 1990 trade. Reexports from mainland China, which grew by 20 percent in 1990, underpin Hong Kong's performance. According to the Hong Kong Government, therefore, loss of MFN status could cut Chinese reexports via Hong Kong by up to 44 percent, or \$4.6 billion.

Chinese trade retaliation, resulting from the withdrawal of MFN, which would seriously damage United States business interests in Hong Kong, and China. According to the United States State Department, the United States has the largest number of regional headquarters in Hong Kong, with over 40 percent of the 252 offices. Almost half are engaged in trading activities with China, a principal market and

source of supply. United States investment of over \$6 billion accounts for almost one-quarter of foreign direct investment in Hong Kong. A 1990 U.S. Chamber of Commerce survey indicated that 70 percent of the approximately 900 U.S. member firms would be adversely affected.

If MFN is withdrawn, Chinese trade retaliation is certain, including reciprocal loss of MFN status for United States exports to China. Since no other countries are considering withdrawing China's MFN status, United States companies would be put at a competitive disadvantage. According to the U.S. Commerce Department, major U.S. exports at stake and their sales in 1990 include: aircraft and aerospace equipment, \$749 million; wheat, \$511 million; computers and electric products, \$860 million; fertilizer, \$544 million; chemicals, \$273 million; cotton, \$259 million; and timber and paper products, \$281 million. Closer to home, Virginia exports to the People's Republic of China exceeded \$83 million in 1990 while exports to Hong Kong were approximately \$281 million. Thus, withdrawing MFN status would threaten over \$5 billion in annual United States exports, undermine \$4 billion in U.S. investments and threaten thousands of United States jobs which depend on trade with China. The United States should be promoting the removal of barriers to trade, not the erection of constraints which cost jobs in our factories and ports.

The President's renewal decision has provoked an intense debate in the Congress not only about the appropriateness of extending MFN to China, but also about United States foreign policy toward China generally. However, the debate's focus should remain, as President Bush stated recently at Yale University, on selecting a policy that has the best chance of changing Chinese behavior.

I believe that MFN is not only good trade policy, it also facilitates the development of a broad range of relations with a foreign country. This enables us to engage that country on a wide array of issues of interest to us and, if appropriate, selectively to impose sanctions in those particular areas where we have fundamental policy problems. Our relations with China have followed this pattern.

Prior to our opening of relations with Beijing in 1971, the United States sought for 2 decades to isolate China economically and politically. The United States had virtually no trade with China, few social or political contacts, and almost no ability to influence its policies. President Nixon's historic opening to China enabled us to begin to discuss with the Chinese issues of mutual concern. However, it was not until MFN status was granted to China in 1980 that our relationship accelerated and we truly began to engage the Chi-

nese on a wide range of issues. The granting of MFN also profoundly increased our access to Chinese society and our impact on economic and political reform within the country. Withdrawing or conditioning MFN status for China threatens all that we have accomplished over the past 2 decades.

Revoking MFN status for China, or placing impossible conditions on it, will effectively terminate United States-Chinese relations, once again leaving the United States without influence and abandoning reformers within China. Moreover, no other country is planning to revoke or to introduce conditionality in extending MFN to China. On the contrary, the European Community dropped its economic sanctions last October, and British, French, Japanese, and other foreign ministers recently have gone to China to normalize their trade and political relationships. Since the United States is the only country contemplating withdrawing or conditioning MFN to China, such actions would have little prospect of producing the intended results and would likely hinder, rather than stimulate, desirable reforms in China. Revoking or conditioning MFN thus would have the effect of handing the China market to our competitors.

While all Americans are deeply concerned about the Chinese Government's abysmal record on human rights, arms proliferation, and trade matters, terminating MFN will not help to improve that record. On the contrary, denial of MFN will likely worsen these problems by providing the Chinese leadership and its xenophobic hardliners with an excuse to retaliate against United States interests, further cement their authoritarian rule, encourage a return to self-imposed international isolation, and once again exclude United States political influence from that country. Such an outcome would hurt most the very reform-minded people we are interested in helping. These will be the effects of MFN withdrawal.

The bottom line is that withdrawing MFN would seriously damage United States foreign policy interests, limit our contacts with China, weaken the economic forces for reform inside China, and hurt United States businesses and consumers. Our influence over Chinese behavior would be weakened, not strengthened. We should continue MFN because it is in our national interest. It enables the United States to stay engaged with China and pursue the issues which are of vital concern to the all of us. For these reasons, I oppose withdrawing or conditioning MFN status for China and agree with the President that it is wrong to isolate China if we hope to influence it.

□ 1740

Mr. DOWNEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I rise in support of the Pelosi bill. I think it would be a mistake for Members to take away MFN status from China, and the adoption of the Solomon resolution notwithstanding, I trust that the Congress will not override the veto of that legislation which we can expect the President to hand down.

By taking away MFN from China we would accomplish very little, but it would cost the United States a good deal. I think it would also be a mistake, however, to unconditionally renew MFN for China, because if we were to do so, it would send an unfortunate signal both to the Chinese Government and to the Chinese people, that we were indifferent to the cause of human rights in that country.

The most desirable way to deal with this problem, it seems to me, is to conditionally renew MFN for China, in order to make it clear to the Chinese leaders that if they want the continued benefits of MFN, they need to make progress in the area of human rights. Unfortunately, the very sound, sensible, and sophisticated legislation originally crafted by the gentlewoman from California, for which she deserves great credit, was amended in a variety of different ways by the Committee on Ways and Means, and in a fashion which may make it objectively impossible for the Chinese Government to meet the conditions, thereby resulting in the ultimate rejection of MFN.

Consequently, I vote for the amended Pelosi bill in order to keep this process alive, and in the hope that the conferees will come to their senses and clean up the legislation so that we end up with a bill we can send to the President, which has reasonable conditions, responsible conditions, conditions which the Chinese Government can meet, and which if it does meet will result in a significant improvement in the human rights situation in China. However, it would make no sense with a whole series of conditions which cannot and will not be met because that will not advance the cause of human rights in China, but will result in all sorts of disadvantages for the United States.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I guess in some respects I sound like a broken record on this subject. I hope and pray that the message I keep delivering will be determined to be wrong. However, I cannot help but think back to January 12 and the incredible gut-wrenching vote we cast in this House to go to war against Saddam Hussein.

Now, as we debate this today, there are U.N. teams scouring Iraq, as officials accusing Saddam of lying to the United States and to the United Nations about its weapons of mass destruction, and we are today giving a

most-favored-nation status to the world's greatest proliferator of weapons of mass destruction. It is hard for me to believe, and it is very depressing.

How many more wars is it going to take for the United States to understand the path that we are on? How many more lives are going to have to be lost before we get serious about ending the proliferation of weapons? We should prosecute the New World order that President Bush so eloquently defined. We should prosecute that New World order as diligently as we prosecuted that war.

To my friends on the side issue who say if we do not sell weapons, somebody else will, as a result of our victory in Kuwait, we are the preeminent superpower of the world. What that means is that we, as the preeminent superpower, can use our authority, our clout, our prestige, to tell the world and to pressure the world into stopping the spiral of sophisticated weapons being delivered into Third World countries, and to anybody else who wants to buy them.

We should accept this bill that the gentlewoman from California [Ms. PELOSI] has amended. I would prefer not to do this. I voted for Solomon. If this is the best we can get, this is what we ought to go with. The bottom line is, though, remember what we did on January 12. Let Members learn the lesson from it, and let Members wake up before the world spirals into a pattern of destruction caused by the sale of sophisticated strategic and nonnuclear weaponry.

Mr. DOWNEY. Mr. Speaker, I yield myself 4 minutes. It is prophetic that I have the opportunity to follow my distinguished colleague from Ohio [Mr. KASICH] who has eloquently discussed one of the pressing issues in this legislation; namely, the reprehensible activity of the Chinese with respect to the spread of nuclear information material and advice.

I want to address myself to that question in a moment, but I want to pay tribute to the gentlewoman from California for her extraordinary leadership on this issue. Rarely do we have someone who has been in the Chamber as briefly as the gentlewoman from California [Ms. PELOSI] who has had such an extraordinary impact on the direction of this particular issue. We are all in her debt for the work she has done.

The gentleman from Ohio [Mr. KASICH] made the point about the proliferation of nuclear materials. Let me just read for Members a number of things that are public information.

One, the continued aid to Pakistan's covert nuclear weapons program, including nuclear materials, nuclear weapons design information, and critical information about nuclear reactor technology. They have secretly supplied a nuclear reactor to Algeria and

denied having done so. They supplied low enriched uranium reprocessing technology to Iraq, and have supplied unsafeguarded nuclear materials to Argentina. They have sold enriched uranium to Brazil. Now, what our conditions require in the amended Pelosi language is nothing more than already exists in law. Today, the President, under 99-183, the Agreement for Nuclear Cooperation between the United States and China, passed in 1985, specifies that the President submit to the Speaker and the chairman of the Committee on Foreign Relations of the Senate, a report detailing the history and current developments in non-proliferation policies and practices of the People's Republic of China.

□ 1750

No such report has ever been submitted.

In the last session of the Congress, Public Law 101-246, the China sanctions bill which passed the House less than a month after Tiananmen Square, contained additional language concerning nuclear cooperation between the two countries, and it specifies the clear and unequivocal assurance to the United States that it is not assisting any other country in developing nuclear weapons devices or materials for such devices, and such certification has not been able to be given by the President.

So Pelosi, as amended by Rostenkowski, is the way to go if you want to express your concern about the proliferation of nuclear weapons materials and information and devices to the Chinese. There is no other way to do it, because the existing laws have not worked. This is the only opportunity we have to get the attention of the Chinese to stop what my colleague, the gentleman from Ohio [Mr. KASICH] has talked about, this willful disregard for global opinion about the spread of nuclear weapons technology.

The Chinese have to be stopped, Pelosi, as amended by Rostenkowski, does that.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to congratulate my colleague, the gentlewoman from California [Ms. PELOSI] for her hard work on this legislation. I think she has done a tremendous service to the Congress with all this effort.

Am I my broker's keeper? Yet bet I am. I think we all are. We all believe in human rights. We all believe in our fellow man, and yet I hear some of my colleagues on the floor today say in essence, "Let's close our eyes to what is going on the Communist China." I cannot do that, and I do not think anybody who really thinks about it should.

There are 10 million people in Communist gulags in Communist China

today, many of whom are participating in a slave labor program to export goods to the rest of the world, including the United States. It is estimated that last year we got \$100 million in products from Communist China that were made by slave labor in these 3,000 Communist gulags that have 10 million people in them. Those people stay in those prisons until they die. About 30 percent get out. The other 70 percent stay there.

Nuclear proliferation is a major issue, I grant you that.

The economic considerations we are talking about here today that affect Americans, that is important as well. But what about the 10 million people who are suffering in those gulags today and are literally slaves, making products that we consume in this country? Do we not care about them?

I say we should. For God's sake, we should, and then we think about those young men and women who wanted freedom in Tiananmen Square. Have we forgotten about them? Have we forgotten the Statue of Liberty replica that they erected in Tiananmen Square telling the world that they wanted the things that we hold dear, freedom, democracy, and liberty?

And yet what happened? We watched horrified on television as tanks came in and they literally ground those young patriots into dog meat, and we stand here today saying, "Let's close our eyes to that and give this Communist regime, this tyrannical regime, most-favored-nation status." I say no.

We need to send a signal not only to the Communist Chinese, but to the rest of the world that we stand for human rights, that we know there is a cost to be paid and we are willing to pay it, because we believe in our fellow man. To do less, in my opinion, is criminal.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill, conditioning the extension of most-favored-nation trading status for the People's Republic of China on genuine human rights reforms and arms control activities. Congress has threatened to do this ever since the brutal crackdowns symbolized by the massacre in Tiananmen Square. China has repeatedly ignored our concerns and our warnings.

However, I must say I am concerned about attaching too many conditions with too many or unrealistic aims. Our objective is to persuade the Chinese Government to change directions and return to the process of economic and political reform which was moving slowly, but at least moving positively, prior to June 1989. Realistically, we cannot expect a total transformation from Communist dictatorship to free democracy overnight. Setting conditions that basically require such a transformation will not yield the positive results we want. Rather, I believe they will push the hard-line Chinese Government in the opposite direction

ruining our already strained relations. We just don't know how far we can push China. I believe we should set realistic goals, require China to meet them and move on from there. In other words, we should attach conditions, but reasonable and responsible ones.

I believe that the Communist Chinese Government must be held accountable for the murder and continued imprisonment of thousands of peaceful prodemocracy supporters whose only crime was to publicly ask for greater freedom and democracy. Sadly, this is not the first time the Communist regime in China has used violence and bloodshed to enforce its will. Since seizing power in 1949, hundreds of thousands—some claim scores of millions—of Chinese as well as countless Tibetans have been murdered by the Communist Government. The overwhelmingly brutal force used by the Chinese Army to destroy the prodemocracy movement is abhorrent. The false charges and sham tribunals used to convict student leaders and sentence them to death by firing squad are outrageous, but should not have surprised anyone. Arrests and political harassment continue today throughout China and Tibet. Like many of my colleagues, I have already cosponsored and voted for resolutions that strongly denounce the brutal Chinese Government and protest all of its repressive measures. China cannot claim it has not been warned.

We have not stood idly by. Immediately following the Chinese Army's bloody attack on the student demonstrators in Beijing, the United States, through the White House, Congress and the State Department, strongly condemned the Chinese Government's action and President Bush invoked a set of punitive sanctions in response to this cruelty. These sanctions include suspension of all military cooperation and military sales, including commercial military deals; suspension of high-technology transfers and sales; suspension of any further meetings between senior United States officials and their Chinese counterparts; and postponing any consideration of supporting Chinese applications for loans from international lending institutions. I encouraged and strongly support these sanctions.

In addition, the mayhem created by the Chinese Government has resulted in the imposition of other informal economic sanctions. The evacuation of the vast majority of western businessmen and technical consultants has crippled many of China's industries, especially those involved in modernization and generation of much needed export earnings.

Events in China do affect our national security and global stability. For example, China could have, but it didn't, oppose our actions in the United Nations and in the Persian Gulf. A Chinese veto of any of the U.N. resolutions could have had tremendously negative implications for Operation Desert Shield/Storm.

As a nuclear power and major arms dealer, I am also concerned that a negative reaction by China to our MFN actions could result in China ignoring our efforts to halt the arms race in the Middle East, South Asia and elsewhere. That could be very detrimental to our national security interests.

While I recognize the importance of our relations with China and hope these ties will not be further damaged, the lack of real improve-

ment in the situation in China and the continued repression warrants tougher economic as well as political pressures. However, as I said, we must be very discriminating with any new sanctions to ensure that we are targeting the Chinese government, not the Chinese people who are trying to help. That is a difficult challenge.

During consideration of the fiscal year 1990 and fiscal year 1991 foreign assistance authorization bill I strongly supported an amendment instituting a more expansive set of sanctions against the Chinese Government. Among the new sanctions contained in the legislation are suspensions of Overseas Private Investment Corporation [OPIC] activities, nuclear cooperation with China, trade and development agency programs, and munitions export licenses. I voted for these measures as well as for the bill, which passed the House. I also co-sponsored, supported and voted for H.R. 2712, the legislation that protected Chinese students here in the United States from retribution from the Communist government.

I do not support the continuation of most-favored-nation [MFN] status for China unless it is conditioned by strict, certified Chinese adherence to human rights conditions. In other words, if China wants to retain MFN status—which due to the high volume of exports to the United States I believe the Chinese very much do—then real progress must be made on human rights. While almost every country in the world has MFN trading status and while I do not like to link trade issues with political ones, I feel this is one of the only ways left for us to influence China. Prior to the bloody massacre in Tiananmen Square in June 1989, I was encouraged by both the economic and political reforms being made by China. Sadly, the Chinese Government continues to move in the opposite direction today. While there is a real chance that the Chinese Government could react negatively to conditioning MFN status, punishing Chinese prodemocracy supporters and our global initiatives for actions by the United States, I also believe that there is a chance that it could provide the Chinese Government with an incentive to reverse current abuses and, once again, follow the path of real reform.

Denying MFN status to China will cost American consumers, particularly those in lower income brackets. Many inexpensive items, like everyday shoes and clothing as well as children's toys and inexpensive household items are manufactured in China. Due to international trade quotas and comparative advantages, replacing these items at the same low cost will be difficult at best. Because some of the goods imported from China require final manufacturing here in the United States, some American jobs could be at risk if MFN trading status is denied. Further, since we will be alone in these economic sanctions against China, I am concerned about the loss of American business to Japanese, Europeans, and others. In addition, we should be aware that Chinese trade with these other countries will mitigate the effects of our MFN denial on the Chinese.

The future of MFN trading status for China will also affect the transition of Hong Kong from its protected status of a British crown colony to an integral part of China as scheduled

to take place in 1997. Further, concerns have been raised that those who benefit most from economic exchanges with the United States and working with American businesses in China—students, reform-minded business leaders, workers and so on, will be hurt most denying MFN trade status.

However, despite the possible political and economic costs, I continue to believe that the morally right course of action is to apply realistic human rights conditions to MFN trade status for China. I hope, at the end of the day, we have a package of conditions that are acceptable to Congress and the Administration and will positively influence the Chinese to change their brutal ways. While a better package of conditions might be devised and I hope will be, I believe the best way to proceed at this time is with the Pelosi bill. I urge my colleagues to join me in voting for it.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, more than a decade ago, I helped negotiate trade agreements for this country as special assistant to the United States Trade Representative. I helped implement our first trade agreement with the People's Republic of China, the one that gave them most-favored-nation status in 1980. That was a time of great hope.

Today those hopes are threatened. More than 2 years have passed since the tanks rolled in Tiananmen Square, and it is past time to stop kowtowing to the Communist leadership in China. If we vote to extend MFN without conditions, we will be telling the Chinese Government that whatever they do to their own people and whatever crimes they commit against all humanity, we Americans nevertheless will continue to conduct business as usual.

However, if we vote for conditional renewal, we will be true to our principles as well as our interests.

We must prove, Mr. Speaker, that as much as we believe in the undeniable benefits of freer expanding trade, we believe even more in the fundamental human rights of all people.

Numerous American businesses have urged me to support extending MFN for China without conditions. Many are in my own district. They have come to me one at a time and I have asked each one of them in turn, "What, if anything, could the Chinese Government ever do that would be so wrong, so terrible that you would want to withhold or condition MFN?" Not one of them has given me an answer.

As the first former trade negotiator for this country to serve in this House, I know that trade is important; but I know, too, that America must stand for something more than merely the almighty dollar.

A few weeks ago, I had dinner in Florida with Zheng Hongye, the Chairman of the Chinese Trade Ministry. For more than 3 hours, we debated intensely the issues that entangle our

two nations. Again and again, I pressed him hard on the urgent need for reforms in China now. Finally, he held up his hand to call a halt, and he told me firmly that China and the United States are simply two different cultures, with two different histories and two entirely different kinds of values and that they should not be judged by the values that we hold dear.

I reminded him then of that most basic of human values that not only permeates all American thought, but also was voiced long ago by that greatest of all Chinese philosophers, Confucius: "All men are brothers."

Mr. Speaker, all men are brothers, and all men and all women in China and everywhere on this planet are entitled to basic human rights. The need for freedom, the longing for freedom, is universal, indivisible, and undeniable. The Chinese people deserve a real chance for freedom. By voting today for H.R. 2212, by imposing realistic conditions on the extension of MFN beyond this year, we can give them that chance, and we can remind the world anew that we Americans believe, as Confucius believes, that all men truly are brothers.

Mr. ARCHER. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. MICHEL], the highly respected Republican leader of the House of Representatives.

Mr. MICHEL. Mr. Speaker, and my colleagues, this is an issue on which men and women of identical ideology, I guess, and philosophies, can differ on the issue that is before us today.

I rise to oppose the proposal of the gentlewoman from California. The conditions embodied in her bill make it tantamount to a total rejection of most-favored-nation status, and that is why I oppose it.

□ 1800

I think it is generally understood that foreign policy questions should be decided on the basis of our national interest, yes, and of our values. So let me first turn to the question of our interests.

United States exports to China this year are expected to total about \$5.5 billion. Concerning major exports, their sales as of 1990 are: in the area of aircraft, \$749 million; fertilizer, \$544 million; cereals, \$512 million; cotton yarn and fabric, \$281 million; electric machinery, \$264 million; wood products, \$238 million; and chemicals, \$273 million.

In my home State of Illinois, in 1990, they had exports worth \$337 million to Hong Kong and China. Other States around the country can show similar gains.

Hong Kong, in which the United States has long been the largest foreign investor, will be devastated by the loss of most-favored-nation status for China.

I am reminded of the comments of the President this morning as members of the joint leadership sat around the conference table in the Cabinet room discussing this particular issue. The President discussed a number of other issues, particularly G-7, the meeting that was upcoming, and all the other issues that will come before that group.

But the President, as a matter of fact, in answer to a question that I posed concerning this measure this afternoon, offered his view. What would be the reaction of those who would be gathering next week in the G-7 group and all the other countries, if we, for example, were to deny MFN status to China? And he pointed out particularly our British friends and allies and their feelings with respect to Hong Kong and what happens a few years down the pike with Hong Kong and all the rest of it, affects us very, very directly in more ways than one.

Yes, it is true we have a large trade imbalance with China, but the Chinese are responding to that concern with new trade initiatives.

Moreover, not one country in the world is going to restrict their trade with China even if we do, and that means that we will be giving up our current and future share of the Chinese market to other nations.

Some say, "Well, this is only an economic question. What about our values?" I will get to that. But for the time being, on this issue of economics and being a competitor worldwide: I hear colleagues on the floor of this House bashing Japan, bashing West Germany, whomever, for unfair competition or whatever. Yet here we are with a billion people in the country of China, all of whom are striving for a better way of life, hopefully. Yes, it has been set back a great deal by what happened in Tiananmen Square. But we opened the door at one time and everybody's hearts were lifted by the fact that here was going to be a billion people who were going to have a better way of life and were going to enjoy the fruits of free trade among nations. And it seems rather ridiculous, ludicrous, that we should give our competitors an edge. People are down here on the floor of the House every day talking about how we are getting outfoxed, outmaneuvered, how can we be competitive again? And we are giving our opposition the advantage not only for today but in future years by doing to ourselves what we ought not to be doing.

And finally, American consumers will be paying substantially higher prices for goods made by the Chinese. There are those protectionists who say, "Block the doors, don't let anything in. We can make it all better." Well, yes, maybe we can on some of those items. But there is a difference, a cost differential. That is not the only item.

But the whole community of nations eventually, with that potential market out there, cannot be denied. We are a country that, frankly, can produce so much more than we can consume industrially and agriculturally. That is three strikes, as I pointed out here, and guess who is going to be struck out? Not the Chinese Communist leaders, not our global competitors, only American workers and their families.

Economic facts strongly support retaining MFN. Issues such as arms sales by the Chinese and nuclear proliferation are not going to be helped if we turn our backs on China. We do much better keeping the lines of communication open.

But even the best economic or foreign policy arguments do not matter if our national values are ignored.

So let us turn to MFN status in light of our values.

We are told we should not reward China for the atrocities of its leaders. That is true; cannot argue with that.

Our national values dictate that evil should never be rewarded. But did the United States reward Mao Tse-Tung in the 1970's by establishing diplomatic and economic ties with his regime after they had killed millions? No.

To the contrary, we established contacts with Mao's cruel regime in order to help as many of the Chinese people as possible. Not their leaders, but the people.

Playing the Chinese card was a pragmatic move, but it also reflected our basic values. As for human rights questions in Communist China, the issue has never been whether its rulers would be the beneficiaries of our trade, but the much broader one of whether the Chinese people would be the beneficiaries of American trade. And they have and will be all the more so as we move to expand our trade with China in future years.

Let me turn for a moment to our colleagues, especially those on my side of the aisle, who have long been engaged in the fight against communism. Many of us opposed Chinese communism in the days when it was not fashionable to do so, when we were told by some experts that the Chinese Communists were only agrarian reformers. Boy, how I remember that argument back in the late 1940's and 1950's when I first came to Washington.

So I know how you feel about Chinese communism. But principled anticommunism has always involved supporting policies that help the victims of communism. In the special case of China, and China has always got to be considered a special case, continuing engagement helps the Chinese people and serves our interests and our values.

Taking away most-favored-nation status is the diplomatic equivalent of carpet bombing the very people we are trying to help, in order to hit their leaders.

We need only turn to the words of Gao Xin, the journalist who was one of the last four hunger strikers on Tiananmen Square on June 14, 1989, to get it straight, and he says,

Cancelling MFN would help hard-liners. If MFN is withdrawn, the United States will lose the critical leverage needed to help the Chinese people.

The students of Tiananmen Square said, "Reach out your hand, reach out my hand, reach out our hands."

Will we continue to reach out our hands to the Chinese people through trade? Or will we withdraw the hand of comfort and hope and freedom from the Chinese people?

You know, there is no American interest and no American value served by abandoning the Chinese people, the whole of the Chinese people, because of their rulers' crimes. I would strongly urge that we support the President, support our national interests and our values and support the suffering Chinese people by upholding most-favored-nation status.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER.]

Mr. PORTER. Mr. Speaker, I begin by commending the gentlewoman from California for her leadership and for her commitment to human rights for all the people of China.

We would not be here today if China had not machinegunned and crushed hundreds of innocent students in Tiananmen Square in 1989. We would not be discussing this legislation if Chinese troops had not killed hundreds of Buddhist monks and Tibetans in Lhasa earlier that year. We would not be considering conditioning MFN if they had not hunted down and executed without trial thousands of innocent Chinese intellectuals and students whose only crime was to long for and work for democracy and pluralism within their country and had not put on show trials for others while United States attention was riveted in the Persian Gulf. We would not be concerned about MFN and China, if the leaders in Beijing had not authorized sales of sophisticated arms to renegade states like Iraq and Libya or helped Algeria build a nuclear reactor capable of producing weapons grade materials.

Despite all that, Mr. Speaker, we would not be here considering this measure if there has been any substantial recognition by the Beijing regime of standards of human rights and individual freedom.

But, Mr. Speaker, there has been none. Oh, yes, they hired Hill and Knowlton recently to polish up their image on the Hill. And they have done a few other public relations measures of a cosmetic nature to attempt to look good. But the bottom line, Mr. Speaker, is that there has been no progress since Tiananmen Square, no realization of how far out of step China

is under this regime with civilized standards and the direction of almost all other nations on the planet, no regret, no change in the direction they have taken down the road of repression, torture, and denial of the rights of the Chinese people.

The gentlelady from California has provided the Chinese leaders with clear guidance of what we expect of our relationship. We are not saying that we wish to cut off diplomatic relations, or to eliminate communication or cooperation with China. All we are saying is that we have markets valuable to the Chinese; that the trade balance is greatly in their favor; and that where there is no sharing of values, no coalescence of principles; we can think of no reason why they should have access to our markets with the same privileges as are enjoyed by nations who believe as we do.

I would also like to mention one provision of the Pelosi bill that I think is very important but that often gets overlooked next to all the other provisions. That is the condition that the President may not recommend MFN unless the President certifies that China is adhering to the spirit of the Sino-British joint declaration.

In 1984, Great Britain and the People's Republic of China signed the Sino-British joint declaration. This document sets the conditions under which Hong Kong will revert to Chinese control in 1997. The joint declaration guarantees that the people of Hong Kong will be allowed to maintain their governmental, judicial, and economic institutions for at least 50 years after the Chinese take control of Hong Kong.

In contrast to China, Hong Kong has a long history of economic freedom and prosperity. In addition, democratic institutions are developing at a rapid rate in Hong Kong. This September, the people of Hong Kong will go to the polls to elect members of the Legislative Council, Hong Kong's parliament, for the first time.

The Joint Declaration is the people of Hong Kong's only guarantee that China will not trample on their rights and impose a strict totalitarian regime as soon as it takes control in 1997. But the only incentive that China has to adhere to this agreement is international insistence that China meet its obligations. Conditioning MFN on China standing by its agreements relating to Hong Kong is exactly the type of pressure we must keep on China to preserve Hong Kong's freedom.

I thank the gentlewoman for including this important provision and for all of her hard work to bring this important bill to the floor. I urge Members to support the people of China and the people of Hong Kong and vote for the Pelosi bill.

□ 1810

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in support of H.R. 2212, legislation conditioning the extension of most-favored-nation status to the People's Republic of China. This legislation will restore balance to the United States-Sino relationship by reinvigorating American credibility on human rights issues in China.

Conditional extension of MFN will afford us valuable leverage over the behavior of the Chinese Government. However, we should remember that this leverage is not unlimited. With over 4 billion dollars in American investment in China, America has much to lose if revocation of MFN results in virtual collapse in Chinese trade relations. Our allies will not similarly revoke trade relations with China. They will surely rush to fill markets we abandon. While a stable trade relationship with low tariffs may be more valuable to the Chinese economy than to the American economy, we must be careful not to overplay our hand. If we do so, and load so many conditions onto the extension of MFN that the Chinese have little incentive to comply, then we will only have shown that once again the Americans have failed to grasp the essence of the Sino-American relationship. In an attempt to gain leverage over the Chinese Government, we will have lost any influence we might have had.

As a result, I opposed House Joint Resolution 263, the Solomon resolution, much as I sympathize with the frustrations of the sponsors. I will also oppose the en bloc amendments to the Pelosi bill which attach so many conditions, however worthwhile, to the extension of MFN that the concept of leverage is lost.

The en bloc amendment seeks to achieve several objectives which I wholly support. The U.S. Government must move aggressively to prevent the import of goods manufactured with prison labor, imports which already violate other statutes. I am fully in support of measures to press the Chinese to halt missile sales to Pakistan and Syria, and to place nuclear technology sold to Algeria under strict international control. Last, I want to reiterate my strenuous opposition to Chinese Government policies involving coercive abortion and involuntary sterilization. But on procedural grounds alone, I must oppose this en bloc amendment. I simply do not believe that attaching this list of provisions to the extension of MFN will change Chinese Government policy one bit. Instead, I believe the Chinese will walk away from the table and American policy will have achieved nothing, least of all progress on the human rights provi-

sions included in the Pelosi bill as it stands now.

The administration opposes the conditioning of MFN status to China. They argue that the United States Government now has the diplomatic tools available to improve the human rights situation in China and Tibet, to stop missile sales to the Mideast and Asia, to press successfully for wider market access for American Goods in China and better protections for American intellectual property. The administration is right—the tools are there, and if the President had used them aggressively earlier, I believe Congress would not be debating the issue of MFN today.

The administration also claims that MFN is a blunderbuss, and an awkward tool to try to influence Chinese policy. Again the administration is right. Once MFN were cut off, the United States would have to renegotiate another trade treaty with the Chinese in order to restore it in the future. American business, which has relied on a stable trading relationship with China since the completion of the last trade treaty with China in 1980, would take large losses as it struggled to adjust over \$4 billion in American investment in China to a drastically worsened bilateral trade relationship. American software manufacturers would lose any protections they might have hoped to gain through current negotiations on intellectual property now ongoing between the American and Chinese Governments.

Perhaps worst of all, cutting off MFN would most hurt the strongest force for social and economic change left in China—the entrepreneurs and businessmen. These capitalists, located primarily in the southern coastal provinces of Guangdong and Fujian, have gamely struggled on in spite of the political crackdown emanating from Beijing to their north. These dynamic economic forces, so important for the survival of the Hong Kong economy as well as the future of reform in China, rely heavily on the export trade for a living. Disapproving MFN would strike at the heart of the Chinese entrepreneur by virtually denying him access to the American market.

Issues demanding immediate attention in the United States-Sino relationship are numerous; but so too are the tools available to the President to press the American case. I would like to see the President move much more vigorously to use these other tools at his command, particularly in the human rights and international political arenas. Congress has resorted to MFN as a last resort—it is indeed a clumsy weapon. I believe we would be much more effective as a nation in advancing all of these causes if we focused the extension of MFN status on the resolution of the thorny trade problems we now have with the Chinese

Government. Our trade deficit with China last year was over \$10 billion and is likely to increase over 20 percent this year. In spite of a commitment in the 1980 trade treaty to implement intellectual property protections, the Chinese refuse to respect foreign copyrights. The American software industry loses over \$400 million a year in pirated software. Chinese investment barriers and obstacles to market access are the subject of ongoing talks but little progress is being made. In sum, MFN is a trade tool, and is likely to be most effective in resolving bilateral trade issues.

Mr. Speaker, the hardline elements who yet run the Chinese Government may still believe, as did the emperors of old, that they are the center of the universe. Their intransigence on matters of human rights, proliferation, market access, and intellectual property reflects an arrogance that only an emperor could dare adopt. H.R. 2212, the Pelosi bill, shows the Chinese Government that the torture of even one Chinese is a matter of worldwide concern, not an issue of domestic politics which they can refuse to discuss with impunity. While I would have preferred to use tools other than MFN to press this point, China must now realize that America will stand behind its principles—and that the arrogance of the past is unacceptable when principles of human rights are at stake.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRBACHER].

Mr. ROHRBACHER. Mr. Speaker, granting MFN status to the People's Republic of China is in many peoples eyes tantamount to an endorsement of human rights abuses, the sale of nuclear technology to Third World despots, and totalitarian dictatorship.

This body can grant Red China's regime preferential trading status, but it can not play Pontius Pilate. We can not wash away responsibility while we condone a regime which would have every Member of this House exiled, jailed, tortured, or executed.

Those who favor MFN for this Communist regime, claim it will result in a loosening of tyranny, an impetus to democratization. It is now 2 years after the Tiananmen Square massacre, and the hoped-for improvements in human rights and political freedom are nowhere to be seen. In fact, the situation is getting worse.

The idea that MFN will bring liberalization is just that, an idea—not a reality. It is an illusion which permits us to treat a ghoulish regime with the dignity and respect afforded to decent and honorable governments. Face the reality: Our colleague, Mr. WOLF, has been in China and he tells us the Chinese are using slave labor to manufacture products for export. According to a Nanking City yearbook, engines produced by prisoners working at the

Yinshau diesel engine plant "have sold well in Hong Kong, Australia, and Southeast Asia." Similarly, the Fuzhou City yearbook reported that "reform-through-labor camps of Fujian Province and their counterparts in 12 other provinces and cities are used to earn foreign exchange revenue and to promote an export-oriented economy."

Many of the Tiananmen Square demonstrators are still in prison, and if we allow the continuation of the status quo, the only message that Beijing will receive will be that its savage repression of the prodemocracy demonstrators was OK with us. The arrest and execution of democratic leaders is of little concern—profiting from slave labor is no big deal. Our actions today will speak much louder than our words.

On June 21, 1989, the PRC began executing individuals accused of committing "crimes" during the prodemocracy demonstrations on Tiananmen Square. In response, Secretary Baker expressed deep regret.

Instead of new sanctions, on July 7, 1989 the State Department allowed a waiver on military sales to China. In December Mr. Eagleburger and General Scowcroft met with high-level Chinese officials despite the prohibition on such meetings. What kind of message are we sending to the criminal regime in Beijing? What message are we sending to the democratic reformers and students who languish in prison or who risk death or imprisonment to keep the hope for freedom alive.

Ask our colleague CHRIS SMITH about religious persecution in China. This regime is murdering Christians, closing Mosques, and doing its best to stamp out any belief in God. Ask our colleague TOM LANTOS about the massacres going on in Tibet. This is genocide, there is no other definition. You can use other words to try to paint another picture, if it is an illusion. The problem is not the aging leadership in Beijing, but their morality, their unrepentant belief in the Communist system itself. This gang not only represses its own people, but sells advanced weapons to Burma, Iran, Iraq, Syria, and others. They transfer nuclear weapons technology to Iran, Algeria and perhaps other nut-ball regimes. They are rapidly becoming an outlaw nation—and should be treated like a pariah, not a business partner.

During this debate let us acknowledge that the People's Republic of China is not the only China. Instead of ignoring the abuse of power on the mainland, we should be lauding the progress towards democracy being made on Taiwan, the other China. The Chinese on Taiwan and mainland share the same culture and history. Taiwan is a showcase, the mainland is a basket case. The reason is found in the political philosophy that dominates these two Chinas. Taiwan's 22 million people outproduce China's 1.1 billion. They

have more freedom, enjoy greater political and social freedom, and they can worship God as they see fit and they don't pose a military threat to anyone.

Not only should we not be granting special privileges for the regime on the mainland, we should be taking positive steps toward free China. The freer China would like our recognition of the economic and political role it plays. Lets reward the China that is doing whats right, and quit making excuses for the bad guys.

I hope that those who are willing to support MFN for China are also willing to support Radio Free Asia, to acknowledge democracy on Taiwan, and to condemn the Chinese involvement with tyrants in Burma and Cambodia.

Mr. Speaker, I have a stake in this decision. In my district is the largest harbor on the west coast. Many of the large aerospace firms which do business in China are my constituents. But short-term profits are an illusion. A longer view, calls for steps that secure a deep friendship with those Chinese who believe in democracy in China. They are our allies in spirit and soul, they will prevail over the evil that has engulfed their homeland and when they do, they should know we were on their side, and the side of freedom and democracy, all along.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, the picture of China sketched before us in today's debate is not one that any of us can view favorably, but rather with despair. International organizations tell us that the human rights situation there has worsened, not improved. Prison labor is used to build products to export to the United States. China thumbs its nose at the Nuclear Non-proliferation Treaty and ships destabilizing arms to countries like Iraq, Iran, and, apparently, to Syria. Since Tiananmen Square, Chinese exports to the United States have doubled, while United States exports to China have shrunk. Today only one country—Japan—enjoys a greater trade surplus with the United States than does China.

Mr. Speaker, I realize the primary focus of today's debate is how the Chinese Government treats its own citizens, its own workers. However, I would like to raise the issue of how China has treated a number of workers in our own country.

Four years ago, a steel plant in Claymont, DE, closed its doors, idling over 600 workers. A year later, the plant was bought amidst great hope by Citisteel, a subsidiary of the China International Trust and Investment Corporation, which is an agency of the Chinese Government.

The plant's unemployed steelworkers and their union helped Citisteel obtain special State clearances so that the

plant's start up could be expedited. In return, the former Phoenix employees believed they would have a fair opportunity to fill the new positions at Citisteel. Instead, the new Chinese owners have consistently demonstrated a lack of respect for those American workers and their representatives.

Today 300 people work at Citisteel. Two hundred former Phoenix employees applied for positions, only 35 were hired.

This past May, the National Labor Relations Board ruled that Citisteel was violating the rights of its American workers and was guilty of discriminatory employment hiring practices.

To add insult to injury, Citisteel has refused to acknowledge the existence of the union which represented the former steelworkers and to date has not responded to a hand-delivered letter to the Chinese Embassy.

As we consider most-favored-nation status for China, I hope my colleagues will keep in mind not only how China has treated its own citizens, but in this one particular case, how they have treated a group of American workers here in our country.

There is something to be said for consistency. The Chinese have been consistent both at home and abroad. Should the reward for that nation's consistency be to give them most-favored-nation trading status without conditions? I hope not and urge support of the Pelosi bill.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, as the premier democratic legislative body in the world, we have an obligation to reflect American values to the world. In this regard, there is no serious dissent that the sentiments reflected in the Pelosi bill are expressive of consensus American politics and social philosophy.

What does exist, however, is a division of opinion on how best to advance within China a freer and more solidly founded ethic of democracy and human rights. Here the question advocates of the Pelosi approach must examine is the question of means, not ends, whether self-righteous congressional indignation advances or undercuts a just cause.

What is at issue is less a question of indignation than judgment—how Americans can play a role in moderating Chinese policies and liberalizing Chinese institutions. If history is a guide, it would appear that almost every effort to coerce China through economic isolation has not only failed but accentuated unpredictable xenophobic nationalism. On the other hand, almost every U.S. step toward constructive dialog has been met with a liberalized response.

Relations between states are always evolving. At issue is external as well as internal politics.

Generally speaking, government-to-government policies have the least effect on how countries structure their internal affairs, but often have substantial effect on how they structure their foreign policy. Here, this Congress must understand that in terms of the profoundest issue in international politics today—war and peace—China has generally been moving in a progressive direction.

To be particularly poignant, in terms of the gulf war, China was more consistently supportive of the President of the United States in voting in the United Nations Security Council than the majority American political party was in voting in the United States Congress.

With regard to the current situation in the Middle East, supporters of the Pelosi approach are correct in pointing out the destabilizing implications of past Chinese missile and nuclear sales to the region. Yet, if there is to be any hope of establishing, within the framework of a new world order, agreements on arms restraint, whether it be on international approaches symbolized by the NPT, to which I hope China will accede in the very near future, or regional arms control in the Middle East, China's cooperation—such as that evidenced yesterday in Paris with the tentative agreement by the permanent five members of the Security Council—will be vital.

No one in this Chamber should doubt that playing games with normal trade—daring to isolate China—jeopardizes the security of the State of Israel and any hope of reasonable arms restraint in the Middle East.

The irony that undergirds this frustration-laden legislative lodestone is that American foreign policy is on a roll.

Free enterprise, free trade, free politics, are gathering momentum in virtually every corner of the globe. The American Presidency in 1991 has never been more vindicated nor more generally acknowledged as the pinnacle of world leadership than at any time in the history of this country, save perhaps 1918 and 1945.

I recognize that in areas of foreign commerce the Constitution gives plenary authority to the Congress. Yet in a world in transition, a world in which a half-century hallmarked by geopolitics is giving way to one driven by geoeconomics, this Congress would be well advised to give the benefit of the doubt to a nondivisive, bi-institutional, bipartisan, approach to Sino-American relations. After all, what is at stake is the future of our relations with one-fifth of the world's population.

In this context, termination of MFN for China would have the perverse effect of most severely impacting on those elements of Chinese society we most want to support: The reformist provincial officials and entrepreneurial

business people and traders in south China, especially those along the Pearl River Delta.

Revocation of MFN would strengthen the hand of hardliners in Beijing who seek the reimposition of bureaucratic controls over the flourishing nonstate sector of the economy and who advocate reinstatement of Marxist orthodoxy in politics, philosophy, the arts, and science.

Revocation of MFN would seriously jeopardize the future of Hong Kong as well as Taiwan, and from an American agricultural perspective, revocation of MFN would be the equivalent of placing yet another embargo on soybean sales. Our action would be entirely unilateral and wholly out of step with the rest of the world. Two years after Tiananmen, no American ally is prepared to follow our lead.

Most importantly, revocation of MFN would reverse our historic "open door" policy to China in favor of a counterproductive "bolted door" approach, unilaterally ceding our progressive influence to the influence of others or possibly moving the world's largest country in a chaotic autarkic direction.

At issue from the perspective of the Chinese people is whether their country is economically going to be brought into the 21st century a la Taiwan or a la Ethiopia. Here let me remind this body that just 30 years ago, just prior to the cultural revolution, 2 million people starved to death in a single Chinese prefecture. Does this Congress dare suggest that it is a humanitarian policy to slam shut America's traditional open door policy and shut down the free enterprise movement that has allowed China to feed its population, to plant the seeds of a free political movement?

At a time in history when the nexus between commerce, diplomacy, and the roots of national power is becoming ever more manifest, a quixotic policy of economic self-abnegation toward the world's most populous country would represent the apogee of congressional folly.

Defeat this self-defeating legislation.

□ 1820

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, let me express my sincere appreciation to the gentleman from Illinois [Mr. ROSTENKOWSKI], the distinguished chairman, for yielding time to me. I also want to commend the distinguished gentleman from California [Ms. PELOSI] for the magnificent leadership that she has provided on this issue from the very moment that the tanks murdered the Chinese students in Tiananmen Square.

Mr. SPEAKER, I rise in strong support of H.R. 2212, a bill to place stringent human rights conditions on the

renewal of most-favored-nation [MFN] trade benefits for the People's Republic of China.

More than 2 years have passed since the brutal massacre at Tiananmen Square, when hundreds of prodemocracy demonstrators were killed by Chinese troops. Thousands of demonstrators were arrested; many were executed; others remain in prison even today. In the meantime, the Chinese leadership has continued to arrest political dissidents, extract forced labor from prisoners, and suppress free speech and assembly.

In addition to these clear violations of internationally recognized human rights, the Chinese Government has contributed to the proliferation of ballistic missiles and nuclear technology; and run up a huge trade surplus with the United States based, at least partially, on forced labor.

This continuing pattern of gross violations of international law proves one thing beyond any doubt: that President Bush's policy of accommodating and defending the Chinese hardline government has completely and dramatically failed.

Indeed, not only has the policy been unsuccessful, it may actually have contributed to the obstinacy of the Chinese Government, which continues to ignore its international obligations.

Yet even though the President's hands-off policy has manifestly failed, he has again asked Congress to give China unconditional trade benefits. The House of Representatives overwhelmingly rejected this view last year—and we should do so again today.

The legislation before the House, H.R. 2212, includes a very simple and sensible approach to United States trade policy in China. The bill does not suspend MFN—in fact, it explicitly allows for the continuation of MFN benefits for 1991. But the bill stipulates that the President cannot extend trade benefits in 1992 unless he certifies that China has met certain human rights conditions.

I urge my colleagues to give their strong support to this legislation. Given the President's threat to veto any conditions on the renewal of MFN, this body will be sending two signals with this vote: first to the Chinese Government, whose policies have made them the object of worldwide condemnation; and second, to President Bush, who apparently needs to be reminded that his China policy has no support in Congress or among the American people.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

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

Mr. Speaker, I rise in support of H.R. 2212. While I commend my close friend and colleague the gentlewoman from California, Ms. PELOSI, for her leader-

ship on this issue, I do not feel the legislation goes far enough. In order to immediately address U.S. national security, economic and human rights concerns we should not hesitate to send the clearest message we possibly can to the Communist leadership in Beijing: That we will no longer tolerate missile and nuclear sales; that we will no longer tolerate a \$15 billion trade deficit earned on the back of American labor and political prisoners; and, we will no longer tolerate the occupation of Tibet and the ruthless repression of prodemocracy forces in China. I believe that the best way to send such a message is by cutting off MFN.

However, my good friend, the gentlewoman from California, has high hopes and noble intentions and if her legislation becomes law we must see that its every word and thought is followed through by specific deeds and action. If what we want is the end to the Communist hardliners regime in Beijing, and not just the regime's loosening its hold on a few key dissidents, we cannot continue to prop it up by paying its bills year after year.

Despite my reservations, I believe that Ms. PELOSI's bill is well thought out and I believe if it becomes law it may very well lead to the cutoff of MFN in 1 year. Hopefully, China will listen. Accordingly, I support H.R. 2212 and commend Ms. PELOSI for her outstanding leadership for human rights in the People's Republic of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in support of the Pelosi bill and in favor of renewing China's most-favored-nation status. While I am in disagreement with the administration's position that this privilege should be granted unconditionally, this is not an easy side to take. The gruesome memories of the events that occurred in Tiananmen Square just 2 years ago are still vivid in my mind, and the knowledge of the continued repression of human rights is equally disturbing. Several other factors must be considered, before following a path that would only serve to isolate the Chinese rather than draw them closer to the international norms of trade and democratic political ideals.

During the years in which China has had MFN status, the volume of trade between China and the United States has been substantial. Some of the most important markets in China for United States exporters include grain, machine tools, aeronautics, and high technology products. More than 1,000 American companies have committed over \$4 billion to long term, United States-Chinese joint ventures. Revoking MFN status would jeopardize this investment.

Trade is crucial to the development of China as well. It not only provides

China with an important source of hard currency, but, more importantly, it provides a vehicle for the influx of Western ideas and values, as well as a medium by which our Government can continue to be an impetus for reform. If we revoke most-favored-nation status, we significantly weaken our bargaining position with the central government. While present conditions in China indicate that our influence has been somewhat ineffective, one must also consider the type of society with which our Government must negotiate. Ideology and trading practices in China are characteristic of a society completely foreign to our own. Change must be instituted with care. Revoking MFN status is not the most effective means of doing so.

Our goal should be to help to reform China so that it evolves into a society that shares our respect for human rights, democratic principles, and market-oriented economics. Revoking MFN would not severely wound the repressive central authority, but rather those attempting to push for reform. Southeast China is home to the most progressive political thinkers in the country. It is also the most entrepreneurial area in China. This is not just a coincidence.

We can be successful in achieving our goal by renewing MFN status but attaching to it certain tough, but fair, conditions. For this reason, I support H.R. 2212, introduced by my friend and colleague Congresswoman PELOSI. This bill allows the United States to maintain its trading status with China while at the same time it acts as a force for change. If the conditions of the Pelosi bill are not met by the Chinese Government, MFN status will not be renewed next year.

I believe that this is the best decision that can be made given the complex nature of this controversy. MFN status can be an effective tool if used correctly. Revoking MFN outright in this situation is clearly inappropriate.

□ 1830

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

Ms. NORTON. Mr. Speaker, I extend my congratulations and appreciation to the gentlewoman from California [Ms. PELOSI] and the gentleman from Illinois [Mr. ROSTENKOWSKI] for their outstanding leadership on this issue.

Mr. Speaker, I rise today in support of H.R. 2212, legislation that would make MFN status for China in 1992 conditional upon significant progress toward human rights goals, and would bring our country closer to the goal of one standard for human rights in the world.

China might finally get it, if we denied MFN status altogether. However, given the low human rights standards

of the Bush administration, the Congress now needs super majorities to ensure passage of human rights legislation. Facing this reality, I believe that making MFN status conditional upon human rights improvements is the most viable option.

Mr. Speaker, many countries, such as the Sudan, Romania, and Chile, have been denied trading preferences for violating precisely those workers' rights that MFN status would give China.

Why should China be rewarded? Is it like the megabanks, too big to fail? Where is the elusive single standard for human rights?

Mr. Speaker, I was privileged to be the only Member of Congress to participate in a press conference yesterday at the release by Amnesty International of the Amnesty International Report, 1991. This very highly respected annual report indicates that thousands of pro-democracy protesters arrested last year are still detained, without ever being tried or charged.

Amnesty International also recorded 750 firing squad executions, which represented the highest number since 1983. In China, those who did not conform to the politically correct religion are subject to detainment, harassment, and arrest.

The Bush Administration perpetuated these problems by renewing China's MFN status only 14 days after the Chinese Government implemented martial law in 1989. We were told at the time that MFN trade status was the 'key to our eventual hopes for a more democratic China.' Today, the evidence is that MFN has encouraged the oppressive human rights status quo. In fact, the policy has been another failure in a long line of attempts to promote democracy by granting MFN status in advance of reforms. Granting of MFN status to Romania, Poland, and the Soviet Union resulted in increased government repression which retarded the reform process. Poland finally reformed when we withdrew MFN status and the Communist Government had no choice but to negotiate with Solidarity. Let this experience finally be our guide. Unrestricted MFN status for China is undeserved, unwarranted, and unwise.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I rise in opposition to the Pelosi bill. Last year I supported the legislation of the gentlewoman from California [Ms. PELOSI], which would have imposed conditions on the extension of China's most-favored-nation trade status for 1991. I felt that some conditions should be applied, so that the Chinese Government might attempt to reform its policies toward human rights in order to keep its MFN status with the United States.

Although I strongly support many of the goals included in H.R. 2212, I intend

to vote against this bill because I am concerned about what I consider a backdoor approach to actually revoking MFN status with China.

Mr. Speaker, I share the concerns of many Members that H.R. 2212 imposes much more stringent restrictions than last year's legislation would have enacted. I am concerned that H.R. 2212 would seriously harm United States businesses that have invested in China, and put at risk over \$5 billion in United States exports to China, a gap that Europe and Japan will surely fill.

Mr. Speaker, our greatest industry, our other manufacturers which now export to China or in some way benefit from imports from there, our American workers, would indeed lose through the elimination of MFN for China. Japan and Europe will be the gainers.

Even more importantly, I fear that H.R. 2212 will hurt the Chinese people more than the current leadership, because it will sever all links that enhance their well-being through jobs and support for human rights.

However, while I will vote against this bill today, I intend to closely watch China's progress on human rights reform. If I am not satisfied that the Chinese Government has made significant improvements in its policies, then I will not support the extension of MFN next year.

Leaders of China, heed the vote today on Solomon, heed the concern of the American people regarding your human rights and other policies addressed by this legislation. Change your thinking, or in the final analysis, you and your people, particularly your people, shall be ultimately the losers.

However, today, let us not yet sever our relationship, which affords us the opportunity, and hopefully, influence, to help our American workers, along with the little people of the People's Republic of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, last November I had the opportunity to make a private trip to mainland China, and I would like to share my perspective as we debate whether to extend China's most-favored-nation status. During my visit, I had the chance to meet with people from all walks of life, from farmers to teachers to individual storekeepers to government officials to students. One cannot visit China without being amazed by its size, its immense population, and, unfortunately, an overwhelming government rigidity that is a dark contrast to the freedoms we enjoy under the banner of democracy.

There is no question that many in China are striving for and working toward economic reform. I saw many examples of individual entrepreneurship, and there is no question that the future China will be a major trading nation, with worldwide exports. But today China is basically a controlled economy with an authoritarian political system. Why should we extend

favorable trade status to a Communist nation that puts many businesses and industries in my home county of Jefferson in direct competition with a country that pays its workers 37 cents an hour?

Current law forbids Communist countries from receiving trading benefits, and allows it only if the President annually requests this benefit. There are numerous reasons not to waive the clear mandate of current law . . . from China's brutal crackdown on peaceful pro-democracy demonstrators in Tiananmen Square to its apparent abandonment of its program of democratic reform to its refusal to sign the Nuclear Nonproliferation Treaty (the only major nuclear power to refuse) to its shipment of sophisticated weapons around the world and to Iraq.

China has rapidly developed a favorite trade balance with the United States; today it is over \$10 billion and climbing. Certainly we should not provide favored nation status to this Communist nation at this time and should not support any presidential waiver of current law until conditions are dramatically improved for the people of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, today I rise to join my colleagues in support of H.R. 2212.

Most-favored-nation status is a means for the United States to express its support for another nation and to encourage that nation to continue the policies of the past.

When we opened the door to China in 1980, we expected the People's Republic to move toward democracy and to move toward improving the lives of its citizens. For a while this policy worked and China opened its arms to the West. But since the Tiananmen Square massacre in 1989, the Chinese have used MFN and our accommodation to manipulate our markets and hurt our economy.

Our trade deficit with China last year was more than \$10.4 billion. Our trade deficit for the first quarter of this year is over \$2.2 billion. Our trade deficit with China since the Tiananmen Square massacre has totaled over \$18.6 billion. It is obvious that the Chinese Government is attempting to bankroll its repressive regime and compile huge reserves of foreign currency. To maintain a favorable trade surplus, the Chinese Government has used compulsory prison labor to produce goods for export and has manipulated the market to keep their prices unrealistically low. In many cases, Chinese goods are being sold at prices less than the raw materials it took to make them.

By offering MFN to China in 1980, the United States graciously extended a hand to China and offered to help them move into the democratic world. The People's Republic of China have twisted this hand and are using our goodwill to bolster their repressive regime and as a tacit endorsement of their status quo. We must send a message today

that we will no longer turn our backs to the cries of those oppressed and will no longer be manipulated by our trading partners.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I rise in strong support of the Pelosi bill and urge Members to do likewise.

Mr. Speaker, Members know of my longstanding friendship and affection for the Dalai Lama of Tibet and the people of Tibet and what they have been through under the occupation and the oppression of the Chinese.

The Dalai Lama himself told me in one of his visits to this country several years ago that he had talked to people who had been beaten in Lhasa, the former capital of Tibet, with boards that had nails driven through them. They were pounded and pounded until they confessed to whatever it was the Chinese had in mind. Those stories are legion and I do not need to recount them.

□ 1840

But one thing one of my colleagues said earlier this evening was that the Pelosi bill is the wrong way to deal with the Chinese, that they will do exactly the opposite of what we tell them to do. That reminded me of a story.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I rise in strong support of the Pelosi proposal. I do so despite the regret I expressed earlier that the Rules Committee did not make in order my amendment that would have called on American business to follow a code of conduct in China similar to the Sullivan principles. It prevents political harassment on the premises of American businesses and stops buying of forced labor goods. I think such a code of conduct would have been very helpful in making American business a partner in the struggle for human rights in China. I hope at a future time the House will get to vote on that measure, as it did last term.

Nonetheless, on the issue before us I think the gentlewoman from California has come up with a principled, balanced approach. My distinguished colleague from Iowa said look at the history of China. I look at the history and I come up with a different answer than he does. I look at the history of the last year or two with unconditioned most-favored-nation trade status. Has it produced any change in the condition of prisoners in China? Has it produced any change in the jamming of the Voice of America? Has it produced any change in the harassment of Chinese students on American soil? The answer is no.

That calls for a different approach, which is what we have before us. It is

an approach that uses incentives, uses leverage. If it does not work, we can go to revocation, we can even go back to unconditional extension.

Some of my colleagues have said let us be realistic, let us show realism about our economic interests. I am for being realistic. But there is nothing wrong with having a moral element in our foreign policy. Taking a principled stand here will not only help enhance our status as a leader in the free world, it will help our realistic economic interests in the long run.

Believe me, a China that is repressive and totalitarian 5 or 10 years down the road is not going to be a good partner for American business. A China that we help move toward better treatment of human rights will be a far better business partner.

I urge support of the Pelosi bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, as a cosponsor of H.R. 2212 and a strong supporter of forceful action on our part to bring an end to human rights abuses in the People's Republic of China, I rise to urge my colleagues to approve this legislation.

We simply cannot ignore the atrocious human rights record of the Chinese Government; it would be totally inappropriate to grant China preferential trading benefits with the United States. Since President Bush extended MFN for China last year, the human rights situation has not improved. By the Chinese regime's own estimates, over 270 prodemocracy demonstrators remain imprisoned without trial. It is perfectly clear that the administration's favorable policy toward China has not been successful, and that we must hold the Chinese Government accountable for its actions, in a very direct and forceful way.

While democracy and freedom are sweeping the world, the Chinese dictatorship keeps the Chinese and Tibetan people under Communist rule without any pretense of justice or basic freedoms. The status of the United States as the world's preeminent leader of democracy must not be compromised through appeasement or acquiescence to the Chinese regime. From the bloody massacre of the pro-democracy demonstrators in Tiananmen Square to the current barbarous treatment of political prisoners and dissidents, the brutal Chinese regime has distinguished itself as a human rights abuser on a monumental scale.

China has also sold highly advanced weaponry to unstable governments such as those in Iran, Iraq, and Algeria. Many of these nations have a declared intention of building nuclear weapons. If we are to control the spread of weapons of mass destruction in a meaningful way, we must show China that we will not tolerate its unwise, wide-open pursuit of arms sales.

As a cosponsor of this legislation, I believe that the conditions it imposes on granting MFN for China next year are totally appropriate. These conditions have to do with basic human rights that all governments should respect. There is no reason to allow China the benefits of MFN without a dramatic improvement in their despicable human rights record. I urge my colleagues to support this bill.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of the Pelosi bill, H.R. 2212, which places conditions on the renewal of most-favored-nation [MFN] status for the People's Republic of China [PRC]. The bill would require that China make "significant progress" in the area of human rights before receiving MFN status next year.

In March, CHRIS SMITH and I travelled to the PRC. We went to discuss a variety of human rights issues with Chinese leaders, including religious freedom. We presented Chinese Premier Li Peng with a letter signed by over 100 of our colleagues along with a list of 77 Catholic and Protestant bishops, ministers, and lay people who were in prison or under house arrest.

We have since learned that several of these prisoners were released before we left for China. However, only one has been freed since then. Unfortunately, the Chinese Government has demonstrated that it is continuing its policy of religious persecution by arresting Bishop Joseph Fan Zhongliang of Shanghai in June. Just when we are looking for China to take one step forward, they take one step backward.

In addition, Chinese authorities continue to hold democracy activists such as Wei Jingsheng and Wang Juntao in prison. As late as April of this year, two human rights activists were arrested for advocating further reform. The Chinese Government is choosing to rebuff international pressure regarding human rights reform and continuing to imprison people because of their political beliefs.

The Chinese Government is also refusing to allow thousands of its citizens to join relatives in other countries, including the spouses of several dissidents in the United States.

Regarding trade, the picture is no better. The CIA recently reported that China is continuing to put up import barriers. At the same time China is trying to avoid United States import quotas by transshipping goods through places such as Hong Kong and Macao. On top of that, we know that throughout much of the 1980's, the Chinese Government approved the use of prison labor to make goods for export.

During our trip to the PRC, CHRIS SMITH and I visited Beijing Prison No. 1 and saw prisoners making socks and plastic shoes. Since that trip we have

obtained evidence from Asia Watch which indicates that as late as October 1988, the Beijing municipal prisons, including the prison we visited, were making socks for export despite Chinese statements to the contrary.

In addition to human rights abuses and unfair trade practices, China is continuing to sell nuclear technology and nuclear-capable missiles to states such as Pakistan, Syria, Algeria, and now Iran, and all this despite American diplomatic pressure and technology sanctions.

Mr. Speaker, I keep looking for the Chinese Government to make positive changes in these areas, but instead of seeing progress, it almost seems as though China's leaders are intent on pushing America's patience to the limit. It is almost as though someone has written the Chinese Government a plan to ruin their chances of getting MFN, and they are following that plan carefully.

The Congress of the United States has an opportunity today to help the Chinese people. We must take a strong stand in support of attaching conditions to China's MFN status. The Chinese people want American trade, but they also want the freedom to enjoy basic human rights. I believe that the Pelosi bill is the best way to help the Chinese people have both.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, first let me commend the gentlewoman from California for the vigor and the effort that she has put into this very important issue that is before us.

Mr. Speaker, the renewal of China's most-favored-nation [MFN] status is a serious question in light of China's poor human rights record.

Also in question is the confusing signal the administration is putting out on their own human rights efforts around the world. While human rights and democratization programs are a high priority for emerging African nations, we close our eyes to the aspirations of the young people in China and erected the Statue of Liberty in Tiananmen Square.

The President opposes the \$20 million we voted for the U.N. Population Fund to continue their family planning programs around the world because of reports of forced abortions in China. Yet, the human rights of thousands of women in other countries will suffer.

And what about workers rights? While the administration proposes a free-market economy around the world, Chinese workers are denied basic freedoms and the right to join unions of their choosing. Many of these workers are in prison where they are making garment and other wearing apparel under slave-labor conditions. These very garments along with other

low-wage apparel imports are wiping out thousands of U.S. jobs.

At the same time many of these same garments are transhipped through other countries such as Macao, thereby violating the terms of our bilateral textile trade agreement with China.

Our country's failure to continue MFN status without conditions would send a signal to other freedom-loving countries that the United States condones trade agreement violations, and just does not care how China treats its citizens.

My 10th District of New Jersey, including Newark, has many working people, with high unemployment. Inexpensive Chinese shoes are flooding our market.

But no worker would stand proud in those same shoes knowing the cost in human sacrifice and human rights violations that makes their production possible.

That is why the only right thing to do is to put conditions on extending MFN status to help our people, and help the people of China.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, this amendment and the accompanying bill give us the opportunity to have an ideal marriage between practicality and principle.

All of the arguments have been made. This debate is drawing to a close. What is not drawing to a close is the agony of the Chinese people.

Anybody who has gone through it with the students who have had to come to the United States, the students who were here at the time of Tiananmen Square, will never forget it.

This is our opportunity to make sure that the Chinese understand in the political world and that we in the United States understand in our political world that it is decisions in the political realm that drive the social and economic forces in China and not vice versa, and in order to accomplish that, human rights is fundamental. It is basic to seeing that the political decision is made. It is imperative that we pass this bill. It is imperative that we send this message to China.

In the process, we will find, as Americans, that we are standing up for principle, that we are standing up for human rights, that we are standing up for the people of China and for the workers in the United States.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, as someone who spent a lot of years dealing with foreign trade particularly in the Pacific rim countries before coming to Congress, I would like to offer maybe a little different perspective,

one that is not politically motivated, but I hope is anchored in reason and common sense.

I think what we are after is the correct goal, but unfortunately we are using the wrong tools to get where we want to be. What did Richard Nixon and what did Jimmy Carter teach the Soviet Union by putting trade and economic sanctions against them? What did we teach Saddam Hussein by putting economic sanctions against him? We lost markets for American products, American factory workers, and American farmers.

The old hardliners in China are in their eighties, and the good Lord is going to take care of them in a very short time. The new movement that is coming on in China, the Mayor of Shanghai, the Governor of Kwangtung Province, and so on realize that for communism in China to survive they have got to infuse a bit of capitalism to make it work.

For those in this body who are upset with what the Japanese have done to us, watch out what happens when China takes hold in the world of trade. I am concerned about human rights for the Chinese people, but I put more concern over the human rights of American farmers and American factory workers who will be put out of business and put out of jobs as we lose another trading partner and give it to the other nations of the world.

I do not think that \$5 billion worth of trade each year is something we should slough off because we disagree with what someone does. Let us do things that affect the Chinese Government, not the Chinese people. Take the help that we give them in their family-planning programs and some of those kinds of things which foster and promote their Communist form of government, but do not take food out of the mouths of the Chinese people and out of the American farmers' and the American factory workers' hands.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I oppose most-favored-nation (MFN) status for China. It is neither in the best interests of China—and by that, I mean its people, not its rulers—nor in the best interests of the United States.

Only Congress has the power to stop the President from extending MFN status to China, and I hope we will do so.

I oppose MFN status for China for three reasons.

First, human rights. I think we should apply sanctions to let the People's Republic of China (PRC) know they must pay dearly for treating their people so oppressively.

Two years ago, the Governors of China ordered no less than a massacre of students demonstrating for democracy. Since Tiananmen Square, the Chinese Government has continued to

punish Chinese citizens who express anything short of wholehearted support for their Government. Thousands of Chinese have been jailed; numerous dissidents have been executed. Last year, when MFN for China was being debated, President Bush argued that through trade, we could persuade. According to this argument, MFN gives the United States leverage and influence with the Chinese Government. I have not seen the results. While bilateral trade has increased, China's human rights record has not improved.

I also oppose MFN because in trade as in human rights the Chinese have not reciprocated. China accounts for the second-largest share of the United States trade deficit; it is the largest exporter of textiles and apparel to the United States. Our country now runs a \$10 billion trade deficit with the PRC, and that deficit is projected to increase. Of the \$10 billion total deficit, \$3.68 billion comes from the deficit in textiles and apparel trade. Almost 14 percent of our total textile and apparel imports, or 1.7 billion square meters equivalent, come from the PRC. This deficit represents thousands of American jobs lost. What can I tell the unemployed textile worker in South Carolina that we have gained in return for his loss? Certainly not an ally or friend we respect in light of the way the Chinese treat their people; and certainly not a fair trading partner in light of growing trade deficit.

In fact, the U.S. Customs Service estimates that more than \$2 billion worth of Chinese textiles and apparel came to the United States by fraudulent means in 1990. Why should we reward such a trading partner with MFN status?

Finally, I oppose MFN also because of China's persistent policy of selling nuclear materials and nuclear technology to non-nuclear nations. China is the only major nuclear power in the world that is not a party to the Nuclear Non-Proliferation Treaty; and not only have they not signed it, they have willfully ignored its purposes. There is ample evidence that the PRC has helped nations such as South Africa, India, Pakistan, and Brazil develop nuclear weapons.

I know so many countries enjoy MFN status that it means a lot less than the name implies. But I take the name literally; I am opposed to saying that a nation like China, guilty of abuses we all acknowledge, should be called a "most-favored" nation. So, I urge support for both House Joint Res. 263, which would withdraw China's MFN status, and for H.R. 2212, imposing conditions on extension of MFN status to China. I would prefer to see enactment of House Joint Res. 263, a flat MFN withdrawal over H.R. 2212, a conditioned withdrawal. However, the President has pledged to veto both bills when they reach his desk, and I believe

Congress has a better chance of overriding a veto of H.R. 2212. Therefore, I urge strong support for H.R. 2212.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, the administration's policy is the modern-day equivalent of appeasement.

The Chinese continue to imprison their own citizens. They continue to sell dangerous weaponry around the world, and the United States steps forward to choose this nation at this time to continue MFN. If we have ever seen a case where a nation has slid back in the direction it chose it is China. China does not deserve MFN.

The policy of appeasement failed with Saddam Hussein. This administration maintained the policy until August 2 of protecting Saddam Hussein and assisting his Government. Appeasement has not worked in the past, and it is not going to work, not with the octogenarians in control of China today, nor with those who will follow them with the same policies unless America stands up for the men and women who suffered in Tiananmen Square.

Mr. GRANDY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, my Wisconsin congressional district is home to one of the largest Chinese student populations in America. During the crackdown on peaceful protestors in Tiananmen Square those Chinese students at the University of Wisconsin watched the Government terrorize their family and friends who had gathered to promote change and progress. When the Chinese students marched in this country they always feared Chinese Government spies would report the students' support for democracy back home putting their academic careers and their families in jeopardy. In the months that followed that crackdown they agonized over the fate of the protestors at Tiananmen Square and the uncertainty of their own future.

Today, Congress has its chance to promote change and progress in China and I support H.R. 2212 as the best way to do that. H.R. 2212 extends to the Government of China the benefits of most-favored-nation trade status as well as sending the unmistakable message that the United States expects reform in return.

This legislation calls for an accounting of the political prisoners being held because of their activity associated with the protest at Tiananmen Square and ultimately their release. This and other human rights provisions of the bill should have been demanded of the Chinese Government 2 years ago and we should do so today if China expects to do business with the United States.

It is obvious that very serious problems exist in China and we must at-

tempt to find solutions. The Chinese students and their friends and colleagues in my district are calling on us to help them change their country. A conditional renewal of MFN provides the means and the incentives for progress in the policies of the Chinese Government.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma [Mr. EDWARDS].

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Mr. EDWARDS of Oklahoma. Mr. Speaker, I want to compliment the gentlewoman from California [Ms. PELOSI] for this excellent piece of legislation.

I heard a colleague of mine say a few minutes ago that while there were good people on both sides of this debate, and there are good arguments on both sides of this debate, while I agree there are good people on both sides of the debate, I do not agree that there are good arguments on both sides of the debate.

A short time ago, some brave young men and women in China stood up for the things that this country has always stood for, for freedom, for democracy, and they put up a statue of the Statue of Liberty in Tiananmen Square. Now we are being asked to turn our backs on what they fought for, in order to be able to sell a few more products.

Let me tell Members, there is nothing in the Pelosi language that will stop trade with Communist China. It does not stop imports. It does not stop exports. It merely says that we will not give China the extra lower tariff, special treatment, that we reserve for our best friends. How any Member in this Chamber can argue that they are our best friend is beyond me.

I compliment again the gentlewoman from California [Ms. PELOSI]. I hope all of my colleagues will vote for this bill. I think they should have voted for the Solomon bill, as I did, but I certainly hope that the House will give a resounding vote to the Pelosi language.

Mr. ARCHER. Mr. Speaker, I yield myself the remaining 2½ minutes.

This has been an excellent debate. I think good arguments have been made on both sides. There is no way for any one Member here today to predict with a certainty, with an absolute certainty, which approach is the best. We all want the same goals.

I would clarify one point. Speakers have said MFN is the lowest tariff, it is the best treatment we give only to our best friends. That is not true. Mr. Speaker, we have much lower tariffs for others, below MFN. Some of them are called GSP. Some of them are called free-trade agreements with no tariffs such as we have between Canada, and with Israel. To say that MFN is the best tariff treatment we give to any one country is not accurate.

Let me say that in my judgment, and I have a great deal of confidence in our

President who has as strong a desire for human rights as any Member in this body, but who has more expertise and knowledge on China than anyone in this body, who believes that the best approach is to leave some flexibility of negotiation, not to have rigid conditions that actually cannot even be determined whether they have been fully met or not, that will slam the door automatically in the face of an opportunity to continue to have dialog and engagement with the Chinese. I happen to believe that is the best approach.

I will be offering a motion to recommit which will incorporate many of the desired goals that we have talked about today in the debate. However, it will do it on a basis of giving the President the responsibility of reporting back, so that we will have that information for our decision next year, but it will not automatically slam the door on dialog engagement, an opportunity for leverage with the Chinese.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield the remaining time, to close debate on this side, to the gentlewoman from California [Ms. PELOSI], who has done a very good job of orchestrating not only the debate, but getting accolades from both sides of the aisle, a gentle person who has worked very hard on this.

Ms. PELOSI. Mr. Speaker, again, I thank the chairman for his support and assistance on this important legislation.

Mr. Speaker, today, the House spent a day debating how we can use our leverage to improve on trade, to improve human rights in China. We took this time because this issue is not only important to the people of China, but more importantly, because it is important to the people of the United States.

It is important for at least three reasons: For strategic reasons, because of China's participation in the proliferation of nuclear weapons; for economic reasons, because of the impediment to our trade into China, and the implications that that has on American jobs and on American workers; and on another reason of principle, because we, in passing this bill, will be living up to the principles of our democracy and the promise we extend to other countries when we broadcast on Voice of America a message of democracy.

I thank my colleagues for the excellent level of debate and their attention to this issue. I believe that this is a bill that the House wants, that is an optimistic bill. I am hopeful that the bill will pass and become law. I am hopeful that the prisoners will be freed. I am hopeful that democratic reform, which is inconceivable to the authorities in Beijing now, will be inevitable to the young people who demonstrated there. I am hopeful that most-favored-nation status for China can be renewed next year with pride instead of with shame.

Mr. Speaker, I want to in closing thank the staff of the Committee on

Ways and Means for their assistance in this matter, and recognize Craig Middleton of my staff for his assistance, and again thank all our colleagues.

I would like to take half a moment to thank my constituents in my district because many of them depend very heavily on trade from China. Many of them are from China. They would like to see most-favored-nation status continued. However, they are Americans now, and they know that their economic success that they have gained in this country cannot be gained on the backs of prison laborers and on the backs of those who deprive people of the right of freedom of speech, religion, or press. They are Americans now. This is an American response. I think it is sensitive to Chinese concerns.

I urge my colleagues to vote yes on H.R. 2212.

The SPEAKER pro tempore (Mr. TORRES). Under the rule, the previous question is considered as ordered on the committee amendment and on the bill.

The question is on the committee amendments.

The committee amendments were agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

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

The SPEAKER pro tempore. Is the gentleman from Texas opposed to the bill?

Mr. ARCHER. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill, H.R. 2212, to the Committee on Ways and Means with instructions to report the same to the House forthwith with the following amendment: strike all after the enacting clause and insert in lieu thereof—

**SECTION 1. ACTIONS BY THE GOVERNMENT OF CHINA WITH RESPECT TO HUMAN RIGHTS.**

If the President proposes that the waiver authority granted by subsection (c) of section 402 of the Trade Act of 1974 be extended in 1992 for a 12-month period with respect to the People's Republic of China, then the President shall include as a part of the document required to be submitted under subsection (d) of such section—

(1) a detailed statement regarding whether the government of that country has made significant progress in—

(A) reversing the pattern, dating from June 3, 1989, within the People's Republic of China of gross violations of internationally recognized human rights,

(B) providing an accounting for those citizens who were detained, accused, sentenced or imprisoned as a result of the nonviolent expression of their political beliefs during the violent repression of dissent in

Tiananmen Square on June 3, 1989, including whether such individual has been, or will soon be, released from custody,

(C) terminating religious persecution in the People's Republic of China, including intimidation or imprisonment of individuals for expression of their religious beliefs,

(D) removing the restrictions in the People's Republic of China on freedom of the press and on broadcasts by the Voice of America,

(E) terminating the acts of intimidation and harassment of Chinese citizens in the United States,

(F) ensuring freedom from torture and from inhumane prison conditions,

(G) terminating the prohibitions, imposed after June 3, 1989, on peaceful assembly and demonstration,

(H) ensuring the access of international human rights monitoring groups to prisoners, trials, and places of detention,

(I) prohibiting the use of forced labor, especially in the production of exports, and

(J) taking other appropriate action to promote substantial improvement in the observance of internationally recognized human rights in the People's Republic of China and greater opportunities for freedom and democracy in that country; and

(2) a statement on that government's population control policies, including any program of coercive abortion or involuntary sterilization.

**SEC. 2. ADDITIONAL FACTORS REGARDING THE EXTENSION OF NONDISCRIMINATORY TREATMENT OF CHINA IN 1992.**

(a) IN GENERAL.—In deciding whether or not to recommend in 1992 the extension of the waiver authority referred to in section 1 with respect to the People's Republic of China, the President shall also take into account—

(1) the potential economic and political effects that such an extension, or the absence of such an extension, may have on Hong Kong;

(2) whether the government of the People's Republic of China is adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China; and

(3) the extent to which the government of the People's Republic of China has moderated its position regarding the accession of Taiwan to the General Agreement on Tariffs and Trade.

(b) REPORT.—Within 6 months after the date of the enactment of this Act, the President shall submit to Congress a report describing the status of Taiwan's application for accession to the General Agreement on Tariffs and Trade. The President shall thereafter regularly consult with Congress regarding the support which the United States is extending to such application.

**SEC. 3. ADDITIONAL INTERIM MEASURES IF NONDISCRIMINATORY TREATMENT EXTENDED TO CHINA IN 1991.**

If nondiscriminatory treatment is extended in 1991 to the People's Republic of China under section 402(c) of the Trade Act of 1974, the President shall consider whether the taking of additional measures is necessary or appropriate during the effective period of the extension to address bilateral trade disputes or to ensure continued progress within that country toward human rights. Such measures may include—

(1) in response to unfair trade practices, action by the United States Trade Representative—

(A) in initiating additional cases under section 301 of the Trade Act of 1974 in re-

sponse to practices such as licensing procedures that serve as trade barriers, quotas or other import restrictions, and discriminatory testing and certification practices; and

(B) promptly seeking remedies provided under the trade laws if the People's Republic of China fails to correct unjustifiable, unreasonable, or discriminatory trade practices;

(2) aggressive and prompt action under the appropriate trade laws to ensure that the People's Republic of China provide adequate protection to intellectual property rights; and

(3) in response to violations of human rights, the strict conditioning of United States support for international loans to the People's Republic of China on improvement by the government of that country in protecting and guaranteeing such rights.

#### SEC. 4. RELATED UNITED STATES-CHINA TRADE MATTERS.

The following actions shall be taken during each 12-month period in which nondiscriminatory treatment is extended to the People's Republic of China under section 402(c) of the Trade Act of 1974:

(1) **TEXTILE AND APPAREL ARTICLE QUOTA VIOLATIONS.**—The Commission of Customs, in consultation with the United States Trade Representative, shall—

(A) determine whether any textile or apparel article that is—

(i) a product of the People's Republic of China, and

(ii) subject to quantitative restrictions under a bilateral agreement between that country and the United States, is being transhipped through a third country for purposes of avoiding such restrictions;

(B) if any transshipment described in subparagraph (A) is found, charge against the quota of People's Republic of China for such kind of textile or apparel article twice the volume of the goods involved in such transshipment; and

(C) within 6 months after the date of the enactment of this Act, but no later than July 3, 1992, report to the Congress regarding all determinations and charges against quotas made under subparagraphs (A) and (B).

(2) **FORCED LABOR PRODUCTS.**—The Commissioner of Customs, in consultation with the United States Trade Representative, shall establish a system for investigating allegations that a product or component was produced by forced labor in the People's Republic of China and is being imported into the United States. Such system shall provide for—

(A) an office to which information about such imports can be submitted or requested by interested parties; and

(B) procedures for the initiation of investigations upon petition by interested parties, the timely conclusion of such investigations, and determining what action should be taken to stop the importation of such products or components.

The Commissioner of Customs shall submit an annual report to Congress regarding the efforts by the government of the People's Republic of China to terminate exports of products made by forced labor to the United States and the status and nature of investigations undertaken pursuant to this paragraph.

#### SEC. 5. REPORT BY THE PRESIDENT ON EFFECTS OF ACTIONS ON UNITED STATES EXPORTS.

In deciding whether or not to recommend the extension of nondiscriminatory treatment to the People's Republic of China in 1992, the President shall evaluate the effects

of such action on major United States exports, including agricultural exports. The results of such evaluation shall be included in the report required under section 402(d) of the Trade Act of 1974.

#### SEC. 6. SENSE OF CONGRESS REGARDING RELATIONS BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA.

(a) **CONGRESSIONAL FINDINGS.**—The Congress finds that—

(1) cooperation between the governments of the United States and the People's Republic of China on international issues of common concern is one basis, among several, for the positive development of United States-China relations;

(2) the United States and China have cooperated productively to bring about the withdrawal of Soviet forces from Afghanistan;

(3) Chinese initiatives vis-a-vis North Korea have contributed to enhanced stability on the Korean peninsula and the security of South Korea;

(4) China and the United States, along with Great Britain, France, and the Soviet Union have developed a formula for a comprehensive political settlement of the Cambodian conflict which holds out the promise of freedom, independence, and self-determination for the Cambodian people;

(5) China supported, or did not obstruct, the efforts of the United States to forge an international coalition to oppose Iraq's invasion and occupation of Kuwait;

(6) the Government of China has accepted President Bush's invitation to take part in a conference of major arms suppliers to discuss future weapons transfers to Middle East nations;

(7) on the other hand, China's continued support for the Khmer Rouge has the potential of undermining the prospects for a peaceful resolution of the Cambodian conflict;

(8) China's reported intention to sell to Syria intermediate range ballistic missiles which fall within the limits of the Missile Technology Control Regime threatens to destabilize the military balance in the Middle East and to threaten the security of Israel;

(9) China's reported intention to sell to Pakistan intermediate range ballistic missiles which fall within the limits of the Missile Technology Control Regime threatens to destabilize the military balance in the South Asian region and to increase the prospects of unconventional military conflict on the subcontinent; and

(10) China's reported 1983 sale of an unsafeguarded nuclear power reactor to Algeria calls into question China's subsequent commitments to act in accordance with the nuclear nonproliferation regime.

(b) **SENSE OF CONGRESS.**—In view of the findings set forth in subsection (a)—

(1) it is the sense of Congress that foreign policy actions by the Government of the People's Republic of China which undermine United States global interests and which are inconsistent with past cooperation between the United States and China (such as the transfer of missile covered by the Missile Technology Control Regime and transfers of unsafeguarded nuclear equipment, materials, and technology) will have serious negative consequences for the development of United States-China relations, in particular placing in jeopardy the access of Chinese products to the United States market through nondiscriminatory tariff status; and

(2) the Congress urges the Government of China to take constructive steps on a unilateral, bilateral, and multilateral basis to re-

duce tensions in regional military conflicts, particularly by—

(A) restricting the transfer of conventional weapons,

(B) working constructively toward the creation of a multilateral conventional arms transfer and control regime,

(C) agreeing not to transfer weapons of mass destruction, and

(D) agreeing to multilateral controls on the transfer of ballistic missiles and the technology associated with the development of such weapons and delivery systems.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit 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 gentleman from Texas [Mr. ARCHER] will be recognized for 5 minutes and the gentleman from California [Ms. PELOSI] will be recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, my motion to recommit takes the form of a substitute for the bill. I believe my approach, which drew strong bipartisan support in the committee, provides a more realistic course of action for the United States.

The substitute formulates a new basis for Congress to determine whether China's behavior on human rights and trade matters justifies support for the President's decision on MFN in 1992.

It says we will not conduct "business as usual" with China—we will not "close our eyes" to Tiananmen Square—but, I believe it is a more responsible approach that will allow the President and Congress together to apply pressure on the hardline leadership in China. Unlike H.R. 2212 as reported, the substitute addresses China's behavior not just with respect to human rights but also in the areas of unfair trade practices.

Under my substitute, if the President proposes to extend MFN for China beginning June 3, 1992, he must provide a detailed description of whether China has made significant progress on a list of human rights measures.

They include providing an accounting of those citizens detained and imprisoned, ending religious persecution, ensuring freedom of the press and allowing access to trials. The President must include in this detailed report a statement on China's population control policies, including any program of coercive abortion or involuntary sterilization.

This approach makes Congress and the President partners in assessing China's human rights and economic behavior, treating all human rights issues as having equal priority. It does not establish impossible certifications or rigid conditionality. It becomes part of the statutorily mandated report, just as under H.R. 2212.

The substitute further requires that the President consider the potential impact on Hong Kong of MFN removal, and states that the U.S. is to press for Taiwan's entry into the GATT as a separate customs union with developed country status.

One of the most important aspects of my substitute is that it deals with economic issues as well as human rights. China's trade practices have been very unsatisfactory over the last 2 years, and it is important that we increase the pressure for improvement in this area.

The substitute directs the President to consider further economic sanctions, including self-initiating additional 301 or other trade law cases and conditioning U.S. support for international loans.

The substitute also addresses the problem of Chinese transshipments of improperly identified textile and apparel products through Hong Kong. It requires Customs to charge double volume against China's quota for any violations. Customs must also establish procedures for investigating and stopping forced labor imports from China.

The substitute also recognizes the vulnerability of U.S. exports, particularly wheat, corn and other agriculture products. Before recommending any interim sanctions or further extensions of MFN, the President must evaluate and take into account the effects of any action on major U.S. exports.

Finally, the substitute incorporates the language of House Joint Resolution 174, introduced by Congressman SOLARZ, urging China to take constructive steps to ensure that weapons of mass destruction, conventional weapons, and missile technology are not transferred to third countries.

Mr. Speaker, I believe my substitute is a superior approach to dealing with the current hard-line leadership in China. It attempts to maximize the pressure without hurting the Chinese people who have proven a love for freedom and democracy. My substitute allows the President and the Congress to work together toward a unified U.S. policy.

Mr. Speaker, I urge my colleagues to vote "yes" on the motion to recommit with instructions.

Ms. PELOSI. Mr. Speaker, I rise in opposition to the gentleman's motion to recommit. The motion seeks to weaken an already very well-balanced bill. When this bill was put together with its 150 cosponsors, it was crafted with the full participation of the Congressional Working Group on China. We did this bill with an eye to renewing most-favored-nation status in 1992, crafting reasonable conditions that could be met.

The gentleman's motion abdicates the right of this body to exercise its will on taxation issues, which trades and tariffs are, abdicates that to the President of the United States.

I am certain, I say to the gentleman from Texas [Mr. ARCHER], that the President of the United States does take these issues into consideration when he considers renewal of most-favored-nation status for China. I do not expect that the President of the United States makes that decision in a vacuum; at least, I hope he has considered these issues, but this is simply not enough.

The present policy has not worked. The human rights conditions have worsened. The repression continues. The trade deficit grows. The nuclear proliferation continues. The export of prison labor goods continues and increases. The present policy, as I said, has not worked.

That is why I am so glad that in crafting this legislation, we have the support of so many of those who have a really vested interest in the continuation of most-favored-nation status for China next year.

The Independent Federation of Chinese Students and Scholars, the Democracy for Democracy, Dr. Fang Lizhi, and the list goes on and on of dissidents and those who care about democracy in China, but who very much want most-favored-nation status to continue. They support this conditional approach.

What is important here today, Mr. Speaker, is to remember that when we put this bill together it was with the intention of getting the broadest base of support. We made concessions in the legislation in order to be able to have as united a front as possible, to send the clearest message possible to the authorities in Beijing that their trade relationship with us was one we wanted to continue, but we could not continue unless there was a change in their treatment of their people, and that the prisoners be released.

So I appeal to my colleagues to defeat the Archer motion to recommit and let us give one big vote today for H.R. 2212. Let the message be very clear and let us then proceed through the process with the best bill, with the broadest amount of support.

I think it is clear from the debate that this is legislation that the House wants. I am very proud of the bipartisan support that it has received.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to recommit H.R. 2212. Although I believe that the substitute amendment set forth in the motion is a reasonable one, and one that I am philosophically inclined to support, I believe it is imperative that the House send a strong, united message to the Chinese Government that the status quo is no longer acceptable. We must see dramatic improvement in China's record on human rights if China is going to maintain its MFN status in the future. I will therefore vote against the motion to recommit and for H.R. 2212, as amended by the Committee on Ways and Means. I will however, work in conference

to improve the bill so that, hopefully, it can be signed by the President.

Mr. DONNELLY. Mr. Speaker, I rise in strong support of House Joint Resolution 263, a resolution to disprove most-favored-nation [MFN] trade status for the People's Republic of China.

Mr. Speaker, I am an original cosponsor of this resolution, and I had intended to contribute to the debate on this important issue. However, I was unavoidably detained at a Ways and Means Committee hearing during House consideration of this resolution.

The People's Republic of China is a renegade nation and refuses to recognize the basic human rights of its citizens. It has been 2 years since the brutal massacre in Tiananmen Square, and the situation in China has remained the same.

The Chinese Government still suppresses political opposition, restricts the press, detains and incarcerates its citizens and uses prisoners for slave labor. Its brutal annexation and occupation of the sovereign nation of Tibet is a violation of that country's inalienable rights of self-determination and religious freedom.

Internationally, China is considered a major nuclear power and yet has repeatedly refused to sign the Nuclear Non-Proliferation Treaty. Recent evidence indicates that the Chinese Government has helped in the development of several nuclear weapons programs in Pakistan, India, Algeria, Brazil, Argentina, and South Africa.

Far from improving, China's treatment of its citizens and actions in the world community have deteriorated. The administration's desire to continue its policy of constructive engagement with the Chinese Government is appeasement in its worst form.

Extending the MFN status for China is not an economic issue, it is a matter of principle. We must immediately suspend MFN status. To extend MFN with conditions does not go far enough.

I am pleased that a majority of my colleagues agree with me about the need for the United States to send a clear and unequivocal message to the Chinese Government that its disregard for the rights of its citizens and its responsibilities as a member of the international community can no longer be tolerated. I would also like to take this opportunity to commend my colleague, Representative GERALD SOLOMON, for his leadership on this issue.

Mr. DARDEN. Mr. Speaker, "the cause of America is the cause of all mankind." Although penned over 200 years ago, Common Sense remains the most eloquent and inspiring defense of freedom ever written. People throughout the world continue to follow the standard set by Thomas Paine and his fellow American revolutionaries when seeking to shake the oppressive yoke of totalitarianism and establish democratic nations and representative governments.

Many examples can be given, but the most powerful in recent memory must be that of the Chinese students in Tiananmen Square defiantly hoisting a statue of Lady Liberty in protest of a violently oppressive Chinese Government. In a moment of singular clarity, the stance of an unarmed dissident challenging a menacing line of armored tanks came to rep-

resent the struggle of all oppressed individuals seeking freedom and affirmation of their belief that all men are created equal and endowed with the right to life, liberty, and the pursuit of happiness.

It is at times like these that we must renew our commitment to the principles embodied in our Government and way of life. Our policies must reflect an abhorrence of totalitarianism and an unyielding defense of freedom. Whether political, economic, or moral, our force must be equal to the challenge. We cannot continue to act as if nothing has happened, as if the students' courageous demonstration was without merit and without effect. To do so is to mock these individuals and their cause, and by inference to besmirch the victory over tyranny of our forebears.

The President believes that extending most-favored-nation trade status to China will enable us to influence their policies. We have maintained this status since the events in Beijing in 1989, and the effect has been negligible. I have visited China, and while I was impressed by the importance the Chinese ascribed to the United States view of their economy, political system and culture, I was disappointed by the official disregard for the events in Tiananmen Square. The Government's brutal repression of the protest was shocking, and its characterization of the demonstration and subsequent retaliation as insignificant at the very least indicates a lack of understanding about human rights and the value Americans place on democratic ideals.

I cannot in good conscience support the status quo. It is true that, with one-fifth of the world's population, China cannot be isolated without serious consequences. It is for that reason that I oppose a total U.S. withdrawal. However, without specific conditions for a continued relationship, China will be free to continue massive oppression, unrestricted trade and nuclear proliferation. Only through the establishment of basic standards for a trade relationship will appropriate pressure be brought to bear upon the perpetrators of these abuses.

I am proud to join my colleagues in sending a clear message that our ideals and beliefs are timeless and powerful. By approving H.R. 2212, we will assure the Chinese people of our continued involvement in their struggle to obtain the fundamental freedoms of speech, action, and belief.

The SPEAKER pro tempore (Mr. TORRES). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes 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 SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule

XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—yeas 118, nays 308, not voting 7, as follows:

[Roll No. 204]

YEAS—118

Alexander  
Allard  
Archer  
Armey  
Baker  
Ballenger  
Barrett  
Bereuter  
Billirakis  
Boehner  
Brooks  
Broomfield  
Callahan  
Camp  
Campbell (CA)  
Chandler  
Clinger  
Coble  
Coleman (MO)  
Combest  
Coughlin  
Crane  
Dannemeyer  
Davis  
DeLay  
Dornan (CA)  
Dreier  
English  
Ewing  
Fawell  
Fields  
Fish  
Franks (CT)  
Gekas  
Geren  
Gilchrist  
Gillmor  
Gradison  
Grandy  
Guarini

Hall (TX)  
Hamilton  
Hammerschmidt  
Hansen  
Hastert  
Hobson  
Holloway  
Houghton  
Hyde  
Johnson (CT)  
Johnson (SD)  
Johnson (TX)  
Johnston  
Koibe  
Kopetski  
Laughlin  
Leach  
Lent  
Lewis (CA)  
Lightfoot  
Livingston  
Lowery (CA)  
Luken  
Machtley  
Marlenee  
Martin  
Matsui  
McCandless  
McCreary  
McDade  
McMillan (NC)  
Meyers  
Michel  
Miller (OH)  
Montgomery  
Morrison  
Myers  
Nichols  
Nussle  
Oxley

Packard  
Paxon  
Petri  
Pickle  
Pursell  
Quillen  
Regula  
Rhodes  
Rinaldo  
Roberts  
Roe  
Roemer  
Roth  
Sarpalius  
Schaefer  
Scheuer  
Shaw  
Shays  
Skeen  
Skelton  
Slaughter (VA)  
Smith (OR)  
Solarz  
Stenholm  
Stump  
Sundquist  
Taylor (NC)  
Thomas (CA)  
Thomas (WY)  
vander Jagt  
Volkmer  
Vucanovich  
Weber  
Williams  
Wylie  
Young (AK)  
Young (FL)  
Zimmer

NAYS—308

Abercrombie  
Ackerman  
Anderson  
Andrews (ME)  
Andrews (NJ)  
Andrews (TX)  
Annunzio  
Anthony  
Applegate  
Aspin  
Atkins  
AuCoin  
Bacchus  
Barnard  
Barton  
Bateman  
Bellenson  
Bennett  
Bentley  
Berman  
Bevill  
Bliley  
Bliley  
Boehlert  
Bonior  
Borski  
Boucher  
Boxer  
Brewster  
Browder  
Brown  
Bruce  
Bryant  
Bunning  
Burton  
Bustamante  
Byron  
Campbell (CO)  
Cardin  
Carper

Carr  
Chapman  
Clay  
Clement  
Coleman (TX)  
Collins (IL)  
Collins (MT)  
Condit  
Conyers  
Cooper  
Costello  
Cox (CA)  
Cox (IL)  
Coyne  
Cramer  
Cunningham  
Darden  
DeFazio  
DeLauro  
Dellums  
Derrick  
Dickinson  
Dicks  
Dingell  
Dixon  
Donnelly  
Dooley  
Doolittle  
Dorgan (ND)  
Downey  
Duncan  
Durbine  
Dwyer  
Dymally  
Early  
Eckart  
Edwards (CA)  
Edwards (OK)  
Edwards (TX)  
Emerson

Hoagland  
Hochbrueckner  
Horn  
Horton  
Hoyer  
Hubbard  
Huckaby  
Hughes  
Hutto  
Ireland  
James  
Jefferson  
Jenkins  
Jones (GA)  
Jones (NC)  
Jontz  
Kanjorski  
Kaptur  
Kasich  
Kennedy  
Kennelly  
Kildee  
Kleczka  
Klug  
Kolter  
Kostmayer  
Kyl  
LaFalce  
Lagomarsino  
Lancaster  
Lantos  
LaRocco  
Lehman (CA)  
Lehman (FL)  
Levin (MI)  
Levine (CA)  
Lewis (FL)  
Lewis (GA)  
Lipinski  
Lloyd  
Long  
Lowey (NY)  
Manton  
Markey  
Martinez  
Mavroules  
Mazzoli  
McCloskey  
McCollum  
McCurdy  
McDermott  
McEwen  
McGrath  
McHugh  
McMillen (MD)  
McNulty  
Mfume  
Miller (CA)  
Miller (WA)  
Mineta  
Mink  
Moakley  
Mollinari

Mollohan  
Moody  
Moorhead  
Moran  
Morella  
Mrazek  
Murphy  
Murtha  
Nagle  
Natcher  
Neal (MA)  
Neal (NC)  
Nowak  
Oaker  
Oberstar  
Obey  
Ollin  
Oliver  
Ortiz  
Orton  
Owens (NY)  
Owens (UT)  
Pallone  
Panetta  
Parker  
Patterson  
Payne (NJ)  
Payne (VA)  
Pease  
Petosi  
Penny  
Perkins  
Peterson (FL)  
Peterson (MN)  
Fickett  
Porter  
Poshard  
Price  
Rahall  
Ramstad  
Rangel  
Ravenel  
Ray  
Reed  
Richardson  
Ridge  
Riggs  
Ritter  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Rose  
Rostenkowski  
Roukema  
Rowland  
Roybal  
Russo  
Sabo  
Sanders  
Sangmeister  
Santorum  
Savage  
Sawyer

NOT VOTING—7

de la Garza  
Hopkins  
Hunter  
Inhofe  
Jacobs  
Smith (IA)  
Whitten

□ 1936

Messrs. BLILEY, COOPER, WELDON, and DINGELL changed their vote from "yea" to "nay."

Messrs. GEREN of Texas, DANNE-MEYER, and ALEXANDER changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. TORRES). 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.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 313, nays 112, not voting 8, as follows:

[Roll No. 205]  
YEAS—313

Abercrombie	Espy	McCollum
Ackerman	Evans	McCurdy
Andrews (ME)	Fascell	McDermott
Andrews (NJ)	Fazio	McEwen
Andrews (TX)	Feighan	McGrath
Annuzio	Fish	McIngh
Anthony	Flake	McMillan (NC)
Aspin	Foglietta	McMillen (MD)
Atkins	Ford (MI)	McNulty
Bacchus	Ford (TN)	Mfume
Ballenger	Frank (MA)	Miller (CA)
Barnard	Frost	Miller (WA)
Barton	Gallely	Mineta
Beilenson	Gallo	Mink
Beunett	Gaydos	Moakley
Bentley	Cejdenson	Molinari
Berman	Gephardt	Mollohan
Bevill	Gibbons	Moody
Bilbray	Gilchrist	Moorhead
Boehrlert	Gilman	Morella
Bonior	Gingrich	Mrazek
Borski	Goodling	Murphy
Boucher	Gordon	Nagle
Boxer	Green	Neal (MA)
Brewster	Gunderson	Neal (NC)
Broomsfield	Hall (OH)	Newsak
Browder	Hancock	Oakar
Bruce	Harris	Oberstar
Bryant	Hatcher	Obey
Bunning	Hayes (IL)	Olin
Burton	Hefley	Olver
Bustamante	Hefner	Ortiz
Byron	Henry	Orton
Campbell (CO)	Henger	Owens (NY)
Cardin	Hertel	Owens (UT)
Carper	Hobson	Pallone
Carr	Hochbraeckner	Panetta
Chapman	Horn	Parker
Clay	Horton	Patterson
Clement	Hoyer	Payne (NJ)
Coble	Hubbard	Payne (VA)
Coleman (TX)	Huckaby	Pease
Collins (IL)	Hughes	Pelosi
Collins (MI)	Hutto	Pelosi
Condit	Hyde	Perkins
Conyers	James	Peterson (FL)
Cooper	Jefferson	Pickle
Costello	Jenkins	Porter
Coughlin	Jones (GA)	Poshard
Cox (CA)	Jones (NC)	Price
Cox (IL)	Jontz	Pursell
Cramer	Kanjorski	Rahall
Cunningham	Kaptur	Ramstad
Dannemeyer	Kasich	Rangel
Darden	Kennedy	Ravenel
DeFazio	Kennelly	Ray
DeLauro	Kildee	Reed
DeLay	Klecza	Regula
Dellums	Kling	Richardson
Derrick	Kolter	Ridge
Dickinson	Kostmayer	Riggs
Dicks	Kyl	Ritter
Dingell	LaFalce	Roe
Dixon	Lagomarsino	Rogers
Donnelly	Lancaster	Rohrabacher
Dooly	Lantos	Ros-Lehtinen
Doolittle	LaRocco	Rose
Dorgan (ND)	Lehman (CA)	Rostenkowski
Dornan (CA)	Lehman (FL)	Roukema
Downey	Levin (MI)	Rowland
Duncan	Lewine (CA)	Roybal
Durbin	Lewis (CA)	Russo
Dwyer	Lewis (FL)	Sabo
Dymally	Lipinski	Sanders
Early	Lloyd	Sangmeister
Eckart	Long	Santorum
Edwards (CA)	Lowey (NY)	Savage
Edwards (OK)	Machtley	Sawyer
Edwards (TX)	Manton	Saxton
Emerson	Markley	Schaefer
Engel	Martinez	Scheuer
English	Mavroules	Schiff
Erdreich	Mazzoli	Schroeder
	McCloskey	Schulze

Schumer	Stallings	Vento
Sensenbrenner	Stark	Visclosky
Serrano	Stearns	Volkmer
Sharp	Stokes	Walker
Shuster	Stouss	Walsh
Sikorski	Sweet	Washington
Sisisky	Swift	Waters
Staggs	Synar	Waxman
Skelton	Tallon	Weiss
Slattery	Tanner	Weldon
Slaughter (NY)	Taylor (NC)	Wheat
Smith (FL)	Thomas (GA)	Wilson
Smith (NJ)	Thornton	Wise
Smith (TX)	Torricelli	Wolf
Snowe	Towns	Wolpe
Solarz	Trafficant	Yates
Solomon	Traxler	Yatron
Spence	Unsoeld	Zeliff
Spratt	Upton	
Staggers	Valentine	

NAYS—112

Alexander	Hamilton	Nussle
Allard	Hammerschmidt	Oxley
Allard	Hansen	Packard
Anderson	Hastert	Paxon
Applegate	Hayes (LA)	Peterson (MN)
Archer	Hcagland	Petri
Armey	Holloway	Pickett
Baker	Houghton	Quillen
Barrett	Ireland	Rhodes
Bateman	Johnson (CT)	Rinaldo
Bereuter	Johnson (SD)	Roberts
Bilirakis	Johnson (TX)	Roemer
Bliley	Johnston	Roth
Boehner	Kolbe	Sarpalius
Brown	Kopetski	Shaw
Brown	Kopetski	Shays
Callahan	Laughlin	Skeen
Camp	Leach	Slaughter (VA)
Campbell (CA)	Lent	Smith (OR)
Chandler	Lewis (CA)	Stenholm
Clinger	Olin	Stump
Coleman (MO)	Lightfoot	Sundquist
Combest	Livingston	Tauzin
Crane	Lowery (CA)	Taylor (MS)
Davis	Luken	Thomas (CA)
Dreier	Marlenee	Thomas (WY)
Ewing	Martin	Torres
Fawell	Matsui	Vander Jagt
Fields	McCandless	Vucanovich
Franks (CT)	McCrery	Weber
Gekas	McDade	Williams
Geren	Meyers	Wyden
Gillmor	Michel	Wylie
Glickman	Miller (OH)	Young (AK)
Gonzalez	Montgomery	Young (FL)
Goss	Morrison	Zimmer
Gradison	Murtha	
Grandy	Myers	
Guarini	Natcher	
Hall (TX)	Nichols	

NOT VOTING—8

AuCoin	Hunter	Smith (IA)
de la Garza	Inhofe	Whitten
Hopkins	Jacobs	

□ 1946

The Clerk announced the following pairs:

On this vote:

Mr. Hunter for, with Mr. Jacobs against.

Mr. GLICKMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, since the contents of House Concurrent Resolution 174 are embodied in the Pelosi amendment, I ask unanimous consent to lay House Concurrent Resolution 174 on the table.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2282, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT AMENDMENTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-147) on the resolution (H. Res. 190) providing for the consideration of the bill (H.R. 2282) to amend the National Science Foundation Authorization Act of 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 656, PROVIDING FOR A PROGRAM TO ENSURE U.S. LEADERSHIP IN HIGH-PERFORMANCE COMPUTING

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-148) on the resolution (H. Res. 191) providing for the consideration of the bill (H.R. 656) to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERING OF H.R. 1989, AMERICAN TECHNOLOGY PREEMINENCE AUTHORIZATION ACT

Mr. MOAKLEY, from the committee on Rules, submitted a privileged report (Rept. No. 102-149) on the resolution (H. Res. 192) providing for the consideration of the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes, which was referred to the House Calendar and ordered to be printed.

NATIONAL FAMILY WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 23) to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991 and November 22, 1992, as National Family Week, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

□ 1950

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

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, today I

urge my colleagues to approve House Joint Resolution 23, which would authorize the President to designate the week beginning November 24, 1991, and November 22, 1992, as National Family Week.

This resolution encourages the States and local communities to observe the week and celebrate the family with appropriate ceremonies and activities.

The purpose of National Family Week is to promote recognition of and appreciation for the American family as the foundation of our free society, and to lay before the American family the challenge to continue to perpetuate and preserve freedom, honor and trust among all people.

Honoring the family in the United States is a practice everyone can be proud of. I am pleased to state it was 20 years ago in 1971, when I first introduced this legislation and I have reintroduced it each Congress.

A family is more than a group of individuals—a family is a community of persons united by their commitment and love for one another.

I hope all my colleagues feel as strongly about the family as I do and will join me in support of this resolution.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend from Indiana for yielding, and I pause at this point merely to commend him for this very special effort to recognize the importance of the American family. I only hope that whatever ails the arm of the gentleman from Indiana [Mr. MYERS] at this point is not the product of having twisted arms to get Members to sign on in time in order to have this recognition today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Ohio [Mr. SAWYER] for his remarks, as well as his help in bringing this to the floor today, and I appreciate the efforts of all members of the committee who went out of their way to make sure it is brought up each year. This is the earliest in recent years this bill has been brought up. I know it will get to the President for his signature very early, and it is important to do that.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 23

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week".*

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

read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ELLIS ISLAND DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 130) to designate January 1 as National Ellis Island Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I certainly do not object, and do so to yield to the prime sponsor of this legislation, the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, January 1 of 1992 will mark the 100th anniversary of the opening of Ellis Island—a major gateway of immigration into this country. Since that first day in 1892, 12 million people from all over the world have passed through the doors of Ellis Island. The great American poet, Emma Lazarus described them as "tired, poor, huddled masses yearning to breathe free." During the heavy immigration of the early 1900's, their first view of America was the shining spires of New York city and the noble figure of the Statue of Liberty, however, their first steps on American soil were taken on Ellis Island.

Today, over 40 percent of Americans can trace their roots to an individual who passed through Ellis Island. Today, we know them as our grandfathers and grandmothers, our aunts and uncles, members of our families, who struggled and sacrificed to realize their dreams in this country. Some of them came to escape persecution, others came to escape poverty, but all came to forge a new life in a land of freedom and prosperity—the United States of America.

It is fitting, therefore, that Ellis Island now serves as a museum to tell the story of American immigration. The Ellis Island Immigration Museum was built through the efforts and private donations of over 20 million Americans. Since its opening last September, over half a million visitors have already toured through the facility, walking through the same halls in which their ancestors were processed years ago. Today on Ellis Island, present and future generations can learn about the history of their families an their Nation.

Today, we consider a resolution which I have introduced to commemorate January 1, 1992 as National Ellis Island Day—January 1 being the day the first immigrants set foot on Ellis

Island almost 100 years ago. I urge my colleagues to support this legislation and in doing so recognize the anniversary of this important national landmark. Ellis Island is a symbol of the hope for freedom and prosperity which America offered to the world in the past and continues to offer today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his comments and the legislation he has presented here.

Mr. Speaker, I yield to my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, as an original cosponsor of this resolution, I rise in support of House Joint Resolution 130, which designates January 1, as National Ellis Island Day, and commend my good friend and colleague from the state of New Jersey, Mr. GUARINI, for introducing this legislation for focusing attention on America's gateway.

Ellis Island symbolizes the hopes and dreams of over 12 millions of our Nation's immigrants. The island was the first contact they had with a land of new freedom, hope, and promise. This resolution serves as an appropriate tribute to a magnificent place in American history.

Mr. Speaker, accordingly, I urge our colleague to join in supporting this important resolution.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN], and I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend, the gentleman from Indiana, and offer special gratitude to the gentleman from New Jersey [Mr. GUARINI], for this important and timely resolution.

For those of us on our committee who have been struggling over the last year to bring the fullest possible count to the enumeration of our Nation, we can appreciate the recognition that the gentleman from New Jersey brings to Ellis Island today. It is a recognition of an age of transcontinental migration, a period in which the great waves of European migration a century ago surpassed 1 million a year, as this Nation grew and achieved the diversity that it benefits from today.

Mr. Speaker, we are today in another age of global migration, as populations in unprecedented numbers move around the globe and into this Nation in numbers unexperienced since that age of great immigration a century ago.

Mr. Speaker, as we struggle to cope with the challenge and the benefits of the diversity that comes to this Nation today, it is important to recognize and remember those lessons from the past that have made this Nation all that it is in the twentieth century. For that, I thank the gentleman from New Jersey [Mr. GUARINI], and all of those who

joined in this special recognition today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Ohio [Mr. SAWYER] for his comments, and thank the gentleman from New Jersey [Mr. GUARINI] and the gentleman from New York [Mr. GILMAN], and all who took part in introducing this legislation.

Ellis Island has touched just about everyone in this country. We had ancestors who came through there. Their first revelation, their first opportunity to see the New World, was Ellis Island. It is most appropriate that it has now been restored, and, more appropriately, we recognize the importance that Ellis Island has been to bring this great melting pot of the United States into reality.

Mr. Speaker, it is most appropriate, and we thank these Members for the introduction of this legislation.

Mr. GUARINI. Mr. Speaker, I think I can say it certainly speaks to the great sense of what America is about, and expresses in its totality the American spirit. I thank the gentleman from Indiana [Mr. MYERS], the gentleman from Ohio [Mr. SAWYER], and the gentleman from New York [Mr. GILMAN].

Mr. MYERS of Indiana. Mr. Speaker, if we go to Ellis Island and look at the coldness of the big halls, you would say, "My gosh, our ancestors came in here. What a reception, to come into this cold building."

Mr. Speaker, many of these people did not speak English. They came into a new country, and were put into these cold halls. But how soon after that, I hope that they got out into what America really is, into the free world.

Mr. Speaker, this is a great opportunity that we have to recognize our ancestors for what they brought to make America what it is today. It is most appropriate what the gentleman from New Jersey [Mr. GUARINI] has done here today, again restoring Ellis Island as a national memorial.

Mr. GUARINI. Mr. Speaker, I think it would be fitting for every American to make a commitment to themselves, that some day they will visit Ellis Island with their family.

Mr. MYERS of Indiana. Mr. Speaker, it should be mandatory, to have everyone go visit there.

□ 2000

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 130

Whereas the immigrant station at Ellis Island, New York, opened on January 1, 1892, admitting 700 immigrants to the United States on its 1st day of operation;

Whereas approximately 17,000,000 immigrants were admitted through Ellis Island between and 1892 and 1954;

Whereas Ellis Island was reopened in the fall of 1990 as a historic site of interest to tourists;

Whereas January 1, 1992, will mark the centennial of the opening of Ellis Island;

Whereas approximately 40 percent of all people of the United States today can trace their heritage to an immigrant ancestor who was admitted through Ellis Island;

Whereas Ellis Island is a reminder of the hope for freedom and prosperity that the United States offered to the poor, tired, hungry, and downtrodden of the world;

Whereas the people of the United States should recognize the time, commitment, and great efforts of the many dedicated citizens who made the refurbishing of Ellis Island the largest historic renovation project in the history of the United States; and

Whereas the people of the United States have a responsibility to maintain awareness of, and respect for, Ellis Island: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 1 is designated as "National Ellis Island Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, line 3, insert "1992," after "January 1".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

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

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating January 1, 1992, as 'National Ellis Island Day'."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

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

There was no objection.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
U.S. HOUSE OF REPRESENTATIVES,  
Washington, DC, July 9, 1991

Hon. THOMAS S. FOLEY,  
The Speaker, U.S. House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit two sealed envelopes received from the White House at 3:14 p.m. on Tuesday July 9, 1991 as follows:

(1) Said to contain a six month periodic report on the Libyan Emergency and

(2) Said to contain the Powerplant and Industrial Fuel Act of 1978 Annual Report for Calendar Year 1990.

With great respect, I am  
Sincerely yours,

DONNALD K. ANDERSON,  
Clerk, U.S. House of Representatives

#### REPORT ON CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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 Energy and Commerce:

(For message, see proceedings of the Senate of Tuesday, July 9, 1991, at page 17420.)

#### REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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 Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of Tuesday, July 9, 1991, at page 17419.)

#### REPORT OF DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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 Armed Services and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, July 10, 1991.)

**BRITAIN TO CUT DEFENSE FORCE**

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

Mr. FRANK of Massachusetts. Mr. Speaker, I have been arguing along with others that with the collapse of the Russian military threat to wage a ground war in Europe, we could have some substantial troop reductions. I have good news and bad news. The good news is that I read in today's Washington Post of even deeper troop reductions for Europe in the NATO forces.

The bad news is that they are not ours, Mr. Speaker. They are England's. In today's Washington Post it says, "Britain to cut defense force by 20 percent over 3 years."

Now, these are the same people who tell us that we have to keep 200,000 troops over there so they can feel comfortable.

The cuts envisioned an annual 6 percent reduction in defense spending.

This recognizes the quantum change that has occurred in the European scene with the collapse of the Soviet-led Warsaw Pact," said the British Defense Secretary.

Pretty soon, Mr. Speaker, there will be more American troops in England than there are English troops.

Now, I think America ought to cooperate with the rest of the world, but 45 years after World War II ended, with these European nations in Western Europe reaching a high level of economic activity, the only reason we continue to subsidize their defense to this extent is our own stupidity.

Mr. Speaker, I include the article referred to above:

[From the Washington Post July 10, 1991]  
**BRITAIN TO CUT DEFENSE FORCE BY 20 PERCENT OVER 3 YEARS—QUEEN'S CAVALRY COULD BE PUT TO PASTURE**

LONDON, July 9—Citing the collapse of the Soviet-led Warsaw Pact, Britain announced today a 20 percent cut in its defense forces over three years.

The cuts envisaged an annual 6 percent reduction in defense spending, and are deeper than those proposed before the Persian Gulf War. Defense spending this year will total \$38.88 billion.

"This recognizes the quantum change that has occurred in the European scene with the collapse of the Soviet-led Warsaw Pact," Defense Secretary Tom King told a new conference. "Smaller but better has been our objective."

The most drastic cut proposed was for the army to be reduced from 147,000 personnel to 116,000 instead of the 120,000 proposed shortly before Iraq invaded Kuwait on Aug. 2.

That will mean disbanding or merging some of Britain's elite regiments including, according to published reports, the Household Cavalry that provides escorts for Queen Elizabeth II on state occasions.

King, who is allowing military commanders to wrangle over which regiments will go, said the final decision will be announced soon.

The number of Royal Air Force personnel will shrink from 89,000 to about 75,000 and the Royal Navy from 63,000 to about 55,000.

Also cut will be three of the air force's 11 squadrons of tornado fighter-bombers, which played a major role in bombing Iraqi airfields.

British forces deployed in Germany are to fall sharply from 55,000 to a 23,000-strong mobile force. King said the British cuts were in line with a NATO decision last spring to slim down forces from 830,000 to 625,000, including a planned Rapid Reaction Corps to be commanded by Britain and based in Germany.

Britain, which spends 4 percent of its gross domestic product on defense, has ranked among the top spenders in the 16-nation North Atlantic Treaty Organization, after the United States.

King, facing protests from the military said the overall 20 percent reduction in personnel was less than a 25-percent cut announced by the United States and a 30 percent reduction by Germany.

The announcement stipulated that Britain will make no cuts in its nuclear arsenal, now being updated with submarine-launched U.S. Trident missiles that will cost a total of \$14.4 billion.

**VIRGIN ISLAND JUDGES**

(Mr. DE LUGO asked and was given permission to address the House for one minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, I have spoken before in this House of the dire problems the people of my district continue to face because of the failure of the administration to appoint judges to the bench of the Federal Courts.

We in the Virgin Islands have seen visiting judges come and go, we have seen our court system become suspect because of the absence of locally appointed judges, we have seen in some instances justice miscarried, and we have seen frustration in the legal community and in the community at large because of this problem.

I have written many, many letters to the White House. I have exhorted the President to pay attention to this terrible situation. Judges have even written the Attorney General decrying the situation.

The problem has again been highlighted, this time in an article that appeared in the Monday, July 1, 1991 edition of the Washington Post's magazine, Washington Business, titled "For Some Federal Judges, Long Days in Paradise." In it, Post Staff Writer Sandra Torry brings into good perspective the problems the people of the Virgin Islands have faced without permanent, sitting judges in our Federal Courts.

Mr. Speaker, today I place this article into the record as further evidence of this embarrassing situation. But I also want to commend Acting Chief Judge Stanley Brotman and the other judges who have worked so hard to maintain the Federal Courts in the Virgin Islands under extremely trying circumstances. I would hope that the President and the Attorney General will take note of this intolerable prob-

lem, and move quickly to remedy it, and bring justice to the people I represent.

**FOR SOME FEDERAL JUDGES, LONG DAYS IN PARADISE**

(By Sandra Torry)

The federal judges shuttle in and out from Richmond and Baltimore, from Los Angeles and Camden, NJ. They start early. They work late. The criminal caseload is crushing. Sometimes they even hold court on Saturdays.

Is this purgatory? No, it's the U.S. Virgin Islands.

The two judgeships in this U.S. territory have been vacant for 18 months, forcing the Virgin Islands to make do with a stream of visiting judges who fly in and out with the tourists.

Sound like a cushy assignment? Not to hear the judges tell it.

Federal Judge Stanley Brotman, a senior judge from Camden who took over as acting chief when the Islands' chief judge died in 1989, said you do what you've got to do.

"These courts had to be maintained," said Brotman. "These people are entitled to have matters tried and heard. And I am satisfied that everyone coming down . . . worked very hard."

Brotman does allow that the view over the Caribbean beats the Delaware River most days. And Judge Robert Merhige Jr., a senior judge who came from Richmond last year, said he got in a little beach time, but, of course, only on Sundays.

"Certainly it is not the hardest thing in the world to go to that kind of climate at that time of year," said senior judge Frank Kaufman of Baltimore, who answered the call for volunteers last spring. "On the other hand, I went to work at 8 or 8:30 [a.m.] and it was usually 6 or 7 [p.m.] before I got out."

Many of the Islands' lawyers assert that judges work long and hard as they rotate in and out, juggling caseloads at home and handling the huge court dockets on St. Croix and St. Thomas. Federal judges in the U.S. Virgin Islands hear major felonies, and last year had the highest criminal caseload per judge among all the federal courts.

The problem began in 1986, when Almeric Christian, then the chief judge in the Virgin Islands, wrote to President Reagan, saying he planned to retire but would wait until a successor was named. Frustrated when the White House did nothing, Christian retired in 1988. Then, in 1989, the Islands' only remaining federal judge, David O'Brien, died.

Now 18 months later, their seats remain vacant and as the time passes, there is growing discord in America's island paradise.

"We Need a Judge," read a 1989 headline in the local Daily News. "Civil trials have virtually come to a halt." The editorial stated, "Meanwhile the backlog is mounting . . ."

Del. Ron de Lugo (D), the Island's nonvoting member of Congress, said "there is absolutely no excuse," for the indifference of the Reagan and Bush administrations. "It's an embarrassment to the United States."

An administration official said President Bush nominated a top-notch local lawyer, only to have the Senate Judiciary Committee toss the nomination back after it languished there for months. Senate sources sniff at that account and hint at unspecified problems with the candidate.

It has been difficult to find other nominees, what with concerns about race, politics, geography and whether the nominee is an Island native, said one administration of-

ficial. Two new candidates are now under scrutiny.

The official said that some candidates "look good on paper and look good in person," but when the FBI starts checking, "they do not always turn out to be without flaws."

But one nominee since 1988? That's not exactly scouring the Islands' 400-member bar association.

Territorial senator Holland Redfield, one of the Islands' few Republicans, figures there's blame enough for everyone. "Backstabbing on a bipartisan basis," said Redfield of local politics. "If they nominated Jesus Christ, someone down here would recruit him."

Meanwhile, the airports are busy with judicial comings and goings.

At last count, said court clerk Orinn Arnold, 22 judges had served from cities around the nation. "You name it, we've had it," joked Arnold. Many, like Brotman, have come from the 3rd Circuit, which includes Pennsylvania, New Jersey, Delaware and the Virgin Islands.

The makeshift arrangement certainly has its downside.

There is no continuity, and scheduling is a nightmare.

One attorney had four judges for one criminal case. In a civil case, lawyers and witnesses flew to New Jersey for a trial, after a visiting judge was forced by his schedule to head back home. At times, a defendant gets one judge at trial, another at sentencing.

Then the judge "is looking at a cold record," said public defender Thurston McKelvin. "He will not have the same flavor or feel for it."

And try as they might, according to local lawyers, visiting judges can't be expected to grasp the culture and fabric of the island. Even the judges do not dispute that.

In a letter to former 3rd Circuit Chief Judge A. Leon Higginbotham Jr., two visiting judges asserted that there is a "sense that justice is being imposed from the outside" in a territory that is predominantly black.

And then there is the cost of the president's failure to name new judges.

"It's got to be enormous," said former Virgin Islands Lt. Gov. Julio Brady, once mentioned as a possible nominee. "The typical judge comes with a law clerk, sometimes a secretary, sometimes a court reporter."

The maximum a judge can spend daily for hotel and meals in the Virgin Islands is \$291 in high season; \$237 in low—the highest per diems in the nation. In the New York City, it's \$227, and in Washington, \$197. The allowance for staff is 50 percent less.

Brotman said he's certain that judges are spending "far less" than the daily allowance.

But no one seems to know just how much this whole venture is costing American taxpayers.

"There is no question it's cheaper to have resident judges appointed, no question about it," said Brotman. "But that's not what has happened."

And the cost may actually be highest in ways impossible to count.

"With each passing week that the district continues without a single resident judge Virgin Islanders become more convinced that they have third-class status in our federal judicial system." Higginbotham wrote last year to Attorney General Dick Thornburgh. "The long-term consequences . . . are tragic to contemplate."

NO MORE ONEK, KLEIN

Onek, Klein & Farr, once called the little law firm that could, is no more. The bou-

tique that was bursting with Supreme Court law clerks and the pick of law school graduates dissolved today.

Joseph Onek and partners JoAnn Macbeth and Laurel Pyke Malson are on their way to Crowell & Moring. Partner Christopher Cerf departed in April for Wiley, Rein & Fielding.

The breakup was spurred by disagreement over growth, lawyers said. Joel Klein and H. Bartow Farr III wanted to stick to their Supreme Court and appellate practice. Onek, with his burgeoning health-care practice, and others, who do trial work, said they needed more resources. For a while, there was merger talk. But none of the firms' suitors made it to the altar.

Everyone assures that the divorce is "harmonious."

Klein, Farr and partners Paul M. Smith and Richard Taranto will stick together. "I feel thankful for the 10 years of remarkable success and fun we've had," Klein said last week, "and sadness that it won't continue."

#### THE 10TH ANNIVERSARY OF THE KOOTENAI COUNTY, ID. TASK FORCE ON HUMAN RELATIONS.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. LAROCO] is recognized for 5 minutes.

Mr. LAROCO. Mr. Speaker, often it takes a challenge before us to bring out the best within us.

Such has been the case in my great district, the first district of Idaho, where the Kootenai County Task Force on Human Relations is celebrating its 10th anniversary this weekend.

The task force was founded in 1981 as a counterpoint to a local hate group, the Aryan nations, that had chosen Kootenai County as a home for its bigoted work.

The task force has found during the past decade that battling hate can build a community's sense of pride, accomplishment and commitment.

By coming together and working together, the city of Coeur D'Alene and the people of Kootenai County have shown the State and the Nation that bigotry is not tolerated in Idaho. More than that, they have proven to themselves that the truly American virtues of tolerance and respect for others burn brightly in north Idaho.

Allow me to present a brief history of the Kootenai County Task Force on Human Relations:

Begun in 1981, the task force was a response to the activities of the Church of Jesus Christ Christian—the Aryan nations—a violent group of white supremacists which had chosen Hayden Lake, ID, as a base from which to care a whites-only nation in the Pacific Northwest.

The task force helped pass Idaho's anti-harassment law in 1983 that still stands as model legislation for the Nation. In 1984 and 1985, the Aryan nation's ties to violent activities throughout the Nation became clear. Then, in 1986, the home of the task force chairman, Rev. Bill Wassmuth,

was bombed. A week later, three more bombs exploded in Coeur D'Alene. Four people were arrested; all were linked to the Aryan nations. The evil that the task force was fighting became very real.

The task force was honored nationally when it became the first recipient of the Raoul Wallenberg Civic Award on January 14, 1987.

The task force also was instrumental in Idaho's celebration of the first national Martin Luther King, Jr., holiday in 1986, and in pushing for a State holiday, a goal realized in 1990.

The Kootenai County task force on human relations has much to be proud of on this, its 10th anniversary. It has shown the world that Kootenai County, Coeur D'Alene—an all America city—and the State of Idaho will not tolerate racism and will work actively to promote racial understanding and tolerance.

As Father Wassmuth has said: "The best way to say 'no' to racism and intolerance is to say 'yes' to the equality and dignity of all people without regard to race, color, national origin or creed."

I would especially like to acknowledge the four chairmen of the task force: Rick Morris, Rev. Bill Wassmuth, Norm Gissel, and Tony Stewart. Each has given so much time and leadership to make the task force so successful.

I am proud to support the Kootenai County Task Force on Human Relations, to wish them a very happy birthday, and to wish them the best of success for the future.

And, I am truly proud to represent in Congress the goals and the people associated with the Kootenai County Task Force on Human Relations.

□ 2010

#### INTRODUCTION OF THE SOCIAL SECURITY TRUST FUND INTEGRITY AND BENEFITS IMPROVEMENT ACT OF 1991

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, I am today introducing, together with Social Security Subcommittee Chairman ANDY JACOBS, H.R. 2838, a comprehensive Social Security package to improve Social Security benefits and protect the integrity of the Social Security trust fund. This package is intended to address many of the concerns that senior citizens have shared with us—their need to supplement their benefits by working; their concern about the adequacy of their benefits when they are widowed and living alone; their desire to assure that the tax dollars which they have paid into Social Security are spent for the purpose for which they were intended.

The legislation we are introducing today would address these issues in the following

ways: it would improve benefits for the working elderly and for widows; it would establish the Social Security Administration as an independent agency; it would remove Social Security administrative costs from the budget; and it would require a study of means of improving the efficiency of the Social Security disability determination process. In addition, to correct an unintended result of the Omnibus Budget Reconciliation Act of 1990, it would raise the FICA exemption for election workers. Finally, it would comply with the pay-as-you-go financing requirements enacted last year by reversing the decline in the Social Security wage base as a proportion of covered wages.

Social Security benefits for the working elderly would be improved by increasing the Social Security retirement test. Under present law, senior citizens age 65 to 69 may earn up to \$9,720 a year and still retain their full Social Security benefits. Above that threshold, they lose \$1 in benefits for every \$3 they earn. H.R. 2838 would permit seniors to earn a higher wage and continue to receive their full Social Security benefits. Specifically, the threshold for 1992 would be increased \$1,200—from a projected \$10,200 to a projected \$11,400. The threshold for 1993 would be increased \$3,000 above current law to a projected \$13,680. In 1993, this would increase the annual Social Security benefit of a senior working at the average wage by \$1,000.

At the same time, the bill would improve widows' benefits in two ways. First, it would increase benefits for those widows whose spouses die before they reach the age of 65. These widows are likely to spend many years living on a reduced Social Security benefit. As they age, their resources are depleted and they often find themselves among the poorest of the elderly. A hearing of the Subcommittee on Social Security found that women living alone are among the most likely senior citizens to live in poverty. H.R. 2838 would improve benefits for these widows by decreasing the reduction factor for early widowhood.

Second, the legislation would eliminate the 7-year rule for disabled widows. The 7-year rule provides that a widow must become disabled within 7 years of her husband's death—or within 7 years of the end of her eligibility for benefits as the widowed mother of a young child—in order to be eligible for a disabled widow's benefit. The 7-year rule is an unnecessary and arbitrary limitation on eligibility for otherwise needy widows. H.R. 2838 would eliminate this limitation.

H.R. 2838 would also increase the Social Security payroll tax exemption for election workers. The present exemption is \$100 annually. The bill would increase the exemption to \$600 and would index the exempt amount beginning in 1993. This change would correct an unintended result of the Omnibus Budget Reconciliation Act of 1990 and thereby preserve the traditional exemption for election workers.

Three provisions in the legislation would protect the integrity of the Social Security trust fund, stabilize the administration of the program, and improve service to beneficiaries. First, the bill would establish the Social Security Administration as an independent agency. The agency would be governed by a three-member, bipartisan board which would estab-

lish policy for the agency. The day-to-day operations of the agency would be run by a Commissioner appointed by the President for a 4-year term. In our view, this measure would provide the Social Security Administration with much-needed independence from short-term political pressures. Moreover, it would enhance the stability of the agency and would increase its capacity to attract and retain capable management personnel.

This bill would also remove Social Security administrative costs from the budget, thus assuring that the Social Security trust fund is used for the purpose for which it was intended. Last year, as part of the budget agreement, Social Security receipts and expenditures were taken out of the Gramm-Rudman budget calculations. However, a question has arisen about whether or not administrative costs were intended to be taken offbudget as well. H.R. 2838 addresses this uncertainty by providing that Social Security administrative costs are to be offbudget and removed from the Gramm-Rudman calculations.

This provision is central to the confidence of senior citizens and workers alike in the integrity of the Social Security Program. Today's workers have a right to expect that the Social Security trust funds will be there to pay benefits when they retire, or if they die or become disabled. Similarly, they have a right to expect that those benefits will be both timely and accurate. The 20-percent cut in staff and resources at the Social Security Administration over the last 6 years has dramatically reduced the ability of the agency to provide such benefits, and has reduced the confidence of the American people in the integrity of the Social Security system.

The severity of SSA's service delivery problems was illustrated in a report card on the Social Security Administration that Subcommittee Chairman JACOBS and I issued earlier this spring. In that report, we gave the Social Security Disability Program a failing grade. We issued a failing grade because we found that the average disabled applicant who appeals his disability determination must wait a full year before he receives his benefits. Moreover, nearly two-thirds of the denials that were appealed by applicants were subsequently reversed by an administrative law judge. In our view, Social Security beneficiaries and applicants—individuals who have paid into the Social Security Program during their working years—have the right to expect that the taxes collected for the Social Security Program will be used to insure payment of benefits and services to which they are entitled—and to receive them promptly. Thus, H.R. 2838 would assure that Social Security administrative expenses, like Social Security benefit payments, are offbudget—removed from the Gramm-Rudman budget calculations. I also want to emphasize that I intend to work cooperatively with the Budget Committee to ensure that the administrative expenses of the Social Security Administration are appropriately reviewed.

In addition, we are very concerned with the high reversal rates in the disability program, and feel that it is vital to identify why SSA's initial decisions are so frequently reversed on appeal. Thus, H.R. 2838 would require the General Accounting Office [GAO] to conduct an investigation that would cast light on the

causes of these frequent reversals. With this information in hand, both the Congress and SSA will be equipped to address this severe and pressing problem.

Finally, the bill would phase in a \$3,000 increase in the Social Security wage base by the year 1996—from a projected \$69,600 to a projected \$72,600 in that year. Over the last several years, the proportion of wages covered by the Social Security payroll tax has declined as the wages of upper income individuals have risen faster than the wages of the middle class. This modest increase in the wage base would help move covered wages back toward the levels that prevailed in the early 1980's.

Mr. Speaker, H.R. 2838 is budget neutral with respect to onbudget spending, meets both the House and Senate requirements protecting the Social Security trust fund reserves, and fully complies with the pay-as-you-go financing requirements enacted last year. It contains several important provisions which will both improve the lives of our senior citizens and their confidence in the integrity of the Social Security system, while assuring that the services they receive from the Social Security Administration are of the highest quality.

#### A TRIBUTE TO REV. CYRIL K. RICHARD AND THE SPIRIT OF SAUGANASH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, nearly 13 years have passed since the community of Sauganash on the northwest side of Chicago lost one of its most beloved community leaders, the Reverend Cyril K. Richard. I remain saddened by the death of this man who was revered by hundreds of people who knew him during his 47-year tenure as pastor of the Sauganash Community Church. Prior to his death in 1978, this pillar of our community was known by the simple term "Rev."

Despite this loss, it gives me great pleasure today to say that the congregation of the Sauganash Community Church has gained a very able successor to Reverend Richard. This man, whose name is Rev. Raymond Nyquist, has embraced the same tradition of neighborhood unity advocated by Reverend Richard, who was always a stalwart booster of Sauganash.

Mr. Speaker, Reverend Nyquist has now served as the pastor of the Sauganash Community Church since 1983. His roots in the church and the community go back to at least 1963-64, when he taught Sunday school during his senior year as a seminary student.

As part of his ongoing commitment, Reverend Nyquist recently announced plans to begin writing a regular newspaper column for the Sauganash Sounds, a neighborhood newspaper founded by Reverend Richard in 1931. For several decades, Reverend Richard wrote a similar column for this newspaper, but it was dropped after his retirement. The newspaper, which was originally known as the Sauganash Echoes, also ceased publication after Reverend Richard stepped down, but it was revived in 1978 by church and community

members under the name it bears today. During the many years that Reverend Richard published his newspaper columns, they provided him with an ideal forum for promoting Christian values and community dialog. By reintroducing the column, Reverend Nyquist has pledged to renew this tradition of bolstering the community spirit of Sauganash. I look forward to reading his columns, and I am confident Reverend Nyquist will do justice to the legacy of his predecessor.

In closing, Mr. Speaker, I would like to include in today's proceedings an article from the Sauganash Sounds written by Reverend Nyquist. The article, which follows, details Reverend Richard's contributions to Sauganash during his many years as a pastor: [From the Sauganash Sounds, June 29, 1991]

THEY CALLED HIM REV  
(By Raymond W. Nyquist)

His name was Cyril K. Richard, but everyone called him Rev. For 47 years—from 1930-1977 he was the beloved pastor of Sauganash Community Church. The neighborhood was young and vibrant and growing then, and so was he. He was only 30 years old when he began his ministry in Sauganash and he literally grew up and grew older with those who were moving into the area at the time. Were he alive today, he would be 91 years old. Some of you—perhaps many of you—reading these words were his contemporaries. Or you grew up under his ministry. Your children were baptized, confirmed, married by him. And some of your loved ones were buried by him. Indeed, some of you "younger people" were married by him.

He was "Mr. Sauganash." As such he was a Christian gentleman of the first order, with class, integrity, character, and pride—in the best sense of those words. The fact that people called him Rev did not take away from his dignity, but added a quality of affection. Not only did he care for the members of his church, but he was genuinely concerned about all the people of the rapidly growing community. That was why, in 1931, only a year after coming here, he used his journalistic talents to found and publish the Sauganash Echoes, the predecessor of what is now called the Sauganash Sounds. As I write these words I have before me copies of the Echoes that date back to 1957, 1958, and 1959. On the page one masthead, in the upper right hand corner, are the words: "Published Continuously Since 1931." and in the upper left hand corner: "Promoting the best interests of community life."

Significantly, Rev wrote a lead editorial on page one of every issue. He titled it "Column Rite," by C.K.R. In those columns Rev gave his personal and pastoral opinions about anything and everything, from religion to politics, holidays and holy days, family life and community issues, patriotism and personal faith, and everything else that concerned peoples' lives, faith, values, interests, enjoyments, etc. He was out to improve peoples' thinking, broaden their concerns, widen their horizons, and deepen their faith.

Strange as it may seem, I knew Rev personally and worked under him professionally. During my senior year at North Park Theological Seminary, 1963-1964, I was called to be the part-time Youth Director at Sauganash Community Church. I taught Sunday School, assisted in the worship service, but my main duty was to lead the Sunday night Christian Youth Fellowship—a group of about 20 to 40 teenagers, mainly freshmen, sophomores, and juniors. It was

during that year that I came to realize that although Rev was a pastor and preacher, his first real love was journalism. He worked long hours with his personal secretary, Betty Olson, putting the paper together. Almost every Sunday night he would be working late in his study when I would lock the doors of the church and take some young people home. Volume I, number 1, came out in February, 1931. Part of the masthead is printed in the issue of February 21, 1959, celebrating the paper's 28th year.

I personally never called him Rev. I grew up in a church tradition where the minister of the church was called Pastor. And so I addressed him always as "Pastor Richard." Which brings me to the main point of this article.

Bud Hodgkinson, a longtime resident of Sauganash and personal friend, knew me in those days, and when I came to be the pastor of Sauganash Community Church just eight years ago, he reminded me that I had said, during my year of youth ministry here in 1963-1964, that I would someday be the pastor of this church. I did not realize then how prophetic those words were!

Rev retired from the church in 1977, and he died the following year. From 1977-1982, two men served the church as pastor: John Jewell, and Jere Stone. I was called to its pastorate in July, 1983. When Rev retired and died, his "baby", the Sauganash Echoes, died with him. But it was reborn, resurrected, in 1977-1978, as the Sauganash Sounds, when a small group of church and community members formed a Board of Directors to keep the spirit of the Echoes alive in the neighborhood.

With this issue, through a special arrangement between the Sauganash Community Church and the Board of Directors, Rev's column will now be resurrected, and as pastor of Sauganash Community Church, I will offer you a regular column, just as Rev did.

Whenever a pastor comes to a new church, people ask him what he chooses to be called. A few people here call me Rev, just as they did Cyril K. Richard, but most people call me simply Pastor. The word means "shepherd." As Jesus was the "Good Shepherd" who gave his life for his sheep, so Rev was a shepherd, a pastor, in the finest sense of the word. And I trust that I follow in his train.

But for this column, just call me Barnabas. The name means "son of encouragement." Barnabas was a character in the New Testament, a leader in the early church, a friend of Paul, and an "encourager" of people. As I write these columns for you, I hope to encourage you, inspire you, and give you hope—that you might be the person God intends you to be. In time, you may call me other names, but for now, just call me Barnabas. And let me leave you with this encouraging word: God knows, and God cares.

#### TAX FAIRNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH], is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to take my time this evening with the help of some of my colleagues to talk about tax fairness. Tax fairness has gotten to be a very interesting political issue over the last couple of years, and it raises a number of questions.

Which were fairer, the last Democratic Presidency or the Reagan and

Bush years? Which had a greater impact on jobs and economic growth? Who really pays the taxes?

I think that it is important to look at this from the standpoint that there has been a lot of loose talk without factual backup about tax fairness, that a number of our friends have said, "Oh, all we have to do is raise taxes selectively on the rich," and as we are all learning, for example from the boat builders, if you raise taxes on people who buy a product, then you lay off people who are making the product, and it is not very fair to the thousands of boat workers who are not working today. They think it is sort of downright unfair that the Democratic Party policies would raise taxes and kill their jobs.

There has been a lot of talk about exactly what happened with what was called Reaganomics. President Reagan once said that he knew when his programs were really succeeding; when they quit calling them Reaganomics, and they just sort of happened to have this prosperity.

We have seen what happened in the last 2 years as the Democratic leadership stopped the capital gains tax cut, and the economy went into the first recession since 1982, and despite all of our best efforts, we were not able to convince the Democrats to pass the kind of tax cuts that would improve things.

President Carter invented the concept he called the misery index. He said that the misery index was a combination of inflation and unemployment. In 1976 when he was running for President, he talked about 13.5, and that was the combination of unemployment and inflation, and that was the misery index. After 4 years of Democratic tax increases and Democratic inflation, the misery index had reached 20.6, in fact, its highest point in modern times.

We went through two very difficult years of forcing the economy into a recession, stopping inflation, and we had tremendously high interest rates under President Carter. Inflation was going out of sight.

Then with the help of the Kemp-Roth tax cuts, we began to revitalize the American economy. We began to recreate a new opportunity for jobs, a new opportunity for take-home pay.

It was fascinating back then, because the economy was growing so slowly that there was an estimate that we would not have enough money, and we would not be able to meet our requirements as an economy, but the fact was revenues went up. The tax cuts stimulated growth, and the problems of the deficit turned out to be not a function of revenue but of too much spending on the part of the Congress, and no matter how fast the economy grew, Congress was prepared to spend even faster.

So we now come to 1991. Where are we? We are in an economy which is not growing very fast. We are in an econ-

omy where State after State is raising taxes. Why? Because when they went into the recession, they were not getting enough revenue. In a lot of States—what are those tax increases doing? They are driving the economy even deeper into recession.

In every tax increase that kills a job, it reduces revenue. The fact is if you raise taxes enough for people to close down their business, to lay off their workers so they quit paying income tax, so they start drawing unemployment, the effect of that is to lower government income and to raise government spending, so the deficit gets wider.

In the early 1980's, we had to talk about this all the time. It was a very new idea. Then it turned out to work, and we cut taxes, and we created millions of jobs, 18 million new jobs. We had a lot more take-home pay. Things were beginning to work again. America was on the move.

Then somehow our friends in the Democratic Party began to forget all about the notion that if you cut taxes you encourage investment, you encourage work, you encourage small business, you create jobs, you have more people at work earning more incomes, they pay more income tax, they are not on food stamps, they are not on unemployment, they do not need public housing. So government spending goes down.

We are now back at the same old stand. We are saying exactly the same things we said in the late 1970's and the early 1980's.

I will pose it in a very simple basis. There is nothing fair about losing your job, because government raises taxes too much. There is nothing fair if you are 80 years old and you lose your house because your property taxes went up too much. There is nothing fair about saving for years and hoping finally that you are going to be able, as happens right now, to take a family heirloom in to the jeweler; and discover that when you get that heirloom set, and let us say it is and old cameo that you have put in a piece of jewelry, you do not pay on the new jewelry. You pay a tax, 10 percent, on the entire piece including the cameo which belonged to you. What used to be a simple, inexpensive, easy thing to do that your local jeweler made a little money out of, and your family heirloom looked a little better, is not so expensive that most Americans cannot even afford to do it. That is ridiculous.

We have, in fact, I believe, with the boat tax and with the auto tax, taxes that are so prohibitive that if we had any reasonable computer system in the Congress that measured reality rather than theory, we would find that both tax increases cost money, that we literally tonight are getting less money because we have raised taxes so much that people, for example, quit buying

boats, so boat builders quit hiring people to build boats, so the State did not collect any sales tax, nobody collected any income tax, and the result has been that we have actually lost income to the Government.

Yet the Government computer models are so old fashioned, so obsolete, so out of touch with the real world, that they actually cannot measure what happens in the real world. If you lay off 100 workers and they quit paying income tax, that does not show up when you are measuring the boat tax. If you quit paying sales taxes because you did not sell any boats, that does not show up as a loss of revenue. The only thing they measure is what, in theory, would have happened if, in theory, you had bought the boat.

The funny thing is, and I have to say this for the gentleman from Texas [Mr. ARMEY], who is an economist just walking by, that there is an old story about the economist who was shown the difference between theory and reality and promptly said, "All right, there is a difference between theory and reality. My question is: How do we change reality?" And yet that is exactly what we have here today.

The joint tax committee model is the equivalent of having a computer model at the Department of Defense that said you cannot have an airplane because nothing flies, or of having a computer at the Department of the Navy that said you cannot build any ships because none will float, yet we in Congress continue to follow a fix that we can talk about taxes without regard to the real world.

What is the result then? We did not pass the capital gains tax cut. "Oh, it will help the rich," people said. Who did it really hurt? It hurt every small business person who sold their business. It hurt every retired American who sold some stock they dept. It hurt every small family farmer. It hurt every person who owned a few trees, and in the South we have a lot of timber growers, small family growers, often widowers, often folks who are in their seventies or eighties, who have kept a little piece of 20 or 30 acres who are going to sell off the trees, and they are hurt.

Who else did it hurt? It hurt the 500,000 to 1 million workers who do not have a job today, because we did not encourage building new factories, and so we have an economy with a million more unemployed. We have an economy in which that million people are not paying income tax, and they are taking welfare, food stamps, unemployment, so the government cost in the last year has gone up, and the government revenue has gone down.

We are weaker, because we tax capital gains where Germany and Japan do not. Guess who gets the new factory? Guess who has the new investments?

Guess who is more competitive in the world market?

There is nothing fair about saddling American workers with an old piece of equipment, with an old factory, with inefficient opportunities. That is not fair. There is nothing fair with raising taxes on the American workers so that they are not in a position to be able to buy a car, get a job, buy a house.

I want to start with this notion that I would challenge my friends in the Democratic Party who believe so much in yelling fairness and raising taxes, to explain how they could possibly defend the tax on boats which has just crippled the boat-building industry in America. I do not have any boat builders in my district, and I am not here as a special-interest plea. I am here just as a commonsense plea.

□ 2020

Or to explain, if they were to go to Kansas and talk to the people at Beechcraft, how stopping them from selling airplanes is good for America. It does not make any sense.

Yet, I have heard Democratic leaders come to the floor and say that they will keep the tax on rich, and it is almost as if they were saying it does not matter how many lose jobs, or how many families do not have income. It cannot possibly be fair to have working families laid off and without an ability to earn an income.

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

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thought it was interesting the other day when we had a report come out of a commission, that the Democrats were enthusiastic about, actually increasing the boat tax and the airplane tax. They said that was a tax we could increase in order to get more revenue for all the new programs they wanted to pay for.

The fact is, as the gentleman points out, the tax is losing revenue. They are not dealing in a real world, by suggesting new taxes which are in the real world, losing money; but they are suggesting they will gain money out of it.

Let me also suggest to the gentleman that the thing that the American people, I think, judge fairness by, is what happens to the income of the family during the period of time that policies developed in Washington are working. If we go back to what the gentleman said originally, when the gentleman talked to the fact that we have two records to look at, it is very, very interesting what happens to family in those two periods of time. We have the 4 years of the Carter administration. If we take a look at a chart that the pages are bringing forward here, we find on that chart that median family income, in fact, showed remarkable trends during that period of time.

From 1977 to 1979 there was an increase. That was largely the holdover from the Ford administration policies when Gerald Ford had the guts as President to stand up and veto a bunch of spending bills, and brought down the costs of operations in Washington, and the Nation did experience some increase.

Then beginning in fiscal year 1979, the first real year of the Carter administration policies, we see a remarkable downward trend begin that culminates in 1980, with the worst year in postwar history for American family income. American families lost a remarkable amount of money, almost \$1,200 in a one-year span from fiscal year 1979 to fiscal 1980. The trends continued downward in the fiscal year 1982, and that was largely, again, the holdover of Carter policies. The Carter policies put the United States into a recession, and the recession was a very, very dramatic downturn in the economy by 1980.

Beginning in 1982 when we had the first kick-in of the tax cut policies brought on by the tax cut that the gentleman mentioned earlier, we had a dramatic increase in family income, and that trend is shown again on the chart. We had family income rising nearly \$4,000 during the period of time from 1982 to 1987. That is what real American families regard as fair, when American policies are such that their family income is rising and they are able to pay their bills. That is precisely what happened during the 1980's. It is precisely the kind of policies that the American people would like to see enacted now.

Instead, what they are getting is policies that have changed, once again, and are moving the United States toward higher taxes, which will result in American families having a decline in their income. They will regard that as unfair.

Now, what has been taking place in the Congress, we have people saying, "Well, the whole thing is unfair because we have had a substantial increase by the very richest Americans and not as much of an increase by poorer Americans." The fact is, though, that all Americans did go up, and one of the reasons we have a substantial amount of increase of income of people who are in the highest fifth of the country is because we have so many more of them.

There has been talk on this floor about declining middle class. The middle class has, in fact, been reduced to some extent, measured by income categories, only because they have been moving up, not down. When they moved up, it, in fact, increased the amount of family income available in the upper fifth of income earners in the country. Once again, something that most Americans regard as fair. What they want is to become richer not poorer.

er. They think those policies are what work.

Beginning in 1986 when we changed the tax law that undermined the whole real estate industry, and extending to last year's budget deal when we dramatically increased taxes and thereby plunged the Nation into a recession, it seems to me that we have gone back to the Carter policies that drove the United States into a recession, and drove down family income.

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

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

Mr. ARMEY. Mr. Speaker, I would like to expand for a moment on the comments made by the gentleman from Pennsylvania. It is true that as we see in 1982 when we turned the economy around, and we see the median family income increase, it is true that as we see our official data reported, that people in the higher income brackets, the income reporting is broken down into quintiles: First, second, third, fourth, and fifth. That people in the higher fifths have a higher percentage gain than people in the lower fifths.

It is also true, of course, as the rich got richer by 24.5 percent, the poor got richer, relatively poor, got richer, by 5.9 percent. This is often cited as an inequity in this growth pattern. However, one of the things we have to understand is there is a statistical aberration that affects the higher income quintile, the top fifth. That is why the tax laws caused changes in the behavior of the top fifth, so more of their income, more of their wealth, was held in forms that generated current income flows as opposed to deferred future income flows, and that caused that growth, their wealth was substantially converted then to immediate returns as opposed to future returns.

The other being that the manner in which we collect on capital gains income causes a larger share of the capital gains held by typically more well-off people to be more immediately reported. Capital gains income, of course, is reported only in nominal terms. I will have more to say about that later.

So that even though we see what appears to be a dramatically higher rate of income increase with the higher income American, relative to the lower income American, what has to be recognized is statistical aberrations in that fifth quintile figure that exaggerate by making proper adjustments for behavioral changes, statistical inaccuracies, there would be a greater relationship between the top quintile which nominally is reported at 24 percent gain, and the next quintile of 34 gain.

The base point the gentleman makes is that when we generate prosperity over a 10-year period, all Americans in every income category gain. One of the

things that we find in the nature of the American people is that they are thankful for their own gains, and they are also perfectly willing and happy to see their neighbors gain, even if their neighbors gain more. Americans are not envious, greedy people, but people that are perfectly willing to wish the best for everyone, themselves, and their neighbors.

Mr. GINGRICH. Mr. Speaker, let me follow up on that. I think this chart, we need to look at this chart from a different angle.

It tells Members a lot about the biases in the liberal Democratic wing of American politics, and the biases in this building.

If I were to go up to almost any American and say, "Look, there was a Democratic President, and while he was President, the poorest one-fifth of Americans lost income." That is what it says. The family income for the poorest fifth of Americans dropped under the Democratic President.

Now, there was a Republican Presidency, and during the Republican Presidency, that family income went up by almost 6 percent for the poorest families in America. Which do Members think was better for poor people? Which was fairer? Was it fairer to be poor and have your income going down under the Democrats, or was it fairer to be poor and have their income going up under Reagan and Bush?

Yet in this building, and that reminds me of a story President Reagan used to tell. The difference between America and Britain was that in Britain if a man who was in the working class out wearing a cap and worked in an industrial plant, and his son or daughter was standing there and somebody came by in a Rolls Royce, he would point to it and say, "Someday you and I will be able to take him out of that car and destroy that car." In America, if somebody drives by in a Lincoln or Cadillac, exactly the same income, they look at it and say, "Someday you will be able to buy that car."

□ 2030

The difference is very simple. Our dear friends who talk about fairness drove the poor deeper into poverty, but it was fairer. After all, they only allowed the wealthy to grow by 1 percent and they dropped the poor by about 1 percent, so they were statistically close. Both were miserable. This is why President Carter gave a speech on the whole idea that you really cannot expect anything but malaise. If you look at those numbers, you know why they were for malaise.

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

Mr. GINGRICH. I am glad to yield to the gentleman from Texas.

Mr. ARMEY. It is very striking, Mr. Speaker, when you see the graphics

here, especially with the color tones. The fact is, if in fact you are concerned about conditions under which the rich would get richer and the poor would get poorer, you have the only recent incidents of this occurring in the period of time from 1977 to 1980. After 1980, the rich got richer and the poor got richer.

Mr. GINGRICH. Exactly.

Mr. ARMEY. Now, which is the better set of circumstances and which is the truly deplorable set of circumstances?

Mr. GINGRICH. And before I yield to my good friend, let me make one more point about this. I went recently and saw the most popular movie, Terminator II, with Arnold Schwarzenegger. Arnold Schwarzenegger was paid \$15 million.

Now if you had a chart and you would have said, how much do we pay Schwarzenegger to play in Terminator II and how much do we pay NEWT GINGRICH or BOB WALKER or DICK ARMEY not to play in anything?

All right, Schwarzenegger makes rather more money, but it also happens to be true that the first weekend it was out a lot more people went to see it and not a single person who bought their ticket resented Arnold Schwarzenegger making some money out of them having a terrific time.

Now, we come back to this whole theory of fairness as described by the left, and I think the gentleman put his finger on it. The only time recently where poor people got poorer under liberal Democrats.

Now, it is true that in order to build new factories, in order to hire more people, in order to create more jobs, in order to increase income, you did have a situation where people tended to do better and were better off than when they started; but everybody was doing better.

I would state that the absolute average American, absolute statistical average right there in that middle group as described by the green color here, would you rather have your growth go up by 0.6 percent or would you rather have your family income go up by almost 11 percent?

Mr. WALKER. Mr. Speaker, if the gentleman will yield, let us be clear, though, one is a 4-year period and one is an 8-year period, so it would be 1.2 percent as compared to 10.6 percent. We want to be fair. So it is only 10 times as much, not 20 times as much.

Mr. GINGRICH. I thank the gentleman for his report.

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

Mr. GINGRICH. I am glad to yield to the gentleman from Illinois.

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

When you get to conversations about what is the rich and we had that debate on an amendment introduced by the

distinguished majority leader a week or so ago. He could not define the rich. Maybe, he said, it was \$100,000, maybe it was more, maybe it was less.

The rich by definition, and I am giving you now admittedly 1988 figures which are the most recent updates that we have, but the highest 5 percent of wage earners in this country, the highest 5 percent, the rich, if you will, kicked in at \$73,700 a year.

You take the highest 10 percent that year, and these are figures from the IRS and the Treasury Department, the highest 10 percent of all the rich people in this country kicked in at \$58,300 a year.

The highest 25 percent, you know, that is rich, too, by definition, those people kicked in at \$35,600 a year.

The highest 50 percent, because if you are going to break the population down, half is rich and half is poor, right? The highest 50 percent kicked in at roughly \$18,000 a year.

Now, I think more importantly is the percentage of total taxes that the rich pay, because if you get to the highest 50 percent, they are only today paying roughly 95 percent of all the taxes paid to our National Government.

You get to the highest 25 percent, they are paying roughly 78 percent of all the taxes.

Let us go back and review those figures. That is \$35,600 a year and above. You get to the highest 10 percent and they are paying 57 percent, well over 50 percent of the total, 57 percent of all the revenues paid here are from that highest 10 percent, and that kicks in at \$58,300.

You get to the highest 5 percent, those really rich people at \$73,000 and above, and they are paying roughly 46 percent of the total.

If you look at the changes in the Tax Code between 1979 and 1988, and this includes the Reagan tax cut of 1981, his Tax Reform Act of 1986, and you will find that the lowest 50 percent in their percentage of the total paid has dropped 1.3 percent and the top 50 percent has increased 1.3 percent; but if you look at the total paid by all those people in the lowest income brackets, the 50 percent number, that is only 5½ percent of total revenues paid, 5½ percent.

To listen to some of the demagoguery in the debate on this subject suggesting that somehow the Reagan-Bush tax changes have skewed this whole process so now the poor are really taking a hit on the chin is defied by all the statistical evidence.

I think it is clear, the point that the gentleman in the well has made, that when you provide incentives in a code, to be sure the rich can get richer, but the poor can get richer, and the poor can get richer at a faster rate, and that is demonstrable by the evidence, and I commend the gentleman in the well for calling attention to this fact, because

as I say, there has been a great deal of misinformation disseminated on this point.

Mr. GINGRICH. I might comment, Mr. Speaker, if you look at this chart you could argue that the Democrats believe in taxing the rich into poverty. The problem is that they drive the poor into poverty deeper. By the process of taxing the rich into poverty, they drive the whole country into poverty, and I do not think that most of us do not believe our policy goal for America is to maximize the opportunity to be poor. Most of us think that our goal ought to be to maximize, to raise incomes and to raise family take-home pay and to raise the quality of life.

I think if you look at these two charts, the No. 1 conclusion you have to reach, even as my good friend, the gentleman from Pennsylvania said, if you double the numbers from 1977, I would by the way contest that, if you were to extend this out 2 more years to the full consequence of the Carter policy, it would look worse.

The true fact is the first 4 years are bad. If he had got another 4 years, it would be worse, not better.

Mr. CRANE. Disaster, if the gentleman will yield further.

Mr. WALKER. If the gentleman will yield further, Mr. Speaker, these figures are the good quarters.

Mr. GINGRICH. That is right. He had a slight advantage taking over from President Ford, and then the collapse was coming.

I will never forget how bad it got when we were at 13 percent inflation and 22 percent interest rates and the whole system was just beginning to disintegrate.

Mr. CRANE. Mr. Speaker, if the gentleman will yield, though, you know the perception of our leadership at that time was that we were in a state of national malaise and this country had reached its peak and it had nowhere to go but downhill. With that kind of mentality and the kinds of policies they implemented, they were on the right track to guarantee the fulfillment of that analysis.

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

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, the gentleman earlier mentioned the fact that he did not have any boat manufacturers in his district. In the State of North Carolina, we have an awful lot of boat manufacturers. Somewhere along the line, the geniuses in Washington, DC came up with the idea of how to generate money was to put a tax on soaking the rich, but that same genius if you applied it across the board would probably say the best thing we could do to raise money in this country today would be to raise the price of everything.

I was thinking, what would happen if we could just raise the price of Kellogg's corn flakes to \$15 a box and tax them at 10 percent like we are doing on yachts. Think of the money we could generate. Of course, I do not know anybody who would eat Kellogg's corn flakes at that price.

Let me just give you some statistics from the State of North Carolina which happened with this 10 percent tax on yachts.

The Hatteras Yacht Company was a very successful yacht builder in High Point, NC. They had at one time over 2,000 employees. Since the tax went into effect, they had to lay off 900 employees. They have given me the statistics to prove this.

You know, this whole tax on boats was supposed to generate \$3 million a year. The payroll, the actual payroll taxes that would have been paid by these 900 workers and the actual profit that Hatteras would have paid on the taxes is actually substantially more than the \$3 million that the whole industry would have generated had they done that.

But let me just add a few more. Hatteras is a big boat builder, but a lot of people do not recognize other people are involved. The Pittsburgh Plate Glass Company in Shelby, NC, makes fiberglass. It takes a ton of fiberglass to build a yacht. With that ton of fiberglass, a lot of people work, but since they were not buying, they laid off 275 people. Those people would have paid \$1,300,000 in taxes had they been working. Now they are drawing unemployment.

The Carver Boat Company of Pender, NC, a little outfit, not so little really once upon a time until this tax thing. They actually had 600 employees and they closed in May. They shut their doors and went out of business.

□ 2040

Outboard Marine Corporation, which is a big outfit, but they also were involved in yacht manufacturing and so forth, and they laid off 250 people.

Buddy Davis Boat Company in Wanchese, NC, laid off 200 people.

Covington Diesel in Greensboro, NC, laid off 54 people.

Just in the State of North Carolina in this year since the 1st of January, 2,279 people have lost their jobs. According to the National Marine Manufacturing Association, close to 19,000 people have lost their jobs.

These would have been taxpayers if our brilliant minds up here in Washington had not put them out of business.

I just would like to say that somebody needs to open their eyes to see what is going on.

Mr. GINGRICH. Let me make two points here, one about fairness and the other about just plain intellectual honesty.

First of all, I would argue, despite our Democratic friends, that it is not

fair to have 2,279 families in North Carolina that do not have a job, it is not fair to have 19,000 families around the country that do not have a job.

When they yell fairness, they ought to go and visit the families that are now unemployed because you raised taxes, exactly the way the Democrats like us to.

Second, I would argue that the intellectual lack of accuracy by the Joint Tax Committee and by the Congressional Budget Office and the fact that if you want to walk down there tomorrow—and this is something we ought to maybe consider doing—we ought to take the numbers that the gentleman has, send them down and say "We want you to measure this against your computer and change the computer until you can get to a formula that fits reality. Here we have a real case."

What they would say to you is, "Gee, either these 2,300 people cannot be unemployed because they do not show up on our computer as unemployed or we are not going to count the income tax loss." I mean, imagine a family that said to you—it almost sounds like a teenager—imagine a family that comes in and says—and this is sort of a slur on teenagers, they are actually smarter than most bureaucrats in this setting—imagine a teenager who said to you, "You know, I did not charge a dime on the Mastercard and I do not know why you are talking to me about the Visa card bill because I thought we were only going to measure the Mastercard bill this month. You mean that when I charged on Visa, that was not appropriate?" And that is what you have here. We actually cost ourselves money as a Government and we cost families their livelihood, and it is called fair and they will not even score it, they will not even count it in the congressional Tax Committee.

Mr. BALLENGER. Let me say one more thing: The sad part about it is these jobs are lost now. But you can go to the Bahamas right now and buy used yachts, new yachts, any kind you want to buy, and they are not made in this country anymore.

So, basically, what we have done is we actually have destroyed and if we do not change this tax, we are going to completely destroy an industry that used to be a very successful industry in this country.

These were actually exports.

Mr. GINGRICH. I would be glad to yield to my good friend from Kansas, who I might say has been a real leader on this issue and has introduced a key bill on repealing this tax which is killing jobs.

Mr. NICHOLS. I thank the gentleman for yielding.

Mr. Speaker, I would like to talk about this tax. It puts American men and women on the unemployment line, it cripples U.S. industry like we have been talking, and it loses more revenue

than it generates. Now, common sense would tell us this is not a good idea. But that is exactly what the effect of the so-called luxury tax is, that was agreed on by Congress in last year's Budget Reconciliation Act.

A few weeks ago I introduced legislation to repeal the luxury tax to restore and preserve the jobs of working men and women. These are the people in this country who, after all, produce the goods, revitalize the industries which have been severely impacted.

These items may be a luxury to the purchaser, but to the men and women who are producing these goods, their jobs and salaries are a necessity.

Now, the luxury tax does not hit the pocketbook of wealthy Americans. What it is doing is it shortchanges U.S. workers. These people, considering purchasing items Congress has labeled as luxuries, can simply forego the purchase of these products or they buy used ones, which are not subject to the tax.

It is simple economics: When prices get too high, people stop buying the product. And they have.

The matter of fact is the tax missed its wealthy targets and has hit the working class. In my home State of Kansas, we were talking about the boatbuilders a minute ago, in this instance Beech Aircraft in the first 3 months of this year has lost more than \$77 million in new orders for 39 new aircraft, and these have been traceable directly due to the luxury tax.

That equals the loss of more than 250 jobs in 1 year. And now the luxury tax not only leads to higher unemployment and higher unemployment payments, it also costs the Federal Government in lost revenue.

The effect of the aircraft luxury tax on Beech Aircraft alone has cost the Government \$1.6 million in lost income taxes and FICA taxes. How much did the luxury tax from aircraft sales at this same company generate? Only \$16,000. That does not even cover the cost of collecting the tax.

So, it is ridiculous to impose this while the economy is ailing. It is like the medieval physicians bleeding their patients to cure their sickness. It is time the Democrats' prescription for economic recovery to move out of the Dark Ages.

In their haste, the Democrats in controlling Congress, pointed the tax gun at wealthy Americans. They instead shot the working men and women of this Nation right in the back. I firmly believe that every American must pay their fair share of taxes. However, I do not think that the vendetta held by the Democratic Party against wealthy Americans is healthy for our economy.

Before Congress continues to soak the rich, let us look at the facts. The top 10 percent of American wage earners pay 57 percent of all income tax revenues and the top one-half contribute 95 percent of all income taxes.

The Democrats continue to devise new and creative tax schemes to pick-pocket Americans to feed their spending frenzy so they may continue to create their new Federal bureaucratic programs to further their agenda.

To have the Federal Government intervene to solve every problem is a bankrupt idea. It seems to be such a simple concept, but instead of continuing to raise taxes, why not reduce Federal spending?

This Congress should rise to the challenge to redefine the meaning of tax fairness. Tax fairness should mean that all Americans are allowed to keep more of their hard-earned paychecks and require each person to pay their equitable share.

It is always best if we take on this challenge by keeping in mind that Government is at its best when it governs least. The role of the Federal Government should be to help the citizens of this country, but we must realize that the Government cannot accept responsibility to pay everyone's bills.

Mr. Speaker, what would you say about a tax that puts working American men and women in the unemployment line, cripples U.S. industry, and loses more revenue than it generates?

Common sense should tell us that this isn't a good idea, but that is exactly the effect of the so-called luxury tax agreed upon by Congress in last year's budget reconciliation act.

I have introduced legislation to repeal the luxury tax to restore and preserve the jobs of working men and women in this country who produce these good and vital industries which have been severely impacted.

These items may be a luxury to the purchaser, but to the men and women producing these goods, their jobs and salaries are a necessity.

The luxury tax does not hit the pocketbook of wealthy Americans. Instead it short changes U.S. workers. Those people considering purchasing items Congress has labeled as luxuries can simply forgo the purchase of these products, or buy used ones which are not subject to the tax.

It's simple economics. When prices get too high people stop buying the product, and they have. The fact of the matter is, the tax missed its wealthy targets and has hit the working class.

In my home State of Kansas, Beech Aircraft, in the first 3 months of this year, has lost more than \$77 million in new retail orders for 39 new aircraft due to the luxury tax. That equals a loss of more than 250 jobs in one year.

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bleeding their patients to cure their sickness. It is time for the Democrats prescription for economic recovery to move out of the Dark Ages.

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It is best if we take on this challenge by keeping in mind that government is at its best when it governs least. The role of the Federal Government should be to help the citizens of this country; but we must also realize that the Government cannot accept responsibility to pay everyone's bills.

Those are some comments I wanted to make in connection with the same discussion that we were having.

Mr. GINGRICH. I would like to for a second, if the gentleman does not mind, if I may say to my friend from Kansas I want to go back because I think the information the gentleman brought us is so amazing and so specific.

Am I correct in understanding that in order to get \$16,000 from Beech Aircraft the Government killed 250 jobs and lost \$1.6 million? Are those numbers accurate?

Mr. NICHOLS. Those have been traced directly by the officials of Beech Aircraft, yes. And they talked to the people who were going to buy the planes, who committed that they were, and traced it back. These are not hypothetical examples.

Mr. GINGRICH. And these are not people who were called and actually said that, these were actually people who were right on the verge of buying?

Mr. NICHOLS. Yes, they were.

Mr. GINGRICH. They saw that extra 10 percent and said, "Whoops," and they backed away.

Mr. NICHOLS. Yes. They would not pay it. They could pay it, perhaps, but they would not because of that luxury tax.

Mr. GINGRICH. Maybe people in Kansas have more sense than folks on the Joint Tax Committee. Let me just ask you—in fact, I am certain they do because—well, let me ask you: Does it not seem to the gentleman a bit steep that in order to pick up \$1 you have to give back \$100?

Mr. NICHOLS. Incredible.

Mr. GINGRICH. I mean does it not strike the gentleman in terms of Beech Aircraft this may be one of the least effective, most destructive exchanges in American history? That in order to gain \$16,000 you have to give up \$1,600,000? Can you imagine if you went to the people in Kansas and said to them, "I have this great deal. You write me a check for \$16,000; I will write you a check for \$1,600,000?"

Mr. Speaker, I yield to the gentleman from Texas. I knew I would get his attention.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this is fascinating. Let me see if I can add to it.

Mr. GINGRICH. I think our friend from Kansas has brought us an actual case study that is unbelievable.

Mr. ARMEY. We have a situation where the Government, the Congress, the Democratic majority in Congress, decided it was only fair if we soak the rich with a luxury tax which they applied on airplanes, in this instance. Having imposed this tax, they closed the major manufacturing concern, major employer in the gentleman's district in Kansas to lose how much in sales?

□ 2050

Mr. NICHOLS. Seventy-seven million dollars in 3 months.

Mr. ARMEY. \$77 million in sales lost to a private concern in the country, and how many jobs lost?

Mr. NICHOLS. That equals the loss of more than 250 jobs in a year's time.

Mr. ARMEY. 250 jobs lost.

Now what they did then was to receive revenues over this period of time to the Treasury of how much?

Mr. NICHOLS. They received revenues from the luxury tax?

Mr. ARMEY. Yes.

Mr. NICHOLS. \$16,000.

Mr. ARMEY. So what they do, and I want to talk about how they reckon things up in this town. The first standard of success that they will apply to any public policy is: What does it do for us? That is to say: What does it do by way of bringing money into the Treasury?

So, they would look at this, and they would say, "Well, we brought in \$16,000. That's a good deal."

In other words, what they do not reckon, they do not count, they do not consider important, is what is it doing to the American people. The \$77 million in lost sales, that is a matter of no consequence to the decisionmaking process here; 250 jobs lost.

Now, if my colleagues will imagine 250 people lost their jobs, families without income, and what is also hidden in that is lost income tax revenue to the Treasury from the incomes that are not going to be generated from the \$77 million worth of sales that will not be made in the 250 jobs that went up. So, the Government may actually have had a net loss of revenue even onto itself because they refused to take into account in their calculations these very real economic effects of their ill-advised policy.

Mr. GINGRICH. I just realized because I did a little bit of math work because the gentleman suddenly got me intrigued with this that we have been in this room when our liberal, Democratic friends jumped up and said, "We need to create jobs. Let's have a government jobs program. Let's create 70,000 jobs out of the Government," and they literally pay \$70,000 through the bureaucracy to hire somebody at \$23,000. This tax at Beech Aircraft was killing a job, if I got my numbers right, for every \$64 in taxes. In order for the Government to get \$64, it was literally killing a job. That is the average.

Now this has got to be one of the most destructive policies ever adopted on a job-per-dollar-of-taxation basis.

Mr. ARMEY. The question then of fairness is: "At what point is it fair for me to take your right to a job away from you? If I make \$64, and you lost your job, that's fair."

Mr. GINGRICH. And that does not count the fact that now that I have killed the gentleman's job, I am now going to have to tax everybody else or borrow the money in order to pay for food stamps, and public housing and welfare because I have now knocked the gentleman out of work.

So, my colleagues have this poor person in Kansas in this case who wants to go to work. They are ready to go to work. Beech Aircraft, I gather, would be quite happy to have them go to work. Everything would work out fine except that the Government under the leadership of the congressional Democrats has once again raised a tax, killed a job and weakened the family.

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

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

Mr. DELAY. Just very briefly, I just noticed that, if each one of these jobs averaged an income of \$30,000, the average tax that they would be paying is \$2,800, around \$2,800 a year. So, if my colleagues extrapolate that out, 250 jobs lost at \$2,800 in taxes, then the liberals here in the House cost the Government \$700,000 in lost income taxes.

Mr. MCEWEN. Mr. Speaker, we lost that much money in lost income taxes, and yet theoretically we raised \$16,000. Now the Democrats can see the absurdity of that. They see the number of people that are losing their jobs all

along the East Coast and elsewhere, and so even now they are frightened and wish to do something to correct it.

The reason we are here is because we have a bill to correct it, but, my colleagues, the Democrats under this operation are now unwilling to pass the bill because under their thought process, never mind the loss of jobs, never mind the collapse of the industry, never mind the hundreds of millions lost in revenue, the \$16,000 that they collected is their concern, and so they want to get \$16,000 from some source, and the reason the bill will not move out of committee is because they need somewhere to make up the \$16,000 they are going to lose because they have the incapacity to understand that, if they repeal the tax, millions of dollars will come in from the example that we just used.

Now we have a textbook example. We do not have to talk about trickle-down. We do not have to use an educated, sophisticated economic model. We have to just put two plus two equals four. All we have to do is to get people to see that when we take away their job, they no longer contribute to the economy, and that is exactly what this tax does.

The main reason that I wanted to take just 30 seconds though for our benefit of our colleagues that are trying to watch this on the floor is for everyone to understand the Democrats control everything that happens in the House of Representatives. A person cannot call a vote without the approval of the Speaker. A person cannot make an amendment on the floor without the approval of the rule. No bill comes to the floor, and, lo and behold, a Member cannot even speak unless a Democrat chairman gives him permission to rise.

The only exception to that is what is called special orders at the end of the day, and this is the only time that we as Republicans can have our own time in which to speak to the House that is followed by electronic means. Because we are trying to communicate our message, the Democrats, who control the electronic means, choose to roam the cameras around so that one cannot follow what we are saying directly, and neither can they follow the charts when they are pointed out by Members using them on the floor. That is obviously an effort to subvert and thwart even our discussion, even our free speech of the cause to which we have been elected, and the reason I wish to take this moment is to emphasize for those like myself who are trying to follow this debate in our offices, are unable to do so because we cannot see the charts because the Democrats, who control the House of Representatives, who control everything that happens here, who control even the cameras and the microphones, have denied us access to that vehicle, and I resent it. I think it is unnecessary. I think it is power run amuck.

Mr. GINGRICH. Can I ask, because I did not realize? In other words, they were not picking up this particular chart when we talked about it?

Mr. DELAY. Not when it was referred to.

Mr. MCEWEN. Mr. Speaker, I would say to my colleagues that I was trying to follow it. Instead this camera up here is roaming the Chamber controlled by the Speaker of the House who is the Democrat who controls those microphones.

Mr. GINGRICH. It is sort of childish because the objective reality is there are at least as many Members on the floor right now as there are for about 60 percent of the legislative debates during the course of the legislative day. That is the way the House operates, and the objective reality is, if it is a good topic and it is a good discussion, the country ought to be able to follow it at their will, and it ought to be handled in a neutral manner so that everybody, whether you are a liberal or a conservative, whether you are a Democrat or a Republican, everybody has a reasonable chance to be heard by the country.

It seems to me that is the essential point we ought to make is we are not asking for special rights for ourselves. We think this ought to be a serious place and should not have childlike games being played during the special orders. Special orders ought to be real opportunities as we are having tonight.

I would love to have one of the Democrats who believes in raising taxes come to the floor and explain to our friend from Kansas why the employees at Beech Aircraft ought to be laid out of work. I think it would be fine to have them come over and have a real debate about the cost of tax increases and whether or not it is worthwhile to make Americans unemployed.

I yield to my friend from Kansas.

Mr. NICHOLS. I might just say one comment, if I could, editorial comment. Among papers in my district it has been unusually favorable to this idea. They know what has happened. They want a change to be made. They do not like this soak-the-rich plan and shoot the working man in the back. They found out what happens, and they are very favorable toward the whole idea.

Mr. GINGRICH. That is great, and I wish you luck, and we are certainly going to be supporting you in your bill to repeal this tax which is killing jobs.

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

Mr. GINGRICH. I yield to the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Speaker, I would like to talk a little bit about tax fairness in New Hampshire, and truly New Hampshire is hurting. Fifty thousand people are out of work. During the early and the mid-1980's New Hampshire had the lowest unemployment

rate east of the Mississippi. Every sector of the economy was doing well. Tourism, which is the State's largest industry, the service industry, housing, manufacturing, high tech, name it, we had it. But then in 1986, in the wisdom of the liberal tax planners, tax reform changed all of this. Now we have a different economy, high unemployment. Five out of seven banks are going down the tubes. Our Public Service of New Hampshire and electric co-op are both going bankrupt. We have been selected way back about a year ago to be the first base to be closed, the Pease Air Force Base.

Now, Mr. Speaker, I look at this past year so-called tax reform, the budget bill which raised taxes to balance the budget 5 years out, which certainly has been eluding us and appears to be eluding us even in year No. 1.

□ 2100

We raised the gas tax by 5 cents a gallon instead of putting it in the trust fund. We took 2 and a half cents to reduce the deficit. We raised taxes by initiating the sales tax which has been so eloquently discussed here. The luxury tax, we destroyed the luxury car market and the boat market. We seem to feel that once we make a done decision, we cannot change it.

We are losing jobs. We are shutting down industries. We cannot collect taxes on products that do not sell. We have created disincentives, and we, the Government actually, are in the process of destroying these industries.

We have no need for an offset. Let us step back for a minute and take a look at why our economy has slowed down, our tax revenues are down. We have a lot of people out of work. Why do we sit back and do nothing? Let us repeal the luxury tax. It was a dumb idea. It did not work. Let us make it right. Let us send it down the road like we did section 89.

Eighty-five percent of the jobs in America are created by small business. I am a small businessman, and with this in mind, on October 15, I introduced my Jobs for America Act which reinstates the 5 percent investment tax credit for business and industry and reduces the tax on capital gains to 15 percent for all Americans.

Let us talk about what an investment tax credit would do for business. First of all, it would go right to the bottom line. If a businessman decided to invest in his business, he obviously would plan for success. As he planned for success and that got enacted, he invested in the future of his business. He would hire more people. And as he hired more people, his business would improve and ultimately pay more taxes. The people he hired would pay more taxes. So in total, the investment tax credit is merely a pump primer for more taxes to come.

I think it is a basic concept, two and two equals four. I do not think that it

is going to be a cost to the economy. I think it is going to be an expansion of the economy.

Take a look at a lower capital gains rate. If we drop the capital gains rate to 15 percent, it would create much-needed capital. It would reward entrepreneurs who are willing to put capital at risk. It would create jobs and, again, people who work pay taxes.

In spite of this, we as a country, even at a 15-percent rate, would be one of the highest capital gains rates in the world. Japan is basically around zero. Germany is zero, long term. Canada is zero. Other countries are far below. If we take a proactive role, we can expand our economy back to approximately \$80 to \$85 billion a year instead of the less than \$40 billion that we are now seeing this year.

Both of these measures will create more revenue than they will cost. They will create jobs. They will improve our ability to compete worldwide and an ability to compete internationally and allow us to regain our manufacturing industries.

Tax fairness, whether it is in New Hampshire or any State in this great country, we now need to take our heads out of the sand. We need to start doing something positive to get Americans back to work. That is what tax fairness is all about.

Thank you very much.

Mr. GINGRICH. Mr. Speaker, let me say, when one talks about fairness, and we have been talking about jobs, some things people need to remember. The bottom point for the middle American family was 1980. That was the lowest, worst single year for family income.

In that year, a middle American family between inflation and taxes lost \$1,800 in buying power. Literally \$1,800 less at the end of the year than at the beginning. If that trend, if the Democratic economic policies of the late 1970's had continued, American families would have lost \$12,600 in real income by 1990. Imagine. If the American family in this country today, instead of having growth in the 1980's had lost \$12,600 in real spendable income, imagine those who are watching tonight and those in our offices, figuring out how much worse off your life would be if you had \$12,600 less.

Instead we saw something very different. The fact is we saw a dramatic increase in the number of jobs. Economic growth in the 1980's meant more jobs. Twenty-one million more jobs, and those jobs were everywhere.

Between 1982 and 1989, employment grew by more than 5 percent in nearly every State and by more than 15 percent in 27 States. We have been talking today about people being laid off in North Carolina, people being laid off in Kansas. Just consider the difference. When we were cutting taxes and encouraging investment, encouraging people to work harder, in 27 States we

had a 15 percent increase in the number of jobs in the 1980's.

In fact, in 1989, the share of working-age population with jobs stood at a record high of 63 percent, up from the 58 percent back in 1983. So if someone wanted to find a job before this recession began, that person had a very good chance. And then we started raising taxes.

We went into a recession, and we did exactly the wrong thing. Furthermore, everybody was improving. The fact was that in 1977, the percentage of families with a middle income between \$15,000 and \$50,000 was 60 percent. In 1989 that dropped to 53 percent. But what happened was not people dropping out, despite all of the Democratic rhetoric.

The fact was, the number of those with a low income under \$15,000 fell from 19 percent in 1977 to 18 percent in 1989.

What happened was, those with a higher income above \$50,000 rose from 21 percent in 1977 to 29 percent in 1989.

Let me repeat that. In the 1980's, more people earned more money.

I ask my colleagues, if I told them about a country in which more than one out of every four families earned over \$50,000 or a country in which only one out of five, which is better off? The country with one out of five earning over \$50,000 or the country with one out of four? Common sense would tell you it is better off for more families. Eight percentage points, almost one out of every 10 American families made it into the \$50,000-plus bracket.

That does not mean we ought to forget people who are below \$50,000. It means we ought to say to them,

You are darn right, we care about you. We want to raise the opportunity to have investment. We want to raise the opportunity to have a small business. We want to raise the chance for you to work full-time and have good take-home pay, and we do that by lowering the tax on investment, lowering the tax on small business, lowering the tax on savings, so that you have a chance that you, too, can someday live a very good life.

What do we discover? Despite the facts, the facts that I think even our friends the Democrats recognize about unemployment, about lost taxes, about lost jobs, I think it is fair to say that the Democrats would rather save face than save jobs.

They have adopted this policy of raising taxes and are not going to back off just because the facts prove that families are being lost in terms of jobs, families are being lost in terms of their homes. After all, you have been working at an aircraft company, you have been working at a boat building company, you have been working at Pittsburgh Plate Glass Company, working pretty hard, making the mortgage payment, trying to save a little bit so your child can go to college.

We raise taxes. Your job collapses. That family faces a very real, very human problem. I think it is up to us

to drive home the message again and again, and to urge the American people to contact their Congressmen and insist on the passage of a repeal of this tax on jobs because that is what it is.

I think it is also incumbent upon us to insist that the Joint Committee on Taxation change the way in which it calculates taxes. I think it is outrageous. I thought the gentleman from Kansas was exactly right when he said that we have economic policies in Washington that are just like medieval medicine, that bleed the patient when the patient is weak.

Raising taxes in a recession is wrong. It made me realize that what we are looking at on the Joint Tax Committee is medieval economics. We are looking at people who are cooking the books in absolute violation. One of the challenges I am going to make tonight, and I hope my friends will join me in sending a letter, is I want to take the actual numbers from real companies, about real people, and real jobs and real lost income and real lost taxes, send it to the Joint Tax Committee and ask them to reconcile their computer model with reality and report back to us so we can get a real number, because my guess is if we would repeal the tax on boats and the tax on cars and the tax on airplanes, we would increase government revenue by putting people back to work.

Mr. WALKER. Mr. Speaker, if the gentleman would yield, the point the gentleman is making is important in another way. All over the country at the present time there are States and localities that are in major economic difficulty. Those difficulties are being translated into higher taxes at the local level, and most of those difficulties have come about because the jobs have been lost in the economy and thereby are lost to the localities and to the States as well as to the Federal Government. And so we have created a problem not only for the Federal Government. We have created a problem for States and local governments as well, and it is a tragedy which is then going to have the reverse impact of feeding on itself when taxes have to go up in States and localities in order to pay for all of this economic devastation.

It just makes no sense at all. The American people understand that there is something out there that is not making sense, but they also understand that there is a bill being passed on to them that is being called fairness. That is not fair at all. It is the ultimate example of unfairness, to have taxes going up at all levels, and have those taxes then further dragging down the economy and putting people out of work, which is exactly the trickle down economics, where Washington creates taxes that destroy the economy for middle America.

□ 2110

Mr. GINGRICH. The gentleman raised a very good point, which is if we had continued the economic growth the tax cuts had led to, New York City would not be in much of a crisis, California would not be in as much of a crisis, teachers could be paid more, there could be better health care. The money would be there, because Americans would be working at better jobs with higher incomes paying more taxes, and not feeling the burden, because they would be better off.

So in a very real sense, as taxes crush the economy, it is also now coming home to roost by crushing city hall and crushing State government and causing the crisis we see in State after State. Because in the absence of economic growth, it is impossible to sustain the government we now have, and the result is you are seeing all over the country an enormous crisis in local governments brought on because the national economy is not growing the way it was.

Mr. WALKER. If the gentleman would yield, the problem in States like Pennsylvania, what is going to happen is they are going to raise taxes in Pennsylvania to make up for deficits created by a lack of economic growth, which is going to further retard economic growth. So the whole cycle feeds upon itself, and it feeds in a way that brings about a downward trend.

#### TAXES AND ECONOMIC GROWTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

#### GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members participating in my special order can revise and extend their remarks.

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

There was no objection.

Mr. DELAY. Mr. Speaker, I want to start off by congratulating our distinguished whip in starting out these special orders on tax fairness. I have never quite witnessed such a presentation, to lay out the real problem about tax fairness. Tax fairness is a term that was coined by the Democrats about a year ago in trying to destroy the reputation and the wonderful results that we have witnessed from the Reagan-Bush administration, and now going into the Bush administration, the wonderful things that have happened, the economic growth that we have experienced in the eighties, and especially pulling it out of the doldrums of the seventies and the Carter years.

We have experienced this head bashing, I guess one would call it, by the liberal Democrats, in trying to destroy

what the Americans are starting to realize, that the economics, the Reaganomics, as it was once called, does bring opportunities for middle income, all income families, of this country. They are trying to destroy that reputation and the wonderful results of the Reagan era.

Mr. MCEWEN. If the gentleman would yield, I wish to follow up on something that the distinguished whip said moments ago and about the conditions. I need to use the chart. The median family income would best communicate it.

Mr. DELAY. This chart here, that I hope is being showed by television?

Mr. MCEWEN. No, the one that is green, that is probably not being shown.

Mr. DELAY. I will be glad to put it up, so the television can pick it up.

Mr. MCEWEN. The point is, in 1976, the inflation rate was 4.6 percent, the prime interest rate was 6¼, and the economy was growing.

We chose a high tax, high spend liberal to occupy the White House, who began to use his policies to turn that around, because the economy was growing and prospering.

He said, "We can put a stop to that; if we increase tax on production, savings, and investment, than we can slow down the economy. Of course, we will have to cover the deficit with increased moneys."

So their policies were successful in what they had sought to accomplish, so that by 1980, inflation had jumped to 18 percent the last quarter of 1980. Interest rates are always higher than inflation. Interest rates then were 21 percent, and the economy was in the doldrums.

Now, when you are a liberal, it means never having to say you are sorry. You never turn and look in the mirror and say, "I did what was wrong for the economy. I did what was wrong for families. I destroyed the growth and opportunity of our Nation. Therefore, I need to reverse position."

No, no, no, no, no. What they say is, you remember Mr. Carter got up on his tippy toes, looked at America, and said, "It is your fault. You are not saving enough. You are not producing enough. In fact, the whole country has entered a malaise."

Then all of the experts ran to the cameras to explain that the reason that America was not competing internationally, the reason we were losing jobs at the rate of 50,000 a week, was because America basically was ill and sick, and that the solution to that is we just had to lower our expectations.

The head of the Council of Economic Advisors, Alfred Kahn, said this. It is 1980, the fellow running the Nation, the Chief Advisor to the President on how to have as strong economy, said this.

"The question for the 1980s is not whether or not America will have a de-

clining standard of living. The question is whether or not Americans will learn to adapt to their declining standard of living."

That is the head of the Council of Economic Advisors. That is the spokesman for the President. That is their view for the future.

Jerry Brown, the Governor of California, said, "We have entered an era of limits."

The leading candidates, speaking surrogates for the President, Mr. Carter, said that we had entered an era of limits, in which we need to learn to live with less. Wear your sweater, ride your bicycle, turn your thermostat. America is coming to an end next Tuesday a week. There is not anything anybody can do about it.

So this 70-year-old man, raised in the 1920's, came in and said very simply, "There is nothing wrong with America. There is just some severe problems with what the leadership in America has given us."

I remember the day the vote was taken here. Do you remember the Speaker came down off of the microphone. He grabbed that microphone right there, and he pleaded with us. He pleaded with us.

He said, "The greatness of America has been the capacity of the Congress to deliver more and more government every year." He said, "If we reduce the resources of government," that is taxes, he said, "you will destroy the greatness that is America."

Indeed, the spokesman for our side was GUY VANDER JAGT, who stood right where you stood, and who said, "The greatness of America has never been what Congress did. The greatness of America has been what a free society has been able to do for themselves."

Indeed, this one-sixth of the population of the world has created as much wealth as the rest of the world combined. In our 200-year history, we have produced as much wealth as the rest of the world combined.

He said, "The surprising thing is, they have been able to accomplish so much so rapidly and carry so much government along with them."

He said, "If we reduce some of the constraints of government," now picture the scene, this is 1981. Every economic journal for the last 2 years has explained that America has entered an era of limits, America needed to learn to live with less, we could not compete. Everyone conceded that point. We were losing jobs at the rate of 50,000 a week. America was in a decline.

GUY VANDER JAGT stood there and said, "If we reduce the constraints of government, we have yet to see the greatness that is America."

Indeed, we took the vote, and do you know what the margin was? The margin was one vote, one single vote, in which we were able to overturn the rule to allow the President of the Unit-

ed States, Ronald Reagan, to have his tax policy heard here on the floor.

What did we do? We lowered the cost, the tax, on production. We lowered the tax on capital formation, which is needed. About \$140,000 for every job. If you want to hire two people, you have got to get \$280,000 together to hire two people.

So we reduced the tax, which is the penalty on forming that money.

Out of the 17 major industrial nations in the world, from 1982 to 1985, we were the cheapest. If you wanted to invest someplace, America was the cheapest place in which to invest.

So what happened? In the 1970s, nobody wanted to invest here. Americans did not want to invest here. If you built a plant, you built it in Brazil, you built it in Taiwan, you built it in Mexico.

During the 1980's, if you were a businessman any place on the planet, you built a plant one place. If you were a German businessman, if you were a British businessman, if you were a German business person, if you were an American business person, if you were an Argentine business person, you built a plant in one place—the United States of America.

Indeed, from 1982 until 1990, two out of every three jobs created on this planet was created in one country—the United States of America.

Now, let me explain this. If you take all of the jobs created in Japan, all of the jobs created in the Pacific Basin, all of the jobs created in Europe, all of the jobs created in Germany, all of the jobs created in Africa and South America, and you put them all in a pot, and you double them, you still do not have as many jobs as were created in the United States of America from 1982 to 1990.

Now, at the rate of 230,000 jobs a month, every month, for 8 years, and people are now no longer living in a decline, in fact they are buying bigger and better cars and building larger homes than they built in 50 years, and America is growing and prospering, what do you do with facts?

When confronted with a fact which is absolutely unalterable and truth, what do you do with that? And you are Jesse Jackson?

Well, you say, "Never mind the fact you are making your mortgage payment and you now have a job, and you are not dependent, and you are not declining, and you are not riding your bicycle, and you are producing. You have got a rotten little job. Your jobs are not any good. You have got a mick job. You have got a hamburger flipping job. It used to be you had a good job, and when we came in you did not have any job at all, and the future was you were supposed to use those. But, all right, we have got to concede under Reaganomics you have got jobs, but they are rotten little jobs."

Let us look at the facts. During any period of expansion in this century, and the jobs increase, a fourth of the jobs, a fourth of them were in the top paying category.

Under this expansion, since 1982, 47 percent, or half of all the jobs created since 1982, are in the top paying category of highly skilled managerial level.

□ 2120

That means education is very important. Nevertheless, that is where they were created.

What about the bottom category, what about the hamburger-flipping jobs, what about the jobs we hear so much about that everyone got? Seven percent of all jobs created after 1982 are in the bottom category of the one-fourth division. What does that mean? That means that 93 percent of all jobs created were in the middle or upper income categories since the expansion.

So what do we do when faced with those truths? A man convinced against his will is of the same opinion still. So they say never mind to the fact that Ronald Reagan went on nationwide television and seduced a cut in taxes on productive people, we can pay who are strong little by little, and we can undermine this. We can do away with the depreciation schedule and we can increase the taxes, we can increase the luxury tax on people who are riding in yachts, and we can take a shot at anybody who owns a yacht if they happen to have the audacity to be successful, or to purchase an airplane, and then we can take the supplies and tax them too, because most people do not have airplanes and so, therefore, we will be able to do all of these things to the economy, and we will get back to our own political goal which is to help create poor people, help create dependency on Government, because that is where our strength comes from. Our capacity to maintain political power is dependent upon as many people as possible being dependent upon our largess, and if they are able to function under their own power and produce under their own will, then they are no longer dependent upon us, and they are contributing to the economy and we will lose our political power base.

That is what this is all about, not about truth, not about fact, or upon a general conclusion as to what has been official for America, but upon who wants political power in 1992.

Anyone who looks at these facts has to conclude that it is better for the employees, better for the Nation, better for the national debt if this luxury tax were to be repealed, and yet we are here to say tonight look who is holding this up. It is the Democrat majority here in the Congress.

Mr. DELAY. I really thank the gentleman from Ohio for making such an eloquent statement. I want to add to

what he said and expound on it, because the American people have to understand that we have not stopped with the outline that the gentleman from Ohio has laid out here. It continues on.

I was just informed by the gentleman from Pennsylvania that the majority leader was down here last week or 2 weeks ago in a 1-minute defending, defending the luxury tax that we have been discussing here today. Not only that, but a few weeks ago a Senator from Tennessee, Senator GORE, and the gentleman from New York [Mr. DOWNEY] introduced a bill, the Downey-Gore bill, that started class warfare. They are not happy with using this myth of taxing the rich and we will help the poor. In actuality what they are doing is taxing the rich and putting the poor out of jobs. They are not happy with that. They want to create class warfare by introducing a bill that appeals to the most basic desire of every husband and wife in this country, every mother and father in this country, and that is the desire to give their children a better life than what they had. They appeal by saying we are going to cut the burden of child dependency by giving you a tax credit for every child that you have, and the way we pay for that is to tax the rich. We are going to add an extra surcharge, or an extra tax rate in the income taxes on the rich to pay for this. We all know what the results would be.

Mr. WALKER. If the gentleman will yield. I mentioned this earlier, but it bears repeating maybe at this point, because the Rockefeller Commission the other day reported on children and it was suggesting the tax credit, which I happen to think is a good idea too.

Mr. DELAY. I think it is a great idea.

Mr. WALKER. We ought to cut the taxes, period. But the way they were going to pay for it was to do what? To raise the luxury tax. One of the things that they were going to use to get the revenue that they thought they needed for this whole program was to raise the luxury tax, a tax, as we have pointed out tonight, that is an abject failure.

Mr. DELAY. Yes, that is a tax failure, and according to them, that is tax fairness.

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

Mr. DELAY. I am happy to yield to the great and distinguished economics professor from Texas and one of the members of the Texas Six-Pack that came in 1985.

Mr. ARMEY. I thank the gentleman for yielding.

I cannot resist talking about this business of tax fairness as it relates to the excise tax we have talked about, and the boat tax and the blue collar workers who have lost their jobs, and we have talked about the tax on airplanes and the number of blue collar workers there who have lost their jobs.

The thrust of this whole business was, "We have got to get the rich. It

ain't fair," the Democrats said. "They got more money than the poor folks and that is not fair."

They forgot that America's great promise is equality of opportunity, and they retranslated that into the Democratic objective of equality of outcome and, consequently, the fact that some folks had done better than others was unacceptable. Then they applied the tax.

I understand that it is very easy to stand up there like a demagogue and say on jewels that Zsa Zsa Gabor, if she wants to buy more jewelry, should pay this extra tax. I guarantee you that Zsa Zsa Gabor has all of the jewelry that she needs, and she will not get hurt. Elizabeth Taylor has all the jewelry she needs, and she is not going to be hurt by this tax. She sells her jewelry so that she can contribute to Democrat campaigns.

But I want to talk about two rings, because this is a rather interesting case. My mother and father got married in the early 1930's. They were children of the Depression. They had no money. They bought a very simple wedding band for my mother, minimum requirement for a marriage ceremony, very inexpensive, but it did the job. It got them hitched and they stayed hitched until they died.

They went through the war, they went through difficult times, and they did in fact build a business together. In the late 1960's they were able, through that business, to generate enough of an income so that they go back and do for themselves what they had not done at the time that they were married, and they bought for each other on their anniversary a diamond ring. Each ring had five diamond stones, and the stones were nearly, as close as possible, identical.

Had this special punitive tax on the rich been in effect, they would have paid a special tax on those rings, and perhaps might not have been able to afford them, but they did.

Then subsequently when my father passed away he willed his ring with his five diamond stones to my brother. My brother had the ring reset for his wife. Had this tax been in effect at that time, he would have had to pay a special excise tax over the entire assessed value of the newly reset ring, not just the cost of the new resetting, but the entire cost of the diamonds as well that had been in the family at that time for several years.

This is a family that is not replete with diamonds, where diamonds do not run amok in my family. I have three little tiny things called diamond chips in my wedding band, and I am very proud to have them.

When my mother died she left her five diamonds in her ring for me. I had them reset in a ring for myself. Had this tax been in effect, I would have paid a special luxury tax on the entire

value of the new ring with her five diamonds reset in that ring, not a tax on what was newly acquired in this process, but the new assessed value of a new ring.

This is a little thing, but it is a thing that will never affect Zsa Zsa Gabor, it will never affect Elizabeth Taylor. It will affect that working family where somebody in the family in some generation or another acquired, through a lifetime of savings, that very special piece of jewelry that they want to pass on to somebody in a subsequent generation.

Mr. DELAY. I want to make this very clear. Is the gentleman telling me that that tax could actually reach someone that would not be considered rich?

Mr. ARMEY. Absolutely.

Mr. DELAY. It was told right down here on the floor of this House that this luxury tax would not touch anybody but the very rich.

Mr. ARMEY. No, but again let me remind the gentleman if in fact you have a family heirloom, let us say you have a stone that is worth \$5,000 that has been in the family for two generations.

□ 2130

And you have that reset at a cost of \$300 into a new ring; now, you do not pay a luxury tax on the \$300 for the new setting. You are required under this law to have the entire value, assessed value, of the ring, \$5,300 assessed, and you apply the tax against the \$5,300.

Most families have that one special item, maybe Grandma's wedding ring, right, that they want to pass on to the youngest daughter, perhaps, and get it reset.

Mr. DELAY. Yet under all the discussion of tax fairness on this floor, very little was said that someone of middle income or even low income would end up one day possibly paying this tax that was intended to be put on the rich. Tax fairness, to the liberal Democrats, I mean, they are saying one thing and doing another, and that boggles my mind.

Mr. ARMEY. That is absolutely right. They did not say the 250 working people in Wichita, KS, were going to lose their job either, and now when we discover that they lost their job and we go to the joint tax committee and we say what has been the real impact, they say, "Well, our rules by which we evaluate the impact of this tax policy do not allow us to take into consideration these 250 lost jobs," and we say, "Well, we know the people are there that have lost their jobs." "Well, that may be true, but we do not count that."

Mr. WALKER. Well, what about the \$77 million in lost sales?

Mr. ARMEY. We do not count that.

Mr. WALKER. What about the \$1.5 million in lost revenues to the Government?

Mr. ARMEY. We do not count that.  
Mr. DELAY. What about the \$700,000 in lost income tax to the Government?

Mr. ARMEY. We do not count that.  
Mr. MCEWEN. Who establishes what we count and do not count?

Mr. ARMEY. The determination of what is counted and what is not counted is, of course, by the Democrat leadership of the Congress.

Mr. MCEWEN. So they write the rules so they win, and so any common sense would dictate to us that you are losing the jobs, that you are losing the revenues, you are losing the income, and yet in order to accomplish their goal of taxing the American people more, you are not allowed to count what you are losing, you are only allowed to count the little minuscule that might come in, and before you repeal that, in order to save these millions of dollars that are being lost and putting people back to work, because the Democrats write the rules.

I serve on the Committee on Rules. There are 13 members. The ratio is two to one plus one. There are four Republicans, two to one is eight, plus one is nine, nine to four. Those are the ones who write the rules of the House, and so they write the rules, so that under no circumstances can we bring in the fact that people are losing their jobs, and the Government is losing revenue, and that it would be advantageous to America and the national deficit and the American people if we were to lower the taxes on this luxury tax and people could go back and buy the little boat or keep the rings, and in order to accomplish their task, we are excluded because Democrats who control the Congress and have throughout your lifetime and mine and have for 56 of the last 60 years, they write the rules so that they win and their goal is to have more taxes and more spending.

When we were able to override them only twice since 1952, and once was in the 1981 example that I used when we were able to accomplish that, and we were able to bring all the new revenues, because we were not able to have that head-to-head confrontation and win by one vote in 1981 to get the country going, year after year after year, they said that those tax cuts obviously created a deficit.

The truth is that from 1981 to 1990, the revenues were coming in at an increase of 7 percent more than the year before, every year bringing 7 percent more, 7 percent more, 7 percent more. But the Democrats that chair every committee, every committee, every committee, and a Republican is not permitted to chair a committee. A Republican is not allowed to chair a committee in the Congress of the United States of America.

Mr. ARMEY. Not only the Democrats control all the committees and they control the rules and they vote in their rules, the first vote that we take in the

convening of a new Congress, but they hire the research staff for the Joint Tax Committee.

Mr. MCEWEN. To write the reports the way they want them written. They hire who testifies before committees so they will say what they want to have said, and subsequently, when they write the spending bills and give them to the President, instead of passing them on a regular basis so he could deal with them one by one and either veto or sign, they put them all in a big stack at the end of the year and they shove it over at either Ronald Reagan or whoever and say, "Sign it or we shut down the Government. Social Security recipients do not get their check. The Government does not man the defense of the coasts and all the rest," and so they have to sign the whole thing, and they have a 9-percent increase in spending.

When you have a 7-percent increase in revenues and a 9-percent increase in spending, it does not take a rocket scientist to figure out what the problem is. Yet, they turn around and blame the President, Ronald Reagan or George Bush, for the spending that the Congress does when it is not all that difficult. Spending is up 9 percent, and anybody on a city council, anybody in their own checkbook, anybody in State government all know what the problem is when revenues are up 7, then you cannot increase spending any more than 7, but the Democrat Congress increases spending by 9 percent. Then who do they turn around and point to? They say that it obviously has to be Ronald Reagan's fault that we were spending more money than came in so that the deficit has to be his fault.

The President cannot spend a dime. The Congress can spend a dime only. The President cannot turn a key to the White House or turn on the lights unless Congress appropriates the money. Congress decides how much is spent, and they have created the deficit, because they write the rules the way they want.

Mr. ARMEY. Let me give two concrete examples.

If we went in any university in America today in any finance department or any economics department, indeed, I should guess even in any political science department and we had a youngster who said, "I want to do a master's thesis and consider the economic impact of the excise taxes, the luxury taxes in the 1990 budget summit agreement; 6 months later, I want to see what has been the economic impact," and that student brought that study back and he had excluded from his study any information about the number of people who lose their jobs, the decrease in sales of the items against which the taxes were applied, the decrease in the tax revenues from the decreased sales and the decreased jobs and had included only the direct

revenue receipts from the application of that tax alone, his thesis committee, even in a political science department, let alone a finance or economics department, would have rejected his thesis.

If, in fact, the Congressional Budget Office were to bring such a study to the Congress and present it to the majority in Congress, the Democrat majority in Congress, if they included the job loss, the income tax loss from the job loss, the sales loss and the taxes lost from the sales loss, if they included these things, the Democrat leadership would say, "Take that back. We will not accept that study. You must confine it only to the direct revenue receipts."

They have written, what I am saying, a methodological requirement that only allows the methodological gun to shoot to the left in the favor of more spending and more taxes.

One other point, a real live point: several years ago, 2 or 3 years ago, this Congress was considering the increase in the minimum wage. Under a piece of legislation called the Humphrey-Hawkins bill, passed by Senator Humphrey when he was here, and former Congressman Gus Hawkins from California, it is required by the law when considering such legislation that the Congressional Budget Office produce a study that reports the economic impact of the law.

When the Congressional Budget Office brought back a study fairly comprehensive using the best of their skills that examined the economic impact of an increase in the minimum wage, and they reported that the projected increase in the minimum wage would result in the loss of 250,000 jobs, Chairman Hawkins, who had written the law that mandated the study be done, refused to accept the study until they took it back and deleted the section about the job loss, so that, in effect, he said, "I will only accept a study of the economic impact of legislation that precludes any discussion of the impact on employment for working men and women in this country."

□ 2140

Now, how do we do a job of a study of economic impact when we refuse to accept any consideration of what happens to people's real opportunity to work?

Mr. DELAY. Mr. Speaker, reclaiming my time, all this boils down to what the gentleman from Ohio was referring to, and I think the gentleman from Texas who understands this probably as well or better than any Member in this House, or even in the Senate. What this boils down to is that the American people will have to start asking themselves, rather than listening to less than the truth that is expounded on this floor by the liberal Democrats of this House, about the facts of what our economy has done over the 1980's in Ronald Reagan, and George Bush's con-

tribution to those accomplishments, they have to ask themselves, what would the economy be today if there weren't a Democrat Congress fighting President Reagan every step of the way, pulling things like Chairman Hawkins pulled, about taking a study that he mandated be done, that did not come out the way that he wanted it to come out, and refusing to accept that study. These kinds of things go on in this House and in committee rooms of this House every day, all day long.

It is amazing to me why in America, that has freedom of the press, how the press cannot pick up on the corruption of this Congress, of corrupting ideals, corrupting the truth that is conveyed back to the American people. The American people are swallowing this. It is amazing, that just recently we are going to have a tremendous debate that points out what we are talking about here, having to do with the recent Supreme Court decision on title 10 family planning funds. It has nothing to do with the first amendment.

What the U.S. Supreme Court basically has said is we cannot use Federal funds to counsel people on abortion. It had nothing to do with gagging the physicians in their ability to counsel with their patient. It had nothing to do with that, yet that is the debate that is being perpetrated by the liberal Democrats on the floor. It is called the gag rule. The debate is around the first amendment, not around Federal funds being used in title 10 family planning funds. It has nothing to do with the truth of the matter, and the truth of the issue.

The same is happening under the guise of tax fairness, happening day in and day out in this body. For those that may have just tuned in, I have to remind them that we are down here talking about real tax fairness. Tax fairness that adheres to real economic theory. That economic theory of practice and reality that responds to certain activities taken on by this Government.

If I may take a short minute of the gentleman's time to reiterate some of the things, and the gentleman will be proud of this. I will be referring to a study from a group that if I remember correctly is a group that the gentleman put together, the Center for Tax Policies at the National Center for Policy Analysis in Dallas, TX. I think the gentleman from Texas formed this group.

Mr. ARMEY. If the gentleman will yield, I did not form that group. It is a very good group formed by a man named John Goodman.

Mr. DELAY. I knew the gentleman was very involved in this group, and especially with a husband-and-wife team by the name of Aldona and Gary Robbins who have done some excellent studies that reflect realism in economics, and the real results of actions

taken by this House, not the myths that are perpetrated by this House.

I refer to a study they did dated March of 1991, called Tax Fairness Myths and Reality. If the gentleman will bear with me, I want to reiterate why we are here tonight, so we understand what we are talking about.

I would like to take this myth by myth. This will not take long. Myth by myth perpetrated by the liberal Democrats and have been doing so, almost daily, on the floor of this House for over a year. That is why we came down to the floor of this House to try to dispel some of these myths. We are bombarded with a myth, for instance, that we talked about earlier, but during a myth that was perpetrated during the 1980's, that the rich got richer and the poor got poorer, when in fact, over the past decade, the real per capita income of Americans grew by 21.2 percent, and every income class posted a substantial increase in real after-tax income as reflected by the charts in the discussion here tonight.

There are other myths we have not touched on including the myth that is perpetrated by the liberal Democrats on the floor of this House for a year that the top 10 percent of income earners gained from the tax cut of the Reagan era while the bottom 90 percent lost, when in fact the facts are that total taxes as a percent of gross national product today are slightly higher than they were in 1980. The Nation's total tax burden, therefore, did not go down, in large part because of Social Security payroll tax increases that took effect in the 1980's, passed in 1977 by the Carter administration, but were legislated. The Reagan income tax cuts, however, lowered the personal income tax burden for every income tax class.

Another myth perpetrated on the floor of this House by the liberal Democrats of this House, the Reagan tax cuts were a give away to the rich, when in fact the tax rate on the highest income earners was reduced sharply during the 1980's in order to encourage wealthy taxpayers to earn more income and pay more taxes.

Mr. ARMEY. If the gentleman will yield on that point, this is a very interesting point, and the one great myth that we have as a result of the Reagan tax cuts of the 1980's, the argument is that the wealthy do not pay their fair share.

I would just like to point out one fascinating statistic that we turned up here, that from the time of 1981 to 1988, the average tax paid by the top 1 percent incomer, we are talking about the people in the top 1 percent of the income category in America, the average tax that they paid was \$118 for I guess the average dollar of taxes paid by people in the bottom half of the income category in 1981.

Now, in 1988, that ratio went from \$118 to \$240 to every \$1. That is to say

in 1988, if a person was in the top income category, their average tax was \$240 for every dollar paid by any person, by the average taxpayer in the bottom half of the Tax Code. That is over a 50 percent increase, so that in fact, the share of taxes paid by the rich increased.

Not only did they pay their fair share, but more so in 1988 than they did in 1981.

Now, couple that with the fact that the average family got an annual tax savings of \$1,500 a year from the tax cuts that are known as the Reagan tax cuts, so the gentleman and I got our benefits, got our savings. My daughter, who is a bottom-level managerial position, entry-level person, got her tax break. My brother, who lives out in the Dakotas, who has an average family income, got his tax break. But the wealthy folks had their share of the tax, relative to the average person in the bottom half of the income spectrum, increased by 50 percent, just the opposite of this myth that the gentleman was saying.

Mr. DELAY. Another myth dispelled.

There is another myth perpetrated on the floor of this House that the Reagan tax reform was unfair to low-income families, when in fact, as pointed out by the Robbinses, for the vast majority of Americans, the greatest benefit from the Reagan tax reform is not that tax payments are lower, but that taxes are lower than they would otherwise have been.

They show on the chart, and I think this is so telling, the only way we can determine who is right in this argument is to look at taxes today relative to taxes that would be today if we had not had the Reagan tax reform and the Reagan tax cuts.

Now, if we took 1980 tax law, I want to point out a couple of glaring examples. The 1980 tax law, if we take that and apply it to today's income and compare it to taxes today, a family earning \$10,000 under the 1980 tax law would be paying taxes of \$863, where today in actuality they are paying \$369, a difference of 134 percent.

□ 2150

I go further to say that an average income for a family, let us just pick out \$45,000 a year, if the 1980 tax law were to apply today, that family making \$45,000 a year would pay \$9,596, as compared to today's taxes of \$5,186, or they would be paying 88 percent more in taxes today if we were still living under the 1980 law, where if you go down to someone who is "the rich" you have the rich paying, let us say a family that makes \$1,700,000 a year, under the 1980 law they would be paying \$635,000, yet under today's law they pay \$391,900 a difference of only 62 percent. So you can see that the lower income under the 1980 law would be paying a higher percent taxes than they are pay-

ing today than the wealthier families today. The wealthier families today, indeed total tax payments are higher and their share of tax payments are certainly higher, another myth dispelled.

A couple more myths. Myth perpetrated on the floor of this House: The income tax system became less progressive during 1980's.

The fact is, the U.S. tax system became more progressive, not less so. Between 1979 and 1988 the share of income taxes paid by the top 5 percent of income earners rose from about 38 percent to 46 percent. Between 1981 and 1988, the share of Social Security payroll taxes paid by the top percent of income earners rose from 11 percent to 12 percent. By contrast, the bottom half of income earners now pay only 5.5 percent of Federal income taxes and only 17 percent of Social Security payroll taxes.

Myth perpetrated on the floor of this House: During the 1980's, income of the wealthy grew faster than that of any other group. No one really knows if that statement is true. It is certainly true of income subject to taxes, but there is no hard evidence that the total income of the wealthy grew faster than that of any other taxpayers. We do not know how much of the growth in taxable income was due to a shift from nontaxable to taxable income and how much to the fact that the wealthy worked harder or invested more to produce more income.

Myth perpetrated on the floor of this House by the liberal Democrats: The rich pay a smaller percentage of their income in taxes today than they did in 1980, although most taxpayers pay a higher percent. No one knows exactly what the income of the rich was in 1980. Official records show only income subject to the income tax. Taxpayers were not required to report income from tax-exempt securities, for instance, or other forms of tax-sheltered income. Because of Reagan tax reform, though, much more of the income of the wealthy today is taxable and much less is sheltered; but by any reasonable estimate of total income in 1980 and 1990, taxes as a percent of income have gone up, not down, for the wealthiest taxpayers.

The last myth perpetrated on the floor of this House by the liberal Democrats of this House: The tax system can be made more progressive by raising taxes paid by the rich. We have talked extensively here for over an hour about this particular myth. For most of the history of the income tax, the opposite has been true. That is, whenever the highest tax rate has been increased, the total tax payments and share of tax payments made by the rich has gone down. Whenever the highest tax rate has been lowered, the share of taxes paid by the rich has gone up. That is the experience of the 1980's,

replicated by this historical relationship. That is history. That is history documented by the IRS and many other economists.

I just say that we deal with these myths all the time and they are very difficult to deal with under the present rules of the House. I hope the American people will see the difficulty under which we operate in this House in trying to bring the truth to the American people. One day the American people are going to wake up and understand that government is not their friend, that government indeed is necessary to keep order in this country and defend the weak, but government is not their friend. Government services usually hurt more than they help, and certainly taxes are that way.

Mr. Speaker, I see our distinguished Whip of the Republican Conference, the gentleman from Georgia [Mr. GINGRICH], has returned, and I am sure the gentleman has some words of wisdom for us, and I yield to the gentleman.

Mr. GINGRICH. Well, Mr. Speaker, I do not know about wisdom, but first of all, I want to thank the gentleman from Texas for having developed this idea and having organized this, because without the gentleman's leadership we would not be here tonight. I want to thank both my friends from Texas.

I think the gentleman is putting his finger on what is in some ways the most frustrating thing about serving in Congress. The gentleman was a businessman and he knows the hard way that if you did not actually close a sale and get in the check and clear it at the bank and pay your employees, you would go out of business. In business you have sort of a real driving force to face reality.

We are in a building dominated by lawyers, who understand that reality is when you convince the jury to believe, and if they can get away with the next final appeal, then they get on to file the next case. The difference in the whole structure is just very radical and it takes a while to get used to. Then, of course, our good friend, the gentleman from Texas [Mr. ARMEY], the ranking Republican on the Joint Economic Committee, is faced with the whole challenge of the fact that the entire bureaucratic structure of the Congress is geared to an intellectual idea that is at least 30 years out of date and which literally rejects reality, so if you walk in and you say, "Here is what is really happening, you know, we are in a recession," they say, "Well, we are not sure, because our computer does not show that."

You say, "You are going to lose money and put people out of work." They say, "Well, that is not in our computer."

It is like going to a doctor who says, "I don't care how much pain you are in, you are not allowed to have a heart attack because my particular piece of

equipment does not show it," and you are laying on the table and you say, "Wait a second. I am in real trouble." You would change doctors.

Instead, we find ourselves recently, and I do not mean this in any sense as a personal comment about an individual, but more as a comment about reality, the Joint Tax Committee has now brought in a new leader who is a Jimmy Carter Treasury executive. Well, if you look at the history as we have been talking about it tonight of 4 years under Carter and you say, "You know, what would that kind of person tend to do intellectually?"

They happen to believe, I think with great sincerity, they happen to believe in ideas which are simply wrong. They do not work.

It is ironic to me, and I started to say this at other times, so I do appreciate the gentleman yielding to me, all across Eastern Europe we are saying to Poland, to Hungary, to Russia, to Lithuania, to Latvia, to Estonia, "Go to private property. Get rid of your bureaucracies. Shrink your government. Decentralize. Have a market system. Use incentives. Encourage people to work. Encourage people to save."

And then what are we doing in Washington? Creating more bureaucracy, creating more red tape, raising taxes, everything the opposite of what we are telling people in Eastern Europe.

I find it fascinating that our good friends in the Deomcractic Party belong to the Ligachov wing of the world, that at a time when we belong to the Yeltsin wing and we are part of that broad movement toward human freedom, many of our dear friends on the left are wedded to an idea of higher taxes, more bureaucracy, centralized government, less private property, less incentives, and in fact it is a true story, a friend of mine was at a dinner party with a Russian who was in fact traveling at the time with Shevardnadze. The Russian asked one of the hosts, "What is the real difference between your two parties?"

And the host said, "Well, the Democrats believe in taxing people who are productive and prosperous and successful at a higher rate, and the Republicans believe in encouraging people to create jobs, encouraging people to create more prosperity."

The man looked at him and he said, "Ah, you mean your Democrats are like our Communists. They believe in taking away from those who have, giving to those who do not. They believe in stifling free enterprise, stifling initiative."

I do not mean this in any sense in the old-fashioned Red baiting, but in the genuinely intellectually honest argument that if you watch Mayor Dinkins wrestle with New York City's problems and you watch the reform leader of Leningrad, now to become St. Petersburg, and the reform leader of Moscow,

the reform leaders of Moscow and Leningrad would be on the floor with the three of us talking about how you shrink government and you open up the private sector and encourage small business, and our friend, David Dinkins, nice man, wedded to the process of 50 years ago, would be saying, "Oh, you couldn't do that to my city, bring free enterprise to New York, privatize the social services, cut down the bureaucracy, offend the municipal unions. We couldn't do that. What we have to do is raise taxes."

And so I just hope people as they watch this with us will understand, we are in a very real debate in this city between people who understand reality and people who are wedded to a theory which is dead.

□ 2200

And I think these two gentlemen are playing a very, very important role in making that debate possible on behalf of the American people and on behalf of the country's future.

Mr. Speaker, I just wanted to come back for a minute and say "thank you" to these two gentlemen.

Mr. DELAY. Mr. Speaker, I want to thank the whip because the whip is struggling under the system, to try to make some sense out of it. Not only that, he is trying to hold the Republicans together and to elect even more Republicans so that this House will be controlled by the Republicans and we can institute those real ideas that come from real experiences from the real world that have real effects on creating equal opportunity.

The whip is one of the most distinguished leaders of this Congress who works, obviously, very, very, very hard. Here it is 10 in Washington tonight, and here is the leader, the No. 2 man in the Republican Conference, down here on the floor telling the truth about tax fairness and what it really means to our country. As I said earlier, one day the American people are going to wake up and understand that realism and private property and all the things the gentleman listed are important and the more we go towards the Soviet Union the worse off everyone is.

Unless this whip has something else to say, I would just love to give the opportunity to my distinguished colleague, the gentleman from Texas [Mr. ARMEY], the opportunity to close these special orders because he is an economics professor who understands real economics, free market economics and how they affect this country and what Government's effect on this country is, and especially the effects of what the liberal Democrats call tax fairness will have on the American people's ability to accomplish their dreams, raise their families and turn over a world to their children better than they found it for themselves.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this has been a very good debate. There have been so many facts and figures put out today, and one of the things that worries me is that facts simply, so often, do not turn the debate in Congress. Let me talk in more general terms.

This whole taxpayer fairness debate that we see raging in Washington is really, I think, a reflection of two different visions by two different political parties, the great Republican Party that believes in the great promise of the United States of America throughout all its founding documents and throughout all the best dreams and hopes of its founding fathers, that we would have a Nation that would both have the commitment and the capacity to guarantee equality of opportunity to all its citizens and that the policies of the Federal Government should be directed toward assuring that equality of opportunity.

Now, the way that plays out in the ordinary life of the average person is for an economy that is robust, vibrant, that has vitality and the ability to change and adjust to changing technologies, changing times and to grow so that each new person who enters the work force or leaves college, leaves high school or emigrates to this country from another nation where their lives are more forsaken, would see that opportunity "for me to build for myself and my family a place in the sun in a period of time when things are going higher for all people."

Now, on the other hand the once great and proud Democratic Party has slid into a misperception, one, of the ability, the capability of the democratic free enterprise system as we have seen it work in the United States. I remember seeing this play out in what we now call the days of national malaise, when even the President of the United States became so discouraged with the futility of their policy efforts to turn around the terrible circumstances of both unemployment and inflation, that the new book that came out for the left wing of American politics, that became the book around which they attached their perception of America and what the Government must do in America, was a book entitled "The Zero-Sum Game," by a man named Lester Thurow, from the Massachusetts Institute of Technology. The thesis of the book was that growth was no longer possible for the American economy, and since growth was no longer possible for the American economy, we have come to the end of history, God had died, and there was no chance for any of us to see economic growth ever again in this Nation.

And since growth was no longer possible, then the only thing left for the Government to do, and the Government must do something, within the

context of the zero-sum game, is to redistribute income. And it is that point at which that political party most lacking in understanding of the capability and abilities of the American people, most lacking in faith in the institutions and the mores and the cultural patterns that brought us so far at least, in the words of Darryl Royal, "willing to dance with them that bring 'em," and most willing to throw up their hands in despair and most willing to grab the moment for them to increase their power over the lives of the citizens.

Then they hit on the idea that we must use the tax policies of America to redistribute income. And of course as you see in the years of the Carter administration, all these redistributive policies made things worse and worse and worse and worse. And then came Ronald Reagan, who said, "No, America can grow. What we used to know in the old days as a practical American genius is really there, really alive, and it really will work again if we can just get the Government out of the way of the American people so that it can work."

Well, we saw it work. What happened was that Ronald Reagan proved in 10 years that freedom works and it works for everybody. The economy can grow, we can generate and create jobs. We have had a discussion about that. Increased opportunities can be more available for all people, and we can fulfill our historic promise of increased equal opportunity for all Americans.

Now, this has been a very discouraging lesson to the left wing of American politics, because if in fact the vision of the right works and people are made made better off by being made more free with less Government, lower taxes, some efforts to restrain Government spending, then their political message is dead.

So what we see now is sort of a death struggle of a failed vision trying to reassert through every feeble effort which was necessary even to rigging the numbers, denying the facts, putting together mathematical and statistical and econometric and methodologic apparatus that are intellectually defunct so as to be an embarrassment to anybody that would be intellectually honest about it, trying to recapture their one great moment when growth could not happen. Therefore, their redistribution was necessary.

It reminds me of an observation or two by an old professor, Prof. Paul N. Rosenthein-Rodan when he said, "Beware of politicians who manufacture data for the sake of testimony." And then when he later admonished me to understand that there was nothing more arrogant and abusive than a self-righteous income redistributor.

And it is that tension for that self-righteous redistribution of income, in

fact in the real interest of maintaining "my power," "my control," "my position in the process," that is governing this fairness doctrine. We ought not to be talking about what are fair taxation methods; we ought to be talking about what taxation methods can we use to fund that minimum necessary activity of the Federal Government on behalf of the American people in such a way as to generate the least disincentive to growth, prosperity and freedom for all Americans through all times in the future.

We ought to be talking about what kind of a tax system can we put into place that will give our children more freedom, more dignity, more opportunity and more prosperity than we had; not that which will redistribute less freedom, less prosperity and less opportunity among more contentious, unhappy citizens.

So the question is: Is America a Nation that redistributes or is it a Nation that prospers? That is the choice we have. I would be very wary of anybody who wanted to enter a serious policy discussion by focusing on what is fair rather than what is productive for the American people.

I thank the gentleman for yielding.

□ 2210

Mr. DELAY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for such an eloquent presentation, and, as always, the gentleman understands what drives this economy and understands that government does not drive this economy. It drags it down. And I thank the gentleman from Mississippi [Mr. ESPY] in the chair who has been putting up with this 2 hours of special orders, and all I can say to this House and to the American people is: Stay tuned. There is more to come.

#### GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the special order of the gentleman from Minnesota [Mr. OBERSTAR].

The SPEAKER pro tempore [Mr. ESPY]. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### REMEMBERING HUBERT H. HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota. [Mr. OBERSTAR] is recognized for 60 minutes.

Mr. OBERSTAR. Mr. Speaker, had Hubert Horatio Humphrey not left us 13 years ago, he would be 80 years old this year, and, health permitting, still working, on behalf of the poor, the worker, the underrepresented people of this country. Still working, still smiling, and still enthusiastic.

No elected official from Minnesota can help but be touched by Senator Humphrey's life and legacy. People of every political stripe across this country can agree or disagree with his views, as they see fit, but they cannot ignore them.

Senator Humphrey believed in America, and all that is good in Americans. He was an optimist, an idealist, a visionary. He was a fighter for the betterment of the human condition, and he kept right on fighting to the end.

Even in the twilight of his life, as the curtain of death drew closer and closer, he retained his optimism, his idealism . . . and that eternal smile. At his farewell address, in this very Chamber, he said:

I have been known in my life to be an optimist, some people say a foolish optimist, and I suppose at times I have ignored reality and had more than the usual degree of optimism. But I said to the critics that I am optimistic about America, and that I rebuke their cynicism.

The reason I do is because history is on my side. We have come a long way in this country. More people today are enjoying more of what we call, at least in the material sense, the good things of life in every form. We have made fantastic strides in science, technology, and engineering. Our agriculture is a wonderful world, but most significantly, we are a heterogeneous population, and we are trying to demonstrate to the world what is the great moral message of the Old and New Testament: namely, that people can live together in peace and in understanding, because really that is the challenge, that is what peace is all about.

It is not a question of whether we pile up more wealth; it is a question of whether or not we can live together, different races, different creeds, different cultures, different areas, not as a homogeneous people but rather in the pluralistic society where we respect each other, hopefully try to understand each other, and then have a common bond of devotion to the Republic.

Come, let us reason together. There are no problems between the different points of view . . . that cannot be reconciled, if we are willing to give a little and to share a little and not expect it all to be our way. Who is there who has such wisdom that he knows what he says is right? I think we have to give some credence to the fact that majority rule, which requires the building of an understanding, and the sharing, at times the compromising, is the best of all forms of rule.

We are all children of one God. We live on a very small planet, but so far as we know, it is the only planet that sustains life. Therefore, apparently we have been selected for an unusual and a special purpose. I believe that purpose is to try to demonstrate that the power of understanding and reason and love can prevail.

It is not easy, and there are many times we want to give up, but you have to have spirit. You have to have faith. There are times when we lose faith in the institutions of our government as we almost did. We all do; but, dear friends, it was restored.

Individually, we must be strong. We must be strong in our commitment to human freedom and justice. We must be strong in our commitment to opportunity and equal opportunity. We must be strong in our commitment to the care of the needy and the sick and the handicapped and in the maintenance of an economic system and a political system that will make it possible for us to care for those who are less fortunate. It all goes together.

Mr. Speaker, as we in Congress go about the business of government, we should occasionally pause and remember the legacy of Hubert Humphrey, but most of all, we should pause, remember and reflect upon these words: "We must be strong in our commitment to the care of the needy and the sick and the handicapped and in the maintenance of an economic system and a political system that will make it possible for us to care for those who are less fortunate. It all goes together."

It does, indeed, my colleagues. Come, let us reason together . . . and honor Hubert Humphrey, who called us all to a life of reasoned service to humanity.

Mr. HOYER. Mr. Speaker, I rise today to commemorate the anniversary of the birth of one of our greatest Americans and leaders in the Congress and this Nation, Hubert Horatio Humphrey.

Hubert Humphrey, Mr. Speaker, was one of a kind, and America and the world still misses him greatly.

A leader with vision and enthusiasm, energy, and conviction, Hubert Humphrey's life stood for all that is great about America; caring for our neighbors at home and our fellow humans wherever they are; compassion for the less fortunate among us, and the belief that government and people can work together to make life better for all.

Hubert Humphrey gave his life to public service, serving for a total of 33 years in public office as mayor of Minneapolis, MN, U.S. Senator from Minnesota for a total of 19 years, Vice President of the United States for 4 years, and Democratic candidate for President of the United States. He continued in public office until his death in 1978.

HHH, as he was often known, stood four-square for what he believed in, when it was popular and when it was unpopular, and fought for justice for all. He had the courage to speak for equal rights for all Americans, regardless of race, as early as 1948, and stood as a beacon for American justice and freedom at home and around the world.

Hubert Humphrey was known to all as "the Happy Warrior," and no better nickname has described such a beloved public figure, for Hubert Humphrey loved people, loved politics, and loved doing good. Nothing got him down, and he remained a devoted and loving fighter for the good causes from the day he entered politics to his last breath.

I clearly remember, Mr. Speaker, when Hubert Humphrey was being treated for cancer in the year before his death, the stories of how even then he worked to cheer up the lives of his fellow patients in the hospital, plying the corridors with gusto and refusing to let these ill people feel bad—despite the fact that he was dying himself.

Mr. Speaker, as a young Democrat in the 1960's, I was honored to have the opportunity to meet Vice President Humphrey on a number of occasions. He was an inspiration to all those who had that opportunity, a model and guide for all of us who are and wish to be involved in government and public service.

Mr. Speaker, Hubert Humphrey was a leader like no other, and his loss is felt every day

in this city and around the world. I am honored to join my colleagues in marking the life and the accomplishments of Hubert Horatio Humphrey.

Mr. VENTO. Mr. Speaker, I want to join with my colleagues in remembering the great American and Minnesotan, Hubert H. Humphrey.

What stands out in my own memories of Hubert Humphrey is the vitality of the man. I was privileged to hear him speak and to be with him on numerous occasions. He would literally radiate hope and joy, love and compassion, strength and energy.

For nearly all of my life, Hubert Humphrey represented me in his capacity as mayor, Senator, and Vice President. He did his job so well that I do not recall having to write, to phone, or to remind him of my views and the special concerns of Minnesota. In fact, Hubert H. Humphrey was so attentive to people, he was so much in tune that he was able to anticipate and to articulate, to inspire and to lead for the individual citizen and for the Nation.

Of course, Hubert represented more than just me but the qualities that I have noted were felt by Minnesotans and most Americans as his work and efforts touched the issues of the day and our lives. That surely is why even today the affection and respect for Hubert H. Humphrey persists among the working men and women of our Nation, the people that experience discrimination or face special challenges. Hubert H. Humphrey was on their side, committed heart and soul to their cause.

It is indeed the nature of the Humphrey service to people that inspired hope yesterday, today and tomorrow in the ability of our government and public servants to help people and to make a difference then and now.

After I was first elected to Congress in 1976, I had the opportunity to work first hand with Senator Humphrey. Those 13 months were his last in Congress and for much of the time he was ill. However, the physical pain that he endured did not distract from his work nor from his commitment to the poor, the elderly and the children.

During his last term, Hubert Humphrey used his position as a senior statesman to counsel Congress and the Carter administration on behalf of the poor and downtrodden.

In preparing for this special order, I reviewed the tributes that were paid to Senator Humphrey in January 1978, following his death. The comments contained in the CONGRESSIONAL RECORD during that month and the editorials commemorating his life and accomplishments were bipartisan, admiring, and warm in affection. Hubert's life and the politics of joy were reciprocated by the love and affection of Democrats and Republicans alike, by the rich and poor and by whites, blacks, and Hispanics.

It is appropriate for us to consider the work and philosophy of Hubert Humphrey in this day and age.

At a time when the threat of quotas and Willie Horton are used to undermine 20 years of civil rights policies, it is important to remember Humphrey's challenge to the 1948 Democratic Convention and to the Nation to step "out of the shadow of States rights and into the bright sunshine of human rights."

At a time when campaigns are run on smears and innuendo, it is important to re-

member the Happy Warrior's philosophy of the politics of joy.

At a time when an administration encourages big business mergers and takeover mania regardless of the cost, it is important to remember Humphrey's families, farmers, workers, and small businesses.

At a time when we hear that the National Government cannot do anything for the people and that a budget agreement ties our hands, it is important to remember a man who thought that the government could and morally must act.

It is incumbent upon us all to remember Hubert Humphrey's words:

The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy and the handicapped.

Mr. Speaker, I am proud to have known and worked with Hubert H. Humphrey. His life and his death are a commemoration of how great man can be and how we can serve the common good. His life, philosophy, and accomplishments cannot be summed up in a few words. That is just too much there. However, I believe that the late Adlai Stevenson came close when he said:

He rejoices in what we are; he is keenly aware of what we are not; and is deeply committed to what we must become.

Mr. FORD of Michigan. Mr. Speaker, I am honored to join my distinguished colleagues in commemorating Hubert H. Humphrey and his 33 years of service to this great country.

I had the privilege to know and serve with Hubert Humphrey. When I arrived in Washington in 1965, Hubert had already served 16 years in the Senate and was beginning his term as Vice President in the Johnson administration.

Hubert was my kind of Democrat. He described himself as "an active, working, progressive, liberal Democrat" and a "Roosevelt Democrat." The first bill he introduced was for a compulsory national health-insurance system under Social Security. His entire career was spent fighting for programs to end poverty, to provide housing and jobs, and improve the quality of life for all Americans.

As a member of the House Education and Labor Committee, I was most familiar with Hubert's contribution to the education of our children and his support for the rights of working Americans.

Hubert believed that every American child had a right to a quality education and voted for Federal aid to colleges, universities, and local school systems. Hubert's recommendation for early childhood education for those needing it was incorporated into the successful Head Start Program.

Hubert was also a friend to American workers. Among other things, he supported broadening the coverage and increasing the minimum pay under the Federal Wage-Hour Act, and extending the payment period for unemployment benefits. In 1960, Hubert stated:

It is clear that the greatest hope for eliminating poverty is regular employment at decent wages for America's wage earners \* \* \* It means making it easier—not harder—for unions to organize the unorganized, and bring them the economic benefits of collective bargaining.

I campaigned for Hubert in his 1968 bid for the Presidency. Campaigning for Hubert was one of the most rewarding political experiences of my life. Words cannot describe my disappointment over his narrow defeat in the election. My only consolation was that Hubert won big in my home State of Michigan.

I know that Hubert would not approve of my brooding over what might have been had he won the election. He never allowed friends or family to dwell on the past. He always encouraged us to look to the future, to live life to the fullest. It is hard to not long for the day when we had leaders like Hubert Humphrey at the helm.

Mr. Speaker, Hubert and I worked well together in both our political and legislative duties and I was proud to be his friend. He was in my opinion one of the most decent and humane people that I have had the privilege of knowing.

Mr. SABO. Mr. Speaker, Hubert Humphrey entered the Minnesota scene in the 1930's. It's safe to say that Minnesota and the rest of the country have not been the same since.

From his days as a college instructor, radio commentator, and mayor of Minneapolis, to his years as a U.S. Senator and Vice President of the United States, the thoughts, words, and deeds of Hubert Humphrey have left an indelible impression on the people and the public servants of this country. He'll be leaving an impression for generations to come.

We called him the Happy Warrior. I like to think it was because while he fought long and hard for the things he believed in, he never forgot that ultimately, we are all in this together. For Hubert, it was never "us" against "them." Rather, it was always a matter of working together to do what was best for all Americans. And, while he could disagree ferociously and fight passionately, his ability to put aside differences and pitch in to do the right thing meant that even in defeat, Hubert was victorious.

His lifetime of public service has left Minnesota and the rest of the country a legacy characterized by courage, integrity, and commitment. Courage because he fought for many things, civil rights among them, long before most were willing to take up the battle. Integrity and commitment because he continued to fight for the things he believed in throughout his career and his life, regardless of where the political winds of the day may have been blowing.

The world has been without Hubert Humphrey for 13 years now. But even in death, Hubert has been victorious. For public servants and concerned citizens across the country, Hubert Humphrey lives on as a shining example of what one person with dedication and commitment can do to improve the world.

Mr. HORTON. Mr. Speaker, I greatly appreciate the opportunity to join my colleagues in commemorating the 80th anniversary of Hubert H. Humphrey's birth. The "Happy Warrior" dedicated his life to public service and our Nation will remain eternally grateful for this decision.

I first met Hubert Humphrey as a student at Louisiana State University. The great Minnesotan was my instructor of American political science during my senior year of college. Not only did I have the good fortune of study-

ing under Hubert Humphrey, I was able to meet with him many times during my later political career.

Hubert Humphrey served as Vice President of the United States under President Lyndon Johnson from January 20, 1965, until January 20, 1969. On a few occasions during this period I enjoyed Hubert's humor and insights as we traveled to events on Air Force Two.

Hubert Humphrey, of course, is best known as one of the greatest political minds in American history. What is not as well known, however, is that he also excelled in other professions including pharmacist and educator. Hubert graduated from Denver College of Pharmacy in 1933 and the University of Minnesota in 1939. After earning a graduate degree from the University of Louisiana in 1939, he began his long, varied, and distinguished career.

The pinnacle of that career, of course, brought Hubert to the Vice Presidency of the United States. Although this was an extremely trying period in American history, he brought to the office a background and knowledge which was invaluable to President Johnson in making difficult determinations. Even after leaving the office of Vice President, Hubert continued to provide input to our Nation's leaders until his death in 1978.

The United States is undoubtedly a better place due to the efforts of Vice President Hubert Humphrey. His humanity and compassion brought a new level of dignity to the American political world. I call upon my colleagues in Congress to use this anniversary of his birth to rededicate ourselves to Hubert's values and commitment.

Mr. SIKORSKI. Mr. Speaker, Hubert Humphrey loved to tell about the time, after he'd delivered a particularly long, stem-winding speech, that his wife, Muriel, put her arm around him and whispered, "You know, dear, you don't have to be eternal to be immortal."

Hubert had trouble summarizing things—mainly because he knew so much—about so much. But in the spirit of Muriel's advice, let me suggest that two of the greatest lessons Humphrey taught us can each be boiled down to three words.

"Don't look back," and "Never give up."

After losing the 1972 Democratic Presidential nomination, he told a friend:

You know—you can spend your whole life worrying about all the things you should have done. But that's a waste of time. Instead, worry about all the things you're going to do.

Humphrey's first term in the U.S. Senate was pretty discouraging. He spoke on over 450 topics, introduced scores of bills, amendments, and resolutions, and didn't pass one of them.

His own Democratic majority leader called him a pipsqueak.

But Hubert never looked back. Never gave up. And that's a good thing.

Good thing for the Nuclear Test Ban Treaty. Good thing for the Peace Corps.

Good thing for the Civil Rights bill, for the Job Corps, for Food for Peace, for National Defense Student Loans, and for the Space Program.

Good thing for every health-giving, kid-loving, tree-growing, peace-promoting, family-saving, forward-looking piece of legislation to

come down the pike in America for a quarter of a century.

Because Hubert Humphrey never gave up. Shortly before he died, hounded by cancer, Humphrey arrived for the last time at Twin Cities International Airport. He was stopped by a news reporter who asked if, in light of his illness, he was considering resigning from the Senate.

Hubert stood up a little straighter, looked the reporter in the eye, and said, "Resign? I'm not resigning from anything! In fact, my friend, I'm thinking about joining a few things!"

If he were here today, 80 years old and still looking ahead, Hubert Humphrey wouldn't be joining anything.

Humphrey would be leading the drive for a new Civil Rights bill—demanding that we join—challenging us again to "walk forthrightly into the sunlight of human rights"—not only in this country—but in terms of our actions around the world.

Humphrey would be leading the fight for the environment. And leading the battle to get the lead out of the air our kids breathe, the water they drink, and the ground they play on.

Humphrey would be leading every effort to afford the homeless, the helpless, the handicapped—women, minorities, kids, and seniors—the dignity and the opportunity they deserve—as Americans and children God.

He had a way of bringing us together. A way of reminding us that no matter what the issues that drive us apart in America, the great causes of humankind that bring us together—as a people and as a Nation—are so much more important.

The great legislators, Humphrey once said, are either mechanics or artists of public policy. The greatest legislators are both. Humphrey was both. The legislative mechanic who could remember every point and detail of every bill he ever passed. And the artist who made us lift our eyes off the sidewalks and look to the heavens and the stars above.

The Humphrey Forum at his living memorial is dedicated to his belief "that each of us can make a difference. That what is wrong can be made right. That people possess the basic wisdom and goodness to govern themselves without conflict."

So should we.

Mr. HUGHES. Mr. Speaker, I am honored to join with my colleagues today in paying tribute to a great American, Hubert H. Humphrey.

His career in the public sector spanned more than 33 years from his election as mayor of Minneapolis in 1945 to his death in 1978 while serving in the U.S. Senate. Hubert Humphrey was first elected to the Senate in 1948 and was reelected two successive times. During this period, he served as Democratic whip from 1961 through 1964.

In 1964, he left the Senate to become President Johnson's running-mate and was elected as Vice President—a post which he served well and with distinction. After his unsuccessful campaign for President in 1968, he returned to teaching political science at Macalester College and the University of Minnesota.

Fortunately for us, the people of Minnesota, and the rest of the Nation, Hubert Humphrey's retirement from public life was short and in 1971 he returned to the Senate where he served until his death in 1978.

Hubert Humphrey served this country well. He left a legacy of which we can all be proud and we can all strive to achieve. He was also a wonderfully warm, compassionate, and caring human being. I remember well his visit to Atlantic City on my behalf in 1976 when he attended one of my fundraisers. I will always remember the advice that he gave me on the flight there. He said, you know, Bill, we get caught up in politics and government and think that these are the most important things in our lives. I did and did not spend as much time with my family as I would have liked. Make sure your family always comes first and don't let this demanding job sap all your time and energy because you can never recapture those precious moments and milestones in the lives of your children.

I am very pleased that I am able to participate in this Special Order to honor such a great American who made immeasurable contributions to our Nation in this year of the 80th anniversary of his birth.

Mr. ANNUNZIO. Mr. Speaker, this year marks the 80th anniversary of the birth of Hubert Humphrey, the former Senator and Vice President from Minnesota who died in January 1978. As we pause today to reflect on his many accomplishments, I pray that Congress will continue to carry on the legacy of this great leader.

During his long career of public service, Hubert waged numerous political battles on behalf of his country. However, few if any aroused greater opposition than his struggle to make health insurance available to all of our senior citizens. As a freshman Senator in 1949, the first piece of legislation Hubert introduced was a bill authorizing health insurance for all of America's seniors, regardless of their income. The fight to make this dream a reality required another 16 years of effort before Congress established the Medicare program in 1965. The Medicare bill passed with the support of myself and other members of Congress who shared Hubert's commitment to seniors.

Hubert's support for Medicare and similar legislation was nurtured by the suffering he witnessed during the Great Depression. The Senator's personal experiences, including his father's struggle to keep a family pharmacy from going bankrupt, helped shape Hubert's political philosophy. In the early 1930's, Hubert interrupted his studies at the University of Minnesota to help his father cope with a desperate economic situation in South Dakota. While there, Hubert saw hundreds of unemployed workers whose hopes for a better life had scattered like dust over a wind-swept prairie.

By the time Hubert reached the Senate, he was determined to help working Americans cope with the kind of hardships he had seen during the Depression. He did this by pushing for workers' rights through legislative initiatives rooted in the tradition of President Franklin D. Roosevelt.

Hubert broadened his efforts to help workers across the globe by resisting the spread of communism in Europe, Asia, and elsewhere. At the same time, however, he worked just as hard at trying to achieve a just peace with the Soviet Union. As a champion of arms-control efforts in the Senate, Hubert was a prime mover in the establishment of the Federal

Arms Control and Disarmament Agency and the signing of the Limited Nuclear Test Ban Treaty by President John F. Kennedy.

Hubert's legislative proficiency earned him many political victories, including a term as Vice President in 1964 under President Lyndon B. Johnson. Nonetheless, Hubert's heartbreakingly narrow loss in the 1968 Presidential election didn't dampen his zeal for public service. Hubert returned to the Senate in 1971, where he held a leadership role for another 7 years.

In conclusion, Hubert's wit, knowledge and dedication to public service earned him the respect and admiration of both Democrats and Republicans. His bubbling enthusiasm and his genuine desire to help working Americans are sadly missed by those who knew him.

Ms. PELOSI. Mr. Speaker, I rise today to join my colleagues in commemorating the life of an American who, through his years of public service, inspired so many. Hubert H. Humphrey stood and still stands as a shining example of what public life can and should be.

I am pleased to join with my colleagues in observing the 80th anniversary of Senator Humphrey's birth. The public life of this great man, spanning 33 years, made an indelible positive mark on the spirit of this nation.

When I think of Hubert Humphrey, I think of a man who was an unfailingly honest politician who did the very best he could to improve the world. He was a man of integrity, of compassion and of courage who fought hard for those who are least able to fight for themselves. And even when he lost, Hubert Humphrey kept on fighting.

One of my favorite quotes, used in a speech by Hubert Humphrey, epitomizes everything for which this man stood:

It was once said that the moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Humphrey continued,

Let America judge itself on those standards, not on the stock market alone; not only on our gross national product, important as that is; not only on our material wealth, but rather on those great idealistic and spiritual values which sustain a nation and which brought this nation into being.

Hubert Humphrey, coming out of a proud and strong tradition of Minnesota populism, passed this moral test with flying colors. His concern and his work for the children, the elderly, the sick, the needy and the developmentally disabled, made a significant difference in the lives of countless people across this Nation.

As we search today as a nation for leadership and for solutions to our many pressing domestic problems, we can learn much from studying Hubert Humphrey's life. We can take inspiration from his commitment, his dedication, his perseverance, his true concern for the needs of the less-fortunate and his unceasing work in public service.

In whatever he did, he pursued excellence. We are fortunate as a people that what Hubert Humphrey chose to do was public service. In reaching for the stars, he improved the lives of many who lived in the shadows and set an example for all of us to emulate.

Mr. RAMSTAD. Mr. Speaker, I rise to express my respect for a great American and great Minnesotan, the late Vice President Hubert H. Humphrey.

All Minnesotans and all Americans owe Vice President Humphrey a large debt of gratitude for his 33 years of public service to our State and Nation.

Most Minnesotans who are old enough to have known Hubert Humphrey have their favorite "Humphrey story." Mine involves a joint recruiting effort on behalf of the University of Minnesota football team following Humphrey's return to the United States Senate.

I accompanied a young 17-year-old high school senior and his family from the Washington, DC area to Senator Humphrey's Capitol office. Never will I forget the recruiting pitch from the Senator:

Young man, the two greatest institutions in this world are the United States Senate and the University of Minnesota. I've been part of both of these great institutions, and so can you!

The young football prospect signed with the University of Minnesota.

Hubert Humphrey's charm, wit, humanity and compassion are a great legacy for all of us—Democrat or Republican, liberal or conservative. He truly cared about people. It's highly appropriate that we honor Hubert H. Humphrey on this 80th anniversary of his birth.

Mr. PENNY. Mr. Speaker, in political terms, I was born and raised on Hubert Humphrey. As an elementary school student in 1960, I had reached an age when I began to understand about politics, and I was amazed that a Senator from my own State was running for the Presidency of the United States. Four years later in junior high I stayed up late watching our small screen black and white television set as Hubert Humphrey was nominated for the Vice-Presidency of our country. Even now I can remember how his speech energized the audience.

Hubert Humphrey was my Presidential choice as I attended my first DFL county convention in 1972.

I had the honor of meeting Hubert for the first time in 1976 when he and his wife Muriel invited all of the candidates running for the State senate to their lakeside home in Waverly. He and Muriel took great delight in teasing me about looking too young to be a candidate.

Later he returned to Minnesota to address those of us who had been elected. I was surprised that someone of his stature would take the time to become involved in a local issue concerning whether to build a first-class sports stadium in Minnesota. He placed great emphasis on the importance of building a first-class stadium, insisting that it would "put Minnesota on the map" and would be a sound investment in Minnesota's economic future. There was no need for Hubert to take a stand on such a controversial issue, but few people sitting in the Hubert H. Humphrey Metrodome today would disagree with his vision.

I continue to be proud that through the leadership of Hubert Humphrey, millions of Americans became involved in human rights and civil rights, and responded to the disabled and the elderly. I watched with admiration during

his last years in the U.S. Senate as he took the lead on arms control and world hunger.

Although Hubert H. Humphrey was a leader during some of America's most challenging years, he never lost faith in our people or our system of government. He was a tremendous inspiration to me and other Minnesota Democrats, and all of us can only hope that in some small way we follow his example of leadership and public service.

Mr. MINETA. Mr. Speaker, it is a genuine pleasure for me to join with my colleagues here in the House in tribute to one of the finest Americans ever to serve in the U.S. Congress.

Hubert Humphrey was more than "the Happy Warrior," as he was known to his colleagues in The Other Body for his witty, tireless and determined speeches ranging from promoting civil rights to protecting the elderly. To me, Senator and Vice President Hubert Humphrey was a great conscience of the Nation, and a personal role model.

Mr. Speaker, the Hubert Humphrey Building stands a short walk down Independence Avenue from this Chamber. When that building was dedicated in 1977 as what is now home to the Department of Health and Human Services, Vice President Humphrey said, and I quote, "It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped."

That was his philosophy of government: to make government work, to do its job as representatives of the people. Here in Washington, Hubert Humphrey fought that fight in the 1940's, 1950's, 1960's, and the 1970's.

Mr. Speaker, in the last years of public service, even as he fought a battle with cancer that would ultimately claim his life, the spark of his ideals and his hope for the future of our Nation never waned. He remained not only an inspiration but a voice of reason and vision.

Those of us who grew up with his ideals can only hope that his same spirit of public service remains in our hearts and minds into the next century. It is our loss that we can no longer call upon his wisdom to confront the new challenges facing our Nation and our world. But I know that I have been all the more fortunate for having had the opportunity to know and work with Hubert Humphrey, and I know that a grateful Nation will always remember him as one of the finest public servants of the people of the United States.

Mr. MONTGOMERY. Mr. Speaker, I want to thank my colleagues in the Minnesota delegation for taking this time to pay tribute to one of this country's most distinguished public servants, Hon. Hubert H. Humphrey.

On the occasion of our late colleague's 80th birthday, I am proud to join in this special order to honor one Minnesota's most beloved favorite sons and a great American.

I was privileged to call him a friend and I know how much public service meant to him. He dedicated the great majority of his life to serving the people of Minnesota as U.S. Senator and then as Vice President under President Lyndon Johnson.

On June 3 another fine tribute was announced when the U.S. Postal Service issued

a stamp commemorating his years of service as part of its Great Americans series.

I will always remember what a fine public speaker Hubert was and those speeches were always sprinkled with his great wit. The name "Happy Warrior" fit him very well and I am glad we are taking time to reflect on the life and times of our friend. I appreciate the Minnesota delegation giving me the chance to take part in this tribute today.

Mr. MORAN. Mr. Speaker, Hubert Horatio Humphrey, scholar, statesman, Senator, Vice President—husband, father.

Grounded in the beliefs of FDR's "New Deal" that every American matters—Humphrey developed a commitment to all Americans, particularly those in need.

As one of the architects of JFK's "New Frontier," Humphrey became its eloquent advocate.

And what Humphrey believed in, Hubert Humphrey acted upon.

A champion of the less fortunate in our society, Humphrey proved—throughout his life—that government's role is to protect the people—not to take advantage of them.

He proved that public service was not a stepping stone—but rather a life-long pursuit.

And at no time did he make this clearer—than at a speech he made less than 3 months before his death.

"It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped."

Hubert Humphrey was a Happy Warrior.

Happy to fight for those who could not fight for themselves—the sick, the elderly, the forgotten people in our society.

A warrior because he truly believed that this "moral test" for government was a crusade—a crusade against greed, poverty, and sickness.

This was Hubert Humphrey's war: a war we must continue to fight daily in this chamber—a war we must never lose.

A test that we as Members of this body must go through every day—to help those who cannot help themselves.

This is Hubert Humphrey's legacy to us.

Mr. YATES. Mr. Speaker, I am pleased that we are taking a few minutes today to remember Hubert Humphrey. He was a 20th century giant in American politics and no one was his equal as an eloquent and effective advocate for human and civil rights. His contribution to progressive policies and programs are a remarkable legacy for all Americans, and I am proud to have served with him in the Congress for many years.

I must tell you that I can not think about Hubert Humphrey without wondering what he would be doing about the current state of our Nation and the sad condition of our political affairs. I know he would be outraged by the flag-waving, race-baiting Presidential campaigns of recent years and he would be appealing to our better natures. He would be working for a comprehensive health program for all Americans and I am sure he would be developing programs to remedy a troubled economy that is crushing the dreams and aspirations of millions of our citizens. Hubert Humphrey would

be telling us we must do more and we must do better than we are doing.

Mr. FAZIO. Mr. Speaker, I would like to thank my colleague from Minnesota [Mr. OBERSTAR], for the opportunity to pay tribute to the late Senator Hubert H. Humphrey on the 80th anniversary of his birth. It is with great pleasure that I take part in honoring Senator Humphrey. During 33 years of public service, Senator Humphrey dedicated himself to civil rights issues and the social welfare of the American people. While serving two terms as mayor of Minneapolis, 19 years in the U.S. Senate, and 4 years as vice president, he proved himself to be one of the greatest humanitarians of modern times.

The son of a South Dakota pharmacist, Senator Humphrey began his career as manager of the family store. After earning his B.A. and M.A. in political science from Louisiana State University, he was elected mayor of Minneapolis in 1945. As mayor, Senator Humphrey waged an anti-vice war, created the first municipal fair employment practices commission in the United States, and expanded the city's housing program. At the 1948 Democratic National Convention, he gave a stirring and courageous oration in favor of a strong civil rights plank. It was in this same year that Hubert Humphrey was elected Senator of his State of Minnesota.

Senator Humphrey focused his efforts in the Senate on promoting social welfare and civil rights legislation. In his earlier years in office, Senator Humphrey was the first to introduce a bill that would establish medical care for the aged, financed through the Social Security system. The program was enacted years later as Medicare. In the 1950's, Senator Humphrey was a leading advocate of disarmament which led to the creation of the Arms Control and Disarmament Agency in 1961. Also enacted in 1961 were Senator Humphrey's proposals of the Peace Corps and the Food for Peace programs. Ultimately, Senator Humphrey's crowning achievement was the passage of the Nuclear Test Ban Treaty, evidence of Senator Humphrey's longtime commitment to peace. And the climax of Senator Humphrey's long advocacy of the cause of equal rights was his involvement as floor manager in the passage of the historic Civil Rights Act of 1964.

Elected as Vice President under President Lyndon B. Johnson in 1964, Senator Humphrey continued his advocacy for social welfare and civil rights causes in his newly elected position, during the years he spent in the Senate afterward, and until his death in 1978.

Through the many years that he spent in public office, Senator Humphrey was not merely an advocate of various causes. More importantly, Hubert Humphrey was an advocate for the people. Senator Humphrey believed that all people are entitled to the same basic human rights and needs, and he fought to bring this dream of his closer to reality. It is with great gratitude and respect that I join my colleagues in recognizing the goals and achievements of Hubert H. Humphrey on this day, the 80th anniversary of his birth.

Mr. PRICE. Mr. Speaker, I am pleased today to join with our Minnesota colleagues and others to honor a great American, a great U.S. Senator, a great Vice President—Hubert H. Humphrey.

This year marks the 80th anniversary of Hubert Humphrey's birth, and on June 3 the U.S. Postal Service, fittingly, issued a stamp commemorating his service to the Nation as part of its "Great American" series.

I've long been an admirer of Senator Humphrey and the model he provided for public service. He was a man of strong humanitarian convictions in the Midwestern, progressive mold. But he was a practical man as well—not doctrinaire—willing and able to work with diverse people to reach a consensus and move ahead.

Some years ago, I saw a quotation from Senator Humphrey, and clipped it and have had it on my desk ever since. Here's what he said:

If I believe in something, I will fight for it with all I have, but I do not demand all or nothing. I would rather get something than nothing. Professional liberals want the fiery debate. They glory in defeat. The hardest job for a politician today is to have the courage to be a moderate.

My own personal exposure to Senator Humphrey and his work came when I was a young, admiring Senate aide back in the 1960's. I was fortunate enough to secure an internship in 1963 with Senator E.L. "Bob" Bartlett from Alaska, and I returned to Washington for four summers after that to work in various legislative positions in Senator Bartlett's office. I thus was in a position to observe Senator Humphrey both as a leader in the Senate and then as Vice President.

During those years, I was also writing a doctoral dissertation on the Senate based on my work and my observations there. It was my sense that the institution was changing significantly and that the changes marked a decisive shift—from what some termed the Senate of "the inner club," the Senate of the old established "folkways"—into a more open, more progressive, more activist institution.

Nelson Polsby, a well-respected political scientist from the University of California at Berkeley, has written about those years and about the transition that occurred in the Senate. And he has characterized, appropriately I think, Hubert Humphrey as the prototype of the "new Senator." Humphrey was a Senator who knew very well the folkways of the institution, who knew very well how to work effectively in the institution, but who was testing the limits and was establishing a new model for a U.S. Senator. He was then followed by many others who opened up that institution—who used it as a forum for policy debate, for policy innovation—and indeed, made of the Senate, a critical nerve end of the American polity. That was the Senate that I was observing in the 1960's; that was the Senate that I wrote about in my dissertation which was later published as "Who Makes The Laws?" Polsby described the new style of service—the Humphrey prototype—in the following way:

Much earlier than most members of his generation, Humphrey sensed the possibilities in the Senate for long-range political education. He spent the Eisenhower era incubating ideas that in a better climate could hatch into programs. In the late 1940's and early 1950's a flood of Humphrey bills (many of them co-sponsored by other liberal sen-

ators) on all aspects of civil rights, medicare, housing, aid to farm workers, food stamps, job corps, area redevelopment, disarmament, and so on died in the Senate. A little over a decade later most of them were law, and Humphrey had in the meantime become a political leader of national consequence. The force of his example was not lost on younger senators.

Indeed it was not. In fact, the Humphrey model was emulated by Members like Philip Hart and Edmund Muskie and Joseph Clark and many others in the Senate of the middle and late 1960's, even as Humphrey himself went on to serve as Vice President. And it is important to note that even as he knew how and when to compromise, to moderate his objectives, he also knew how to persevere, to press on in the sure knowledge that a new political day would dawn.

I confess I have a special reason for wanting to pay tribute to Hubert Humphrey today. Last year, my professional association, the American Political Science Association, paid me the signal tribute of awarding the Hubert H. Humphrey Public Service Award, an award that I cherish and feel very honored to receive, but an award that has a very special meaning to me because of the great Senator and public servant after whom it is named.

So because of my early experiences as a Senate aide and as an academic studying Congress, and now as a Member of Congress myself, I have a special sense of the role Hubert Humphrey played in transforming this institution, and serving as a role model to which all of us can aspire. It's because of all this that I was especially eager to participate in this special order today and to join my colleagues in paying tribute to this remarkable man.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACOBS (at the request of Mr. GEPHARDT), for today, on account of constituent business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following member (at the request of Mr. RIGGS) to revise and extend his remarks and include extraneous material:)

Mr. GINGRICH for 60 minutes on July 15, 16, 17, 18, 19, 22, 23, 24, 25, and 26.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. LAROCCO, for 5 minutes, today.  
Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.  
Mr. HALL of Ohio, for 60 minutes, on July 26.

Mr. MINETA, for 60 minutes, on July 25.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIGGS) and to include extraneous matter:)

Mr. KOLBE.  
Mr. CAMPBELL of California in two instances.

Mr. DUNCAN.  
Mr. GEKAS.  
Mr. BROOMFIELD.

Mr. COBLE.  
Mr. GOODLING.  
Mr. RHODES in four instances.

Mr. SHAW.  
Ms. ROS-LEHTINEN in three instances.  
Mr. MICHEL.

Mr. HORTON.  
Mr. GINGRICH.  
Mr. MACTHLEY.

Mr. LIGHTFOOT.  
Mr. MILLER of Ohio in three instances.

Mr. GILMAN.  
(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. TRAXLER.  
Mr. GAYDOS.  
Mr. OWENS of New York.

Mr. HAMILTON.  
Ms. SLAUGHTER of New York.  
Mrs. BOXER.

Mr. HUBBARD.  
Mr. HOYER.  
Mr. TORRES.

Ms. NORTON.  
Mr. VENTO.  
Mr. KOSTMAYER.

Mr. MRAZEK.  
Mr. STARK in three instances.  
Mrs. COLLINS of Michigan.

Mr. LUKEN.  
Mr. GUARINI.  
Mr. CLEMENT.

Mr. HOCHBRUECKNER.  
Mr. SLATTERY.  
Mr. FOGLIETTA.

Mr. WEISS.  
Mr. MURTHA.  
Mr. VISCLOSKY.

Mr. CLAY.  
Mr. ABERCROMBIE.  
Mr. KANJORSKI.

Mrs. COLLINS of Illinois.  
Mr. HARRIS.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 276. An act to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building"; to the Committee on Public Works and Transportation.

#### ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 11, 1991, 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:

1657. A communication from the President of the United States, transmitting a request for fiscal year 1991 and fiscal year 1992 appropriations for the Department of Defense in support of Operation Desert Shield/Desert Storm, pursuant to 31 U.S.C. 1107 (Doc. No. 102-109); to the Committee on Appropriations and ordered to be printed.

1658. A letter from the Comptroller of the Department of Defense, transmitting notification that the Department plans to transfer the final \$47.548 million to the operation and maintenance appropriations for the modernization and expansion of automated data processing systems; to the Committee on Appropriations.

1659. A letter from the Chief, Legislative Liaison of the Department of the Army, transmitting an initial decision to retain the commissary storage and warehousing function at the Army Research and Development Center, Picatinny Arsenal, NJ, as an in-house operation, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1660. A letter from the Secretary of Defense, transmitting notification that major defense acquisition programs have breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1661. A letter from the Under Secretary of Defense, transmitting a request for T45TS Defense Enterprise Program baseline approval, pursuant to 10 U.S.C. 2437; to the Committee on Armed Services.

1662. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 2352 of title 10, United States Code, to allow research and development contracts to be for a term of not more than 10 years, and to authorize the Secretary of Defense to approve up to two additional performance periods, each for not more than 5 years, when found to be in the best interests of the Government; to the Committee on Armed Services.

1663. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend sections 151(a), 154, and 155(a) of title 10, United States Code, to provide for designation of the Vice Chairman of the Joint Chiefs of Staff, and to make conforming amendments; to the Committee on Armed Services.

1664. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to establish a Department of Defense Laboratory Revitalization Demonstration Program for the purpose of improving management, efficiency, and overall effectiveness of DOD laboratories and centers; to the Committee on Armed Services.

1665. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 91-32, reporting that it is in the

national interest for the Export-Import Bank to extend credit to Mongolia, pursuant to 12 U.S.C. 635(b)(2); to the Committee on Banking, Finance and Urban Affairs.

1666. A letter from the Secretary, Department of Housing and Urban Development, transmitting the second annual report describing the status of multifamily housing subject to subsection (a) of section 203(k) of the Housing and Community Development Amendments of 1978, as amended, pursuant to 42 U.S.C. 1701z-11; to the Committee on Banking, Finance and Urban Affairs.

1667. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Kingdom of Thailand, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

1668. A letter from the President, Oversight Board of the Resolution Trust Corporation, transmitting the annual report of the Oversight Board for the calendar year 1990, pursuant to Public Law 101-73, section 501(a) (103 Stat. 387); to the Committee on Banking, Finance and Urban Affairs.

1669. A letter from the President, Oversight Board of the Resolution Trust Corporation, transmitting the annual report of the Oversight Board of the Resolution Funding Corporation for the calendar year 1990, pursuant to Public Law 101-73, section 511(a) (103 Stat. 404); to the Committee on Banking, Finance and Urban Affairs.

1670. A letter from the President, Resolution Trust Corporation, transmitting notification that the Corporation is unable to forward GAO's audit of the financial statements of the RTC; to the Committee on Banking, Finance and Urban Affairs.

1671. A letter from the Secretary of Education, transmitting the condition of bilingual education in the Nation, pursuant to Public Law 100-297, section 6213 (102 Stat. 429); to the Committee on Education and Labor.

1672. A letter from the Department of Energy, transmitting the Annual Energy Review 1990, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

1673. A letter from the Corporation for Public Broadcasting, transmitting a report to public broadcasting and telecommunications entities service to minority and diverse audiences, pursuant to Public Law 100-626, section 9(a) (102 Stat. 3211); to the Committee on Energy and Commerce.

1674. A letter from the Inspector General, Department of the Interior, transmitting a copy of a final audit report entitled "Accounting for Reimbursement Expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation," to the Committee on Energy and Commerce.

1675. A letter from the Inspector General, Department of the Treasury, transmitting a copy of an Internal Revenue Service internal audit report entitled, "Review of Reimbursable Superfund Costs—Fiscal Year 1988," pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

1676. A letter from the Chairman, Physician Payment Review Commission, transmitting the Commission's report on physician payment under Medicaid, pursuant to section 6102(f)(1)(B) of the Omnibus Budget Reconciliation Act of 1989; to the Committee on Energy and Commerce.

1677. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services esti-

mated to cost \$176 million (Transmittal No. 91-30), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1678. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 91-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1679. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Australia (Transmittal No. 10-91), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1680. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Bolivia (Transmittal No. 9-91), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1681. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability to Kuwait, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1682. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to the Republic of Korea (Transmittal No. MC-42-91), pursuant to 22 U.S.C. 2776(c), (d); to the Committee on Foreign Affairs.

1683. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of \$50 million or more to the United Kingdom (Transmittal No. MC-28-91), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1684. A letter from the Assistant Secretary for Legislative Affairs, transmitting copies of the original reports of political contributions by Robert Michael Kimmitt, of Virginia, Ambassador-designate to the Federal Republic of Germany, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1685. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report regarding a proposed sale and coproduction relating to the Korean Fighter Program; to the Committee on Foreign Affairs.

1686. A letter from the Department of State, transmitting notification that the Department has decided to offer senior level crisis management training to selected Bulgarian officials; to the Committee on Foreign Affairs.

1687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on recent activities of the International Fund for Ireland; to the Committee on Foreign Affairs.

1688. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on assistance related to international terrorism provided by the U.S. Government to foreign countries; to the Committee on Foreign Affairs.

1689. A letter from the Director, Office of Management and Budget, transmitting the final pay-as-you-go estimates of legislation enacted as of June 14, 1991, pursuant to Public Law 101-508, section 13101(a) (104 Stat.

1388-582); to the Committee on Government Operations.

1690. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in May 1991, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1691. A letter from the Fourth District Farm Credit Institutions, transmitting the Farm Credit Institutions in the Fourth District amended retirement plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1692. A letter from the Secretary of Health and Human Services, transmitting the 24th in a series of reports on refugee resettlement in the United States covering the period October 1, 1989, through September 30, 1990, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

1693. A letter from the National Council on Radiation Protection and Measurements, transmitting the 1990 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, a federally chartered corporation, pursuant to Public Law 88-376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

1694. A letter from the Counsel, Pacific Tropical Botanical Garden, transmitting the annual audit report of the Pacific Tropical Botanical Garden, calendar year 1990, pursuant to Public Law 88-449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

1695. A letter from the U.S. Olympic Committee, transmitting the annual audit and activities report for calendar year 1990, pursuant to 36 U.S.C. 382a(a); to the Committee on the Judiciary.

1696. A letter from the Administrator, General Services Administration, transmitting an informational copy of a prospectus for the Environmental Protection Agency, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1697. A letter from the Secretary, Department of Commerce, transmitting a copy of the National Implementation Plan for Modernization and Associated Restructuring of the National Weather Service, Fiscal Year 1991 Annual Update, pursuant to 15 U.S.C. 313 note; to the Committee on Science, Space, and Technology.

1698. A letter from the Executive Director, Resolution Trust Corporation, transmitting the Corporation's status report for the month of May 1991 (Review of 1988-89 FSLIC Assistance Agreements; jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

1699. A letter from the Comptroller General of the United States, transmitting a report entitled, "Toxic Chemicals: EPA's Toxic Release Inventory Is Useful But Can Be Improved"; jointly, to the Committees on Government Operations and Energy and Commerce.

1700. A letter from the Department of Justice, transmitting notification that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States with respect to 31 U.S.C. 3554(c), a provision of the Competition in Contracting Act of 1984, pursuant to Public Law 96-132, section 21(a)(2) (93 Stat. 1050); jointly, to the Committees on the Judiciary and Government Operations.

1701. A letter from the Secretary of State, transmitting a copy of his certification and determination that it is in the national interest to waive the transfer of foreign assist-

ance funds under the Fishermen's Protective Act, pursuant to 22 U.S.C. 1975; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

1702. A letter from the Director, National Ocean Pollution Program Office, Department of Commerce, transmitting a copy of a report entitled, "Review of Fiscal Year 1992 Agency Requests for Appropriations to Support Ocean Pollution Research, Development, and Monitoring Programs"; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

1703. A letter from the Railroad Retirement Board, transmitting a copy of the 18th actuarial valuation of the railroad retirement system, pursuant to 45 U.S.C. 321f-1; jointly, to the Committees on Ways and Means and Energy and Commerce.

1704. A letter from the Railroad Retirement Board, transmitting the 1991 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

#### 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. CONYERS: Committee on Government Operations. A citizen's guide on using the Freedom of Information Act and the Privacy Act of 1974 to request Government records (Rept. 102-146). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 190. A resolution providing for the consideration of H.R. 2282, a bill to amend the National Science Foundation Authorization Act of 1988, and for other purposes (Rept. 102-147). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 191. A resolution providing for the consideration of H.R. 656, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing (Rept. 102-148). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 192. A resolution providing for the consideration of H.R. 1939, a bill to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes (Rept. No. 102-149). 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. ROSTENKOWSKI (for himself and Mr. JACOBS):

H.R. 2838. A bill to improve benefits under title II of the Social Security Act, to establish the Social Security Administration as an independent agency, to remove Social Security administrative costs from the budget, to increase the Social Security benefit and contribution base, and to provide for a study of factors impeding the efficiency of the Social Security disability determination process; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. FORD of Tennessee, Mr. LEVIN of Michigan, Mr. PEASE, Mr. MATSUI, Mr. BORSKI, Mr. STOKES, Mr. STAGGERS, Mr. MURTHA, Mr. FORD of Michigan, Mrs. LOWEY of New York, Mr. KILDEE, Mr. WEISS, Mr. DYMALLY, Mr. FOGLETTA, Mr. TAYLOR of Mississippi, Mr. KOSTMAYER, and Mr. SABO):

H.R. 2839. A bill to provide a program of Federal supplemental compensation, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. SIKORSKI, Mr. STOKES, Mr. SCHEUER, and Mr. CARDIN):

H.R. 2840. A bill to amend the Public Health Service Act to reduce human exposure to lead in residences, schools for young children, and day care centers, including exposure to lead in drinking water, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ABERCROMBIE (for himself and Mrs. MINK):

H.R. 2841. A bill to amend title 10, United States Code, to authorize veterans who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

H.R. 2842. A bill to amend title 10, United States Code, to authorize disabled former prisoners of war to use Department of Defense commissary stores and exchanges; to the Committee on Armed Services.

H.R. 2843. A bill to amend title 38, United States Code, to provide for the payment of incentive special pay to Department of Veterans Affairs psychologists who obtain board certification in a professional specialty; to the Committee on Veterans' Affairs.

H.R. 2844. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; jointly, to the Committees on Armed Services and Veterans' Affairs.

H.R. 2845. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs posttraumatic stress disorder treatment program; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. BENNETT (by request):

H.R. 2846. A bill to repeal the requirement that the President acquire depleted uranium for the National Defense Stockpile; to the Committee on Armed Services.

By Mr. BUNNING (by request):

H.R. 2847. A bill to amend the Harmonized Tariff Schedule of the United States to restore the rate of duty applicable to man-made fiber felt fabric for technical uses that was in effect under the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. CAMPBELL of California:

H.R. 2848. A bill to require the Secretary of Defense to provide child care services to all members of the Armed Forces on active duty desiring such services; to the Committee on Armed Services.

By Mr. CARR:

H.R. 2849. A bill to require employers to provide certain information concerning family leave policies and for other purposes; jointly, to the Committees on Post Office and Civil Service and Education and Labor.

By Mr. CLAY (for himself (by request), Mr. ACKERMAN, Mr. GILMAN, and Mr. MYERS of Indiana):

H.R. 2850. A bill to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of California (for himself, Mr. CONYERS, Mr. FISH, Mr. WASHINGTON, Mr. KOPETSKI, Mr. FRANK of Massachusetts, Mr. BRYANT, and Mr. WOLFE):

H.R. 2851. A bill to amend title 28, United States Code, to prevent racially discriminatory capital sentencing; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 2852. A bill to amend title I of the Higher Education Act of 1965 to promote articulation agreements between 2-year and 4-year institutions of higher education, and for other purposes; to the Committee on Education and Labor.

By Mr. HENRY (for himself and Mr. UPTON):

H.R. 2853. A bill to amend the Internal Revenue Code of 1986 to provide that the percentage of completion method of accounting shall not be required to be used with respect to contracts for the manufacture of property if no payments are required to be made before the completion of the manufacture of such property; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 2854. A bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States; to the Committee on Energy and Commerce.

By Mr. McCLOSKEY:

H.R. 2855. A bill to amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to determine whether individuals entitled to benefits under the Medicare Program meet the requirements for status as qualified Medicare beneficiaries under the Medicaid Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. McDERMOTT (for himself, Mr. DONNELLY, Mr. CARDIN, Mr. CHANDLER, Mr. DICKS, Mr. MOAKLEY, Mr. MILLER of Washington, Mr. MAVROULES, and Mr. SWIFT):

H.R. 2856. A bill to prohibit the Secretary of Health and Human Services from collecting alleged overpayments made to certain Uniformed Services Treatment Facilities under title XVIII of the Social Security Act; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MANTON (for himself and Ms. MOLINARI):

H.R. 2857. A bill to provide for the death penalty for homicides involving firearms; to the Committee on the Judiciary.

H.R. 2858. A bill to amend title 18, United States Code, to impose mandatory prison terms for possession or use of a firearm or a destructive device during conduct constituting a crime of violence or a drug trafficking crime under State law; to the Committee on the Judiciary.

By Mr. MAVROULES:

H.R. 2859. A bill to direct the Secretary of the Interior to conduct a study of the historical and cultural resources in the vicinity of the city of Lynn, MA, and make recommendations on the appropriate role of the Federal Government in preserving and interpreting such historical and cultural resources; to the Committee on Interior and Insular Affairs.

By Ms. MOLINARI:

H.R. 2860. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to include death benefits for retired officers; to the Committee on the Judiciary.

By Mr. FALLONE (for himself and Mr. DWYER of New Jersey):

H.R. 2861. A bill directing the U.S. Postal Service to promulgate regulations to protect postal employees and the U.S. mail from exposure to medical waste; to the Committee on Post Office and Civil Service.

By Mr. RAMSTAD:

H.R. 2862. A bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision; to the Committee on the Judiciary.

By Mr. RHODES:

H.R. 2863. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of the basis of certain assets; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Ms. OKAR, Mr. WYDEN, and Mr. DOWNEY):

H.R. 2864. A bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHAEFFER:

H.R. 2865. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHEUER:

H.R. 2866. A bill to encourage the use of alternative fuels across the transportation sector and facilitate research on the design of motor vehicles powered by these fuels, and for other purposes; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, Science, Space, and Technology, and Education and Labor.

By Mr. SCHIFF:

H.R. 2867. A bill to amend title 11 of the United States Code with respect to certain income-producing real property of the debtor; to the Committee on the Judiciary.

By Ms. LONG (for herself, Mr. MORRISON, Mr. SLATTERY, Mr. ROBERTS, Mr. ESPY, Mr. EMERSON, Ms. NORTON, Mr. HATCHER, Mrs. BENTLEY, Mr. SARPALIUS, and Ms. KAPTUR):

H.J. Res. 293. Joint resolution designating March 19, 1992, as "National Women in Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY:

H.J. Res. 294. Joint resolution to designate the week beginning August 11, 1991, as "National Convenience Store Appreciation Week"; to the Committee on Post Office and Civil Service.

By Mr. ROHRBACHER:

H.J. Res. 295. Joint resolution amending the joint resolution entitled "a joint resolution providing for the designation of the third week of July as 'Captive Nations Week'; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H. Con. Res. 178. Concurrent resolution congratulating the Russian people and Boris Yeltsin on his election as the first democratically elected President in the history of the Russian Republic; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

214. By the SPEAKER: Memorial of the Senate of the State of Alaska, relative to the existing Federal mining law system; to the Committee on Interior and Insular Affairs.

213. Also, memorial of the General Assembly of the State of Delaware, relative to the dual banking system; to the Committee on Banking, Finance and Urban Affairs.

215. Also, memorial of the General Assembly of the State of Nevada, relative to giving Indian tribes jurisdiction over Indians who are not on the official tribal rolls; to the Committee on Interior and Insular Affairs.

216. Also, memorial of the Senate of the State of Nevada, relative to the recovery of Lahontan cutthroat trout in Nevada; to the Committee on Merchant Marine and Fisheries.

217. Also, memorial of the Senate of the State of Illinois, relative to rehabilitation programs for veterans with service-connected brain injuries; to the Committee on Veterans' Affairs.

218. Also, memorial of the Legislature of the State of Alaska, relative to Federal oil leases in the North Aleutian Basin section of Bristol Bay; jointly, to the Committee on Interior and Insular Affairs and Merchant Marine and Fisheries.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. BUSTAMANTE introduced a bill (H.R. 2868) relating to the reliquidation of certain entries; which was referred to the Committee on Ways and Means.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. JEFFERSON, Mr. McNULTY, Mr. CUNNINGHAM, Mr. HORTON, Mr. DANNEMEYER, Ms. MOLINARI, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. ZIMMER, Mr. IRELAND, and Mr. ROE.

H.R. 44: Mr. SWIFT and Mr. GILMAN.  
H.R. 123: Mr. ASPIN, Mr. BAKER, Mr. SHUSTER, and Mr. CRAMER.

H.R. 199: Mr. JOHNSON of South Dakota.  
H.R. 213: Mr. FROST, Mr. DAVIS, Mr. LIVINGSTON, Mr. GILLMOR, Mr. VANDER JAGT, Mr. SMITH of New Jersey, and Mr. VOLKMER.

H.R. 258: Mr. JOHNSON of South Dakota.  
H.R. 303: Mr. GLCHREST, Mr. JOHNSON of South Dakota, and Mr. BLAZ.

H.R. 304: Mr. BACCHUS, Mr. SARPALIUS, and Mr. GINGRICH.

H.R. 318: Mr. BACCHUS, Mr. FAZIO, and Mr. SMITH of Florida.

H.R. 330: Mr. OWENS of New York, Mr. JACOBS, and Mrs. PATTERSON.

H.R. 392: Mr. MCCLOSKEY, Mrs. PATTERSON, and Mr. SAWYER.

H.R. 413: Mr. MILLER of Ohio, Mr. MILLER of Washington, Mr. HAYES of Louisiana, Mr. EARLY, Mr. ROGERS, Mr. LAROCOCO, and Mr. WOLPE.

H.R. 416: Mr. SAXTON.

H.R. 441: Mr. WHEAT.

H.R. 544: Mrs. LLOYD, Mr. SOLARZ, Mr. SLAUGHTER of New York, Mr. WASHINGTON, Mrs. LOWEY of New York, and Mrs. MINK.

H.R. 565: Mr. LIPINSKI, Mrs. BOXER, Mr. EDWARDS of California, Ms. SLAUGHTER of New

York, Mr. BOUCHER, Mrs. BENTLEY, Mr. BORSKI, Mr. LEHMAN of California, Mr. CRAMER, Mr. HALL of Ohio, Mr. McMILLEN of Maryland, Mr. VALENTINE, Mr. GEJDENSON, and Mr. MURPHY.

H.R. 585: Mr. DIXON.

H.R. 592: Mr. TRAFICANT, Mr. VOLKMER, and Mr. GILLMOR.

H.R. 606: Mr. SANTORUM, Mr. RIGGS, Mr. SCHIFF, and Mr. ZIMMER.

H.R. 784: Mr. MCCANDLESS, Mr. ESPY, Mr. BREWSTER, and Mr. LUKEN.

H.R. 815: Mr. ENGLISH, Mr. BARNARD, Mr. GEJDENSON, Mr. SWETT, and Mr. SMITH of Florida.

H.R. 828: Ms. DELAURO.

H.R. 916: Mr. JOHNSON of South Dakota.

H.R. 945: Mr. GALLO, Mr. ZELIFF, Mr. WHEAT, Mr. JOHNSON of South Dakota, Mr. SUNDQUIST, Mr. PENNY, and Mr. MARLENEE.

H.R. 967: Mr. MAVROULES.

H.R. 1039: Mr. FROST and Mr. ROE.

H.R. 1092: Mr. TAYLOR of North Carolina, Mrs. BOXER, Mr. ESPY, and Mr. ENGEL.

H.R. 1111: Ms. SLAUGHTER of New York.

H.R. 1120: Mr. HUTTO, Mr. PETERSON of Florida, Mr. SLATTERY, Mr. TRAFICANT, Mr. WHEAT, and Mr. BILBRAY.

H.R. 1130: Mrs. LOWEY of New York and Mr. SHAYS.

H.R. 1145: Mr. MINETA.

H.R. 1146: Mr. HOAGLAND.

H.R. 1147: Mr. LEHMAN of Florida, Mr. JOHNSTON of Florida, and Mr. LEWIS of Florida.

H.R. 1156: Mr. FROST and Mrs. UNSOELD.

H.R. 1184: Mr. SKEEN.

H.R. 1201: Mr. ESPY and Mr. FAWELL.

H.R. 1237: Mr. CHANDLER and Mr. DOOLITTLE.

H.R. 1298: Mr. MACHTLEY.

H.R. 1346: Mr. SYNAR and Mr. JOHNSON of South Dakota.

H.R. 1348: Mr. BACCHUS, Mr. McMILLAN of North Carolina, Mr. SCHAEFFER, and Mrs. PATTERSON.

H.R. 1360: Mr. DIXON.

H.R. 1389: Mrs. BOXER.

H.R. 1400: Mr. PAXON.

H.R. 1406: Mr. GILMAN, Mr. SAWYER, Mr. EVANS, Mr. OBERSTAR, Mr. YATES, Mr. SENEBRENNER, and Mr. SCHEUER.

H.R. 1417: Mr. KOPETSKI and Mr. PICKLE.

H.R. 1422: Mr. FOGLIETTA, Mr. RAVENEL, and Mr. BILBRAY.

H.R. 1445: Mrs. KENNELLY.

H.R. 1450: Mr. TOWNS, Mr. BROWDER, Mr. TAYLOR of North Carolina, Mr. NAGLE, Mr. SPENCE, Mr. KLECZKA, Mr. MILLER of Ohio, Mr. BLAZ, and Mr. SANTORUM.

H.R. 1456: Mr. ROSE, Mr. LIGHTFOOT, Mr. MARLENEE, Mr. AUCCOIN, Mr. TORRICELLI, Mr. SPRATT, Mr. NICHOLS, and Mr. SCHEUER.

H.R. 1472: Mr. MILLER of Ohio, Mr. SCHIFF, Mr. ROE, Mr. DEFazio, Mr. WOLPE, and Mr. ENGLISH.

H.R. 1473: Mr. McDERMOTT and Mr. MILLER of Washington.

H.R. 1483: Mr. RICHARDSON.

H.R. 1503: Mr. JONES of North Carolina, Mr. PERKINS, Mr. SPENCE, Mr. STUDDS, Mr. FRANK of Massachusetts, Mr. KILDEE, Ms. COLLINS of Michigan, Mr. MILLER of California, Mr. LEWIS of Georgia, Mr. DICKINSON, Mr. HOLLOWAY, Mr. SKELTON, and Mr. STOKES.

H.R. 1515: Mr. BEREUTER, Mr. MARKEY, and Mr. HASTERT.

H.R. 1516: Mr. CALLAHAN, Mr. NICHOLS, Mr. McMILLAN of North Carolina, Mr. DICKINSON, and Mr. DUNCAN.

H.R. 1527: Mr. KOPETSKI, Mr. COYNE, Mr. DOOLEY, Mr. GAYDOS, Mr. DORNAN of California, Mr. ANTHONY, and Mr. PETERSON of Florida.

- H.R. 1556: Mr. GOODLING.  
H.R. 1570: Mr. BURTON of Indiana, Mr. DARDEN, Mr. McMILLAN of North Carolina, and Mr. STOKES.  
H.R. 1599: Mr. GILLMOR.  
H.R. 1601: Mr. McMILLAN of North Carolina.  
H.R. 1652: Mr. CHANDLER and Mr. ZELIFF.  
H.R. 1662: Mr. PRICE.  
H.R. 1684: Mr. PAYNE of New Jersey.  
H.R. 1737: Mr. HAYES of Illinois, Mr. DE LUGO, and Mr. ESPY.  
H.R. 1750: Ms. DELAURO.  
H.R. 1752: Mr. MILLER of Washington, Mr. RHODES, Mrs. JOHNSON of Connecticut, Mr. ERDRICH, Mr. FORD of Tennessee, Mr. PAXON, and Mr. SANDERS.  
H.R. 1753: Mr. RIGGS, Mr. OXLEY, and Mr. HOCHBRUECKNER.  
H.R. 1809: Mr. MCEWEN, Mr. RINALDO, Ms. NORTON, and Mr. CAMP.  
H.R. 1816: Mr. GILLMOR, Mr. FORD of Michigan, and Mr. McMILLAN of North Carolina.  
H.R. 1821: Mrs. COLLINS of Illinois, Mr. TOWNS, Ms. KAPTUR, Mr. KOSTMAYER, Mr. MARTINEZ, Mr. JEFFERSON, Mr. KOPETSKI, Mr. ESPY, and Mr. STOKES.  
H.R. 1860: Mr. BUSTAMANTE and Mr. WEBER.  
H.R. 1914: Mr. STOKES.  
H.R. 1916: Ms. DELAURO and Ms. SLAUGHTER of New York.  
H.R. 1992: Mr. LEWIS of Georgia, Mrs. BYRON, and Mr. SCHEUER.  
H.R. 2008: Mr. SMITH of Oregon, Mr. SLATTERY, Mr. RHODES, Mr. LEACH, and Mr. HASTERT.  
H.R. 2012: Mr. Roe, Mr. LIGHTFOOT, Mr. NICHOLS, and Mr. VALENTINE.  
H.R. 2015: Mr. MARTIN.  
H.R. 2059: Mr. BUSTAMANTE and Mr. INHOFE.  
H.R. 2063: Mr. RINALDO.  
H.R. 2086: Ms. NORTON.  
H.R. 2109: Mr. OLVER.  
H.R. 2115: Mr. MFUME.  
H.R. 2137: Mr. LANCASTER, Mr. PAYNE of Virginia, Mr. JEFFERSON, Mr. COSTELLO, Mrs. LLOYD, and Mrs. BOXER.  
H.R. 2149: Mr. COYNE and Mr. VANDER JAGT.  
H.R. 2235: Mr. HERGER.  
H.R. 2248: Mr. PICKETT and Mr. JONES of Georgia.  
H.R. 2262: Ms. LONG, Ms. WATERS, and Mrs. PATTERSON.  
H.R. 2273: Mrs. SCHROEDER.  
H.R. 2286: Mr. DOOLITTLE, Mr. INHOFE, Mr. RIGGS, Mr. SCHIFF, and Mr. ZIMMER.  
H.R. 2298: Mr. OWENS of New York.  
H.R. 2334: Mr. FOGLETTA, Mr. BILBRAY, Mr. CRAMER, Mr. BUSTAMANTE, Mr. WOLPE, Mr. KILDEE, Mr. SANDERS, Mr. DYMALLY, Mr. DIXON, Mrs. COLLINS of Michigan, Mr. LAFALCE, Mr. WILSON, and Mr. LIPINSKI.  
H.R. 2352: Mr. HARRIS, Mrs. BENTLEY, Mr. SCHEUER, and Mr. CARDIN.  
H.R. 2363: Mr. ESPY and Mr. OWENS of New York.  
H.R. 2365: Mr. ESPY and Mr. INHOFE.  
H.R. 2374: Mr. KILDEE and Mr. FORD of Michigan.  
H.R. 2393: Mr. BLAZ and Mr. SERRANO.  
H.R. 2394: Mr. BLAZ and Mr. SERRANO.  
H.R. 2405: Mr. OXLEY, Mr. CONDIT, Mr. BREWSTER, Mr. HANCOCK, Mrs. MINK, Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DICKINSON.  
H.R. 2406: Mr. BREWSTER and Mr. HERGER.  
H.R. 2452: Mr. PAYNE of Virginia, Mr. PEASE, Mr. JONTZ, and Mr. KOPETSKI.  
H.R. 2470: Mr. ROGERS, Mr. VANDER JAGT, and Mr. PETRI.  
H.R. 2488: Mr. EVANS.  
H.R. 2515: Mr. PAYNE of New Jersey, Mr. RINALDO, Mr. PAYNE of Virginia, Mr. MARKEY, Mr. STUDDS, Mr. EVANS, Mrs. ROUKEMA, Mr. SMITH of New Jersey, Mr. RANGEL, and Mr. SKELTON.  
H.R. 2553: Mr. ZIMMER, Mr. MCEWEN, Mr. CHAPMAN, Mr. ROE, Mr. BOEHNER, Mr. OXLEY, and Mr. CAMPBELL of California.  
H.R. 2566: Mr. JACOBS, Mr. HALL of Ohio, Mr. BOUCHER, Mr. ALEXANDER, Mr. BROWDER, Mr. CALLAHAN, Mr. DICKINSON, Mr. GEREN of Texas, Mr. RIGGS, Mr. KYL, and Mr. KLUG.  
H.R. 2590: Mr. RANGEL, Mr. COLEMAN of Texas, and Mr. WALSH.  
H.R. 2598: Mr. GALLO, Mr. HORTON, Mr. SMITH of Texas, Mr. DUNCAN, Mr. THOMAS of Wyoming, Mr. RIGGS, Mr. BALLENGER, Mr. INHOFE, and Mr. DOOLITTLE.  
H.R. 2600: Mr. EVANS and Mr. WOLPE.  
H.R. 2603: Mr. FALOMAVEGA and Mr. HORTON.  
H.R. 2611: Ms. WATERS and Mr. MCCLOSKEY.  
H.R. 2625: Mr. ROBERTS, Mr. GORDON, Mr. STENHOLM, Mr. NICHOLS, Mr. GEREN of Texas, Mr. LEWIS of Florida, Mr. ROEMER, Mr. ESPY, Mr. ALLARD, Mr. ZIMMER, Mr. INHOFE, Mr. ROE, and Mr. BOEHNER.  
H.R. 2628: Mr. EVANS and Mr. PERKINS.  
H.R. 2629: Mr. RIGGS, Mr. FORD of Tennessee, Mr. OWENS of Utah, Mr. JONTZ, Mr. STUDDS, Mr. EVANS, Mr. BUSTAMANTE, Mr. ROE, Mr. LANCASTER, and Mr. BERMAN.  
H.R. 2651: Mrs. UNSOELD, Mrs. BOXER, Ms. PELOSI, Mr. BEILSON, Mr. BERMAN, Mr. YATES, Mr. FRANK of Massachusetts, Mr. LEACH, Mr. HORTON, Mr. McDERMOTT, Mr. TOWNS, Mr. HAYES of Illinois, Mr. SHAYS, Mr. RANGEL, Mr. WYDEN, Mr. DYMALLY, Mr. LEHMAN of Florida, and Mr. BOUCHER.  
H.R. 2666: Mr. PICKLE.  
H.R. 2672: Mr. BURTON of Indiana, Mr. HORTON, Mr. DE LUGO, Mr. GALLO, Mr. McGRATH, Mr. WEBER, Mr. SPENCE, Mr. OXLEY, Mr. LIPINSKI, Mr. QUILLEN, Mr. GILMAN, Mr. PACKARD, Mr. HOBSON, Mr. MILLER of Washington, Mr. KOLTER, Ms. MOLINARI, Mr. THOMAS of Wyoming, Mr. LAGOMARSINO, Mr. PETRI, Mr. BLAZ, Mr. RAMSTAD, and Mr. GILCREST.  
H.R. 2751: Mr. INHOFE, Mr. PENNY, and Mr. RIGGS.  
H.R. 2755: Mr. HORTON, Mr. PENNY, Mr. ABERCROMBIE, Mr. DIXON, Mr. FALOMAVEGA, Mr. MOODY, Mr. YATES, and Mrs. MORELLA.  
H.R. 2768: Mr. BREWSTER.  
H.R. 2778: Mr. OWENS of New York, Mrs. JOHNSON of Connecticut, and Mr. WILSON.  
H.R. 2788: Mr. ROHRBACHER, Mr. LEWIS of Florida, Mr. DOOLITTLE, Mr. TAYLOR of North Carolina, Mr. MYERS of Indiana, Mr. RIGGS, Mr. HANCOCK, and Mr. HYDE.  
H.R. 2812: Mr. CARDIN, Mr. EVANS, Mr. JONTZ, Mr. KOPETSKI, Mr. LEVIN of Michigan, Mr. OBERSTAR, and Mr. PRICE.  
H.R. 2815: Mr. LEWIS of Florida.  
H.J. Res. 23: Mr. GONZALEZ.  
H.J. Res. 67: Mr. BROWDER and Mr. JONTZ.  
H.J. Res. 69: Mr. ASPIN, Mr. GUNDERSON, Mr. WHEAT, and Mr. THOMAS of Georgia.  
H.J. Res. 123: Mr. CRAMER, Mr. PURSELL, Mr. DELLUMS, Mr. HALL of Ohio, Mr. VALENTINE, Mr. EVANS, Mr. CONDIT, and Mr. ASPIN.  
H.J. Res. 140: Mr. McGRATH, Mr. ZELIFF, Mr. CLAY, Ms. HORN, Mr. SMITH of Oregon, Mr. FAZIO, Mr. LIVINGSTON, Mr. YOUNG of Alaska, Mr. TRAXLER, and Mr. ALEXANDER.  
H.J. Res. 156: Mr. BAKER, Mr. KLUG, Mr. WILSON, and Mr. JONES of North Carolina.  
H.J. Res. 175: Mr. LAGOMARSINO, Ms. PELOSI, Mr. MOLLOHAN, Mr. MCEWEN, Mr. KILDEE, Mr. DIXON, Mr. FISH, Mr. ROBERTS, Mr. MORAN, Mr. HAMILTON, Mr. HANSEN, Mr. NATCHER, Mr. CALLAHAN, Mr. VENTO, Mr. HUBBARD, Mr. KANJORSKI, Mrs. KENNELLY, Mr. JONES of Georgia, Mr. ZELIFF, Mr. MCCLOSKEY, Mr. ERDRICH, Mr. SHAYS, Mr. HAMMERSCHMIDT, Mr. ANTHONY, Mr. ORTON, Mr. RUSSO, Mr. CLINGER, Mr. DYMALLY, Mr. BEVILL, Mr. FAWELL, Mr. CONDIT, Mr. DARDEN, Mr. EVANS, Mr. JONES of North Carolina, Mr. GALLO, Mr. MARKEY, Mr. HEFNER, Mr. COBLE, and Mr. FRANKS of Connecticut.  
H.J. Res. 177: Mr. GUARINI, Mr. McMILLEN of Maryland, Mr. CARPER, Mr. MATSUI, Mr. DARDEN, Mr. DELLUMS, Mr. BUSTAMANTE, Mr. LIPINSKI, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. ESPY, Mr. FROST, and Mr. MICHEL.  
H.J. Res. 178: Mr. BURTON of Indiana and Mr. MCCREERY.  
H.J. Res. 181: Mr. BALLENGER, Mr. BLAZ, Mr. BREWSTER, Mr. BROOKS, Mr. DELLUMS, Mr. EVANS, Mr. FROST, Mr. GONZALEZ, Mr. LOWERY of California, Mr. MINETA, and Mr. WOLF.  
H.J. Res. 191: Mr. MAVROULES, Mr. OBERSTAR, Mr. LEVINE of California, Mr. ESPY, Ms. OAKAR, Mr. JONTZ, Mr. TRAXLER, Mr. SLATTERY, Mr. SOLOMON, Mr. STALLINGS, Mr. STOKES, Mr. TAUZIN, Mr. TRAFICANT, Mr. SWETT, Mr. VANDER JAGT, Mr. MILLER of California, Mr. VALENTINE, Mr. WYDEN, Mr. YATRON, Mr. ZELIFF, Mr. WYLIE, Mr. SPENCE, Mr. SERRANO, and Mrs. BOXER.  
H.J. Res. 227: Mr. ROE, Mr. DINGELL, Mr. NEAL of Massachusetts, Mr. RANGEL, Mr. SIKORSKI, Mr. EMERSON, Mr. MOLLOHAN, Mr. FISH, Mr. HALL of Ohio, Mr. RINALDO, Mr. BUSTAMANTE, Mr. CARDIN, Mr. DARDEN, Mr. DORNAN of California, Mr. ENGEL, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. HAYES of Illinois, Mr. HEFNER, Mr. KASICH, Mr. LANCASTER, Mr. MCDADE, Mr. MURTHA, Mr. KOLTER, Mr. YOUNG of Alaska, Mr. TRAXLER, Mr. WYLIE, Mr. SOLARZ, Mr. ORTIZ, Mr. OWENS of Utah, Mr. PALLONE, Mr. PAXON, Mr. PORTER, Mr. ROBERTS, Mr. OLVER, Mr. MCCLOSKEY, Mr. MAVROULES, Mr. BENNETT, Mr. JACOBS, and Mr. YATES.  
H.J. Res. 233: Mr. BURTON of Indiana, Mr. HAMILTON, Mr. LIVINGSTON, Mr. JACOBS, Mr. REGULA, Mr. CRAMER, and Mr. MCHUGH.  
H.J. Res. 237: Mr. ROYBAL, Mr. JACOBS, Mr. TOWNS, Mr. BRYANT, Mr. DIXON, Mr. ROE, Mr. MANTON, Mr. MFUME, Mr. TRAXLER, and Mr. TALLON.  
H.J. Res. 241: Mr. McMILLEN of Maryland, Mr. BILIRAKIS, Mr. SPRATT, Mr. STOKES, Mr. FASCELL, Mr. BENNETT, Mr. FROST, Mr. McGRATH, and Mrs. JOHNSON of Connecticut.  
H.J. Res. 242: Mr. COOPER, Mr. ECKART, Mr. HAMILTON, Ms. NORTON, and Mr. SWETT.  
H.J. Res. 243: Mr. PERKINS, Mrs. BOXER, Mr. LAGOMARSINO, and Mr. DIXON.  
H.J. Res. 255: Mr. MRAZEK, Mr. CAMP, Mr. VANDER JAGT, Mr. KOSTMAYER, Mr. ROYBAL, Mr. SOLOMON, Mr. ANNUNZIO, Mr. HATCHER, Mr. HUBBARD, Mr. FAZIO, Mr. FASCELL, Mr. INHOFE, Mr. BERMAN, Mr. BURTON of Indiana, Mr. DYMALLY, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. BROWDER, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. JOHNSON of South Dakota, Mr. ASPIN, Mr. JONTZ, Mr. KOLTER, Mr. ALEXANDER, Mr. JENKINS, Ms. MOLINARI, Ms. OAKAR, Mr. MCCLOSKEY, Mr. PAYNE of Virginia, Mr. MOODY, Mr. MICHEL, Mr. HYDE, Mr. FROST, Mr. PRICE, Mr. GONZALEZ, Mr. PAYNE of New Jersey, Mr. WYLIE, Mrs. UNSOELD, Mr. YATRON, Mr. BONIOR, Mr. ANDERSON, Mr. BUSTAMANTE, Mr. SAVAGE, Mr. SAKTON, Mr. SMITH of New Jersey, Mr. SPRATT, Mr. MILLER of Washington, Mr. MCEWEN, Ms. SLAUGHTER of New York, Ms. PELOSI, Mr. POSHARD, Ms. NORTON, Mr. TALLON, Mr. ROWLAND, Mr. TORRICELLI, Mr. PERKINS, Mr. THOMAS of Wyoming, Mr. SHUSTER, Mr. RAMSTAD, Mr. PANETTA, Mr. VOLKMER, Mr. RAHALL, Mr. DURBIN, Mr. SISISKY, Mr. STALLINGS, Mr. TOWNS, Mr. COSTELLO, Mr. DEFazio, Mr. HALL of Ohio, Mr. SKELTON, Mr. THOMAS of Georgia, Mr. TAUZIN, Mr.

WALSH, Mr. WOLFE, Mr. SMITH of Texas, Mr. TAYLOR of Mississippi, Mr. MINETA, Mr. TRAXLER, and Mr. HENRY.

H. J. Res. 273: Mr. McMILLEN of Maryland, Mr. CLEMENT, Mr. STOKES, Mr. FALCOMAVAEGA, Mr. FRANKS of Connecticut, and Ms. KAPTUR.

H. J. Res. 274: Mr. ABERCROMBIE, Mr. ASPIN, Mr. BROOMFIELD, Mr. COX of California, Mr. DELLUMS, Mr. FROST, Mr. HUNTER, Ms. KAPTUR, Mr. LAGOMARSINO, and Mr. MCDADE.

H. Con. Res. 11: Mr. RAHALL.

H. Con. Res. 24: Mr. RANGEL and Mr. SERRANO.

H. Con. Res. 101: Mr. GUARINI, Mr. FROST, and Mr. OWENS of New York.

H. Con. Res. 166: Mrs. UNSOELD, Mrs. BOXER, Ms. PELOSI, Mr. BEILSON, Mr. YATES, Mr. FRANK of Massachusetts, Mr. HORTON, Mr. MCDERMOTT, Mr. HAYES of Illinois, Mr. RANGEL, Mr. WYDEN, Mr. DYMALLY, Mr. LEHMAN of Florida, and Mr. BOUCHER.

H. Con. Res. 171: Mr. LEVINE of California, Mr. KENNEDY, Mr. WAXMAN, Mr. FOGLIETTA, Mr. LEHT, Mrs. MORELLA, Ms. MOLINARI, Mr.

SCHUEER, Mr. LAGOMARSINO, Mr. FEIGHAN, and Mr. FROST.

H. Res. 173: Mr. TAYLOR of North Carolina, Mr. BURTON of Indiana, Mr. COX of California, Mr. DANNEYER, Mr. ROHRABACHER, Mr. ARMEY, Mr. MACHTLEY, Mr. SOLOMON, Mr. STEARNS, Mr. DUNCAN, Mr. ERDREICH, Mr. ZIMMER, Mr. COMBEST, and Mr. INHOFE.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1782: Mr. TRAFICANT.

#### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

98. By the SPEAKER: Petition of the Legislature of Rockland County, NY, relative to congratulating the Government of Israel on its Ethiopian Rescue Mission; to the Committee on Foreign Affairs.

99. Also, petition of the Office of the District Attorney, Richmond County, NY, relative to the oilspill into the Arthur Kill Waterway and operations of interstate pipelines under waterways; to the Committee on Public Works and Transportation.

100. Also, petition of the Legislative Research Commission, Frankfort, KY, relative to missing servicemen; to the Committee on Veterans' Affairs.

101. Also, petition of the County Council, County of Kauai, HI, relative to the exclusion from Social Security withholding, any earnings by election officials on election day; to the Committee on Ways and Means.

## EXTENSIONS OF REMARKS

## MONDALE POLICY/FORUM

## HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. VENTO. Mr. Speaker, on Friday, June 7, 1991, our colleague, the Honorable STEPHEN SOLARZ, delivered an address at the Mondale Policy Forum at the Hubert H. Humphrey Institute of Public Policy in Minnesota. This speech was a significant statement on the New World order and the events that have led us there. As the ranking Democrat and outspoken member on the House Foreign Affairs Committee, Congressman SOLARZ gave an outstanding speech that I recommend highly to my colleagues.

A FOX ON A PAX AMERICANA: COLLECTIVE SECURITY AND THE NEW WORLD ORDER  
(Address by Representative Stephen J. Solarz)

Over the course of the last two years, we have witnessed a series of events that have literally reshaped the history of the world.

From Stettin in the Baltic to Trieste in the Adriatic, the iron curtain has ascended all across Europe.

The Warsaw Pact has collapsed.

The Soviet Union is in turmoil.

And we have waged and won a war in the Gulf that demonstrated the international community is prepared to act collectively to uphold the sanctity of existing national borders.

In the wake of these developments there has been considerable talk about the creation of a new world order.

But the phrase remains vague, the idea indistinct.

The White House initially announced that the President would deliver a series of major speeches fleshing out the concept.

But Mr. Bush, perhaps daunted by the difficulty of the task, subsequently canceled these engagements.

Yet we need to chart a course for the future, even if the captain of the ship of state has declined to do so.

A course based upon the realities of the post-cold war world.

A course that will serve the vital interests of the United States as effectively as we move into the 21st century as the policy of containment did for the latter part of the 20th century.

And that's why I want to share with you tonight some thoughts on the new world order.

In seeking to define a "new world order," we must, first of all, be guided by the advice of the great American philosopher George Santayana, who wrote that those who do not remember the past are condemned to repeat it.

The beginning of wisdom lies in a recognition of the fact that most of our efforts in this century to establish a just and lasting peace have ended in failure.

The Versailles Treaty failed because it punished the vanquished rather than rehabilitating them.

The League of Nations failed because the United States believed it could isolate itself from the troubles and turmoil of an unsettled world and chose not to join.

The 1928 Kellogg-Briand treaty, proscribing the use of force as an instrument of national policy, failed because the permanent preservation of peace requires more than the rhetorical renunciation of war.

And the United Nations failed, at least for much of its existence, because it became the cockpit for competing cold war antagonisms rather than a mechanism for the resolution of national disputes.

The lessons of this sad if familiar history are several.

First, a peace grounded in vengefulness and hatred, as was Versailles, is not likely to give birth to a world characterized by justice and stability.

Second, isolationism of the sort practiced by the United States, when it held itself aloof from the League of Nations, is more likely to contribute to the exacerbation of international tensions than to their solution.

Third, pious pronouncements unrelated to strategic realities, such as those contained in the Kellogg-Briand treaty, are unlikely either to protect U.S. interests or to promote American values.

And fourth, intense political and military rivalry combined with ideological competition among the great powers, which was the predominant characteristic of the cold war, is a surefire prescription for the emasculation of the United Nations.

Now that the cold war has ended, and the Gulf War is over, the challenge we confront is how, taking these lessons into account, we should shape our foreign policy in such a way as to preserve the peace in the post-cold war era into which we have entered.

There are, it seems to me, three fundamentally different courses we can follow.

We can retreat into a kind of neo-isolationism, where we seek safety not from an involvement in, but by a withdrawal from, international efforts to preserve the peace abroad.

We can attempt to enforce a Pax Americana.

Or we can pursue a policy of collective security in which, together with the other countries of the world, we attempt to uphold the sanctity of existing borders and to deny international brigands the fruits of their aggression.

The first possibility—retreating behind an illusory shield of neo-isolationism—is no more a serious policy option today than it was in the 1930s.

While it may be a great temptation to assume that we no longer have to worry about getting dragged into overseas conflicts because the cold war is over, it would be a grave and grievous mistake to do so.

We must not forget that hundreds of thousands of American lives were lost, and hundreds of billions of dollars were spent, because events in faraway places required us to pay an enormous price in blood and treasure.

This is what happened as a result of a shot in Sarajevo in 1914.

This is what happened as a result of a dispute over Danzig in 1939.

This is what happened as a result of a thrust toward Pusan in 1950.

This is what happened as a result of an incident at Pleiku in 1965.

And this is what happened as a result of the battle for Bubiyan in 1990.

What these remote and obscure place names suggest is that events thousands of miles from our shores, remote from the concerns of most Americans, have a way of introducing into American lives and even causing American deaths.

A policy of neo-isolationism, which simply denies this geopolitical reality, will ultimately make it more likely that we will once again find ourselves drawn into foreign conflicts we might otherwise have avoided.

Nor is the second option—creating and maintaining a Pax Americana—whatever its theoretical attractions, a real possibility.

Notwithstanding our victory in the cold war, we have neither the economic resources nor the political will to sustain a policy of unilateralism over the long haul.

The role of global policeman is one the American people do not seek and will not accept.

Yet, if being the solitary sheriff for the whole world is not a role the American people are likely to embrace with enthusiasm, they are perfectly prepared, as we saw in the Gulf, to have our country serve as the head of an international posse attempting to bring regional bandits to justice.

Half a century ago, Franklin Roosevelt and the other leaders of the wartime alliance dreamed of a world in which the international community enforced the peace through collective action.

Building on that dream, they founded the United Nations.

It was a dream that foundered on the rocks of the cold war.

But now we have the opportunity to fulfill that dream.

Desert Shield and Desert Storm demonstrated that it is now possible to get the Soviet Union and the other members of the Security Council to work with us instead of against us.

The United Nations wasn't paralyzed.

And the principle of collective international action against regional aggressors was dramatically strengthened.

Throughout this process, American leadership was absolutely essential.

If, in the future, we simply walk away from our responsibilities, as we did after World War I, the very idea of collective security and international action will fall apart. And we will pay the price.

But if we are prepared to take up the burden of leadership which our military and economic power imposes upon us, it should be possible to mobilize international coalitions capable of resisting those who would wantonly invade their neighbors, thereby deterring aggression in the first place.

With the cold war at an end, the time has come to recognize that the Security Council is the most appropriate vehicle for the implementation of such a policy.

Some of the developing countries, and their ideological acolytes in the developed countries, will say that what we really seek

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

is to use the Security Council as a big power consortium, where the United States and the other permanent members attempt to preserve a status quo highly favorable to the world's most powerful countries.

One way of assuaging those concerns would be to bring in other important regional powers—such as Japan in Asia, Germany in Europe, Brazil in Latin America, India in the Subcontinent, Egypt in the Middle East, and Nigeria in Africa—as permanent members, albeit without a veto, of the Security Council.

By making these new and emerging regional powers permanent members of the Security Council, we would simply be acknowledging the reality that, if we want other countries to join us in building a new world order based on the concept of collective security, we have to give them a voice in giving shape and substance to it.

The crisis in the Gulf underscored the continuing importance of a cooperative relationship between Washington and Moscow if collective security is going to work.

Without a Soviet willingness to cooperate with us in the early stages of the crisis, it would not have been possible to obtain the support of the Security Council, and our efforts in the Gulf would not have benefitted from the international legitimacy they received.

If our relationship with Moscow deteriorates, collective action to preserve the peace will be much more difficult in the future, and we may have lost the opportunity to create a more just and stable international system.

The Soviet Union, after all, in spite of the plethora of problems that confront it, remains the only nation in the world other than ourselves with the massive human and natural resources necessary to play a central role on virtually all global issues.

It continues to possess the world's second most powerful military machine and an arsenal of more than 25,000 nuclear weapons.

It remains an important political and diplomatic player on the world scene.

And it has the capacity to veto the resolutions and actions of the Security Council.

Our hopes for developing the kind of relationship with Moscow that would enable us to preserve the peace by making the principle of collective security a working reality depend to a large extent on developments within the Soviet Union itself.

In particular, they will depend on how Soviet authorities respond to the widespread unrest which is likely to be generated by the impending collapse of their economy and to the ethnic and nationalistic turmoil that threatens to splinter the union.

It should be clear in both Washington and Moscow that a constructive relationship between our two countries will be impossible if the Soviet leadership resorts to massive political repression in an effort to deal with these crises.

At this critical juncture in the history of the Soviet Union, more than 70 years after the Bolshevik Revolution led the USSR on a detour to disaster, and several years after the initiation of perestroika and glasnost, there are indications that Mr. Gorbachev has finally concluded that the only real solution for his country lies not in making socialism more efficient but in a fundamental transformation of the socialist system itself.

Whether or not Mr. Gorbachev has yet reached such a conclusion, it is very much in our own interests to promote a transition in the Soviet Union from a command to a market economy, and from a centralized state

system into a decentralized commonwealth or confederation of largely autonomous or fully independent republics.

And given the enormity of the stakes, it would be inconceivable for us simply to stand aside, watching passively from the sidelines, while a great country disintegrates into chaos and possibly even civil war, with profoundly negative consequences not only for the Soviet Union but for the entire world.

Last week a high level Soviet mission headed by Yevgeny Primakov visited Washington to solicit support for a package of western assistance.

And in several addresses over the past few weeks, notably in his Nobel Prize acceptance speech last Wednesday, Mr. Gorbachev has indicated that the Soviet Union is prepared to become an integral part of the global economy.

The United States should now respond positively to these suggestions—but only under certain precisely defined and clearly stated economic and political conditions.

In order to receive western aid, we should insist that the Soviet Union enact comprehensive economic reform which would, by definition, include the privatization and demopolitization of industry and agriculture, the establishment of a convertible currency, and the use of market mechanisms as the means of determining prices.

We should insist that it establish a multiparty parliamentary democracy and elect a new government which, by virtue of its popular mandate, will have the credibility to enact what will necessarily be some very painful reforms.

We should insist that it cut back its defense spending from roughly 25 percent of its GDP to a level commensurate with the emerging strategic realities of the post-cold war era and begin the process of converting its military-industrial complex into consumer-oriented industries.

We should insist that it terminate its subsidies to Soviet satrapies in Cuba, Vietnam, and Afghanistan, on the sound theory that there can be no justification for a multilateral aid package from the West while the Soviet Union continues to provide more than \$10 billion a year to neo-Stalinist regimes in the Caribbean, Southeast Asia, and the Subcontinent.

And we should insist that it establish a new relationship between the center and the constituent components of the USSR, compatible with the aspirations of the people of the individual republics—even this entails outright secession from the Soviet Union by those republics like Latvia, Lithuania, Estonia, Georgia, and Moldavia, which were incorporated into the Soviet Union by the force of arms rather than by their own free will.

If the Soviet Union were to adopt a program of radical economic and political reform along these lines, then it would be very much in our own interests to assist this process by providing the necessary capital for the establishment of a currency stabilization fund, the importation of essential goods and services, and the conversion of military plants into consumer factories.

For the West to provide substantial amounts of aid without fundamental reform would be economically imprudent and politically impossible.

But for the Soviets to move ahead with fundamental reforms without substantial amounts of aid from the West would certainly be economically excruciating and would probably be politically impossible.

Rather than waiting for the Soviet leadership to implement a full program of reform,

before we even begin to consider whether and what kind of aid to provide, we should work now with the other industrial democracies, as well as the World Bank and the IMF, to develop a package of investment incentives, trade benefits, standby credit guarantees, and direct forms of development and humanitarian assistance, that would be made available to the Soviet Union, in conjunction with a clear commitment by the Soviet leadership to the necessary political and economic reforms.

By indicating a willingness to make the necessary resources available, we would give the Soviet leadership the incentive and confidence to move forward.

But by making the assistance available only after the necessary reforms are made, we would avoid the risks associated with a "blank check" policy in which our aid was given not in conjunction with, but in anticipation of, the necessary reforms.

At the end of the day, it may be that the Soviets will not be prepared to embrace the concept of a "grand bargain," in which they move forward on reform, while the West moves ahead on assistance.

Last fall, Mr. Gorbachev nearly accepted, but then rejected, a set of economic reforms similar in many respects to the ones now being developed, and threw in his lot with the hardliners.

It appears that he backed off because of pressure from the military-industrial complex, the KGB, and party apparatchiks who apparently feared that reform would threaten their power and prerogatives.

Gorbachev's own ambivalence may have been a factor as well, given the extent to which he has seemed politically and even psychologically reluctant to completely repudiate the structures and ideology of socialism.

Even now there is no certainty that he is finally ready to cross the Rubicon of fundamental political and economic reform.

But a western proposal along these lines might just give Gorbachev the incentive and the encouragement he needs to throw his influence behind a full-fledged program of liberalization.

And it would also strengthen the position of those reformers within the existing system who are already calling for these kinds of comprehensive measures.

If the Soviet Union decides not to embrace our offer, we would have lost nothing by making it.

But if Moscow accepted and then implemented such a plan, it would not only eliminate whatever residual military threat the Soviet Union still poses to our country, but also create conditions in the USSR that would facilitate the kind of cooperative relationship between Moscow and Washington that will be necessary, if we are going to constructively collaborate in the preservation of peace.

Indeed, if we could help bring about the creation of a market economy, and a parliamentary democracy in the Soviet Union, a dramatic reduction in the level of their defense spending, a termination of subsidies to their satellite states, and a peaceful transition of the USSR into a commonwealth or confederation of independent nations, it would constitute the most significant triumph for American diplomacy since the establishment of the Marshall Plan and the creation of NATO saved western Europe from the threat of communist subversion and Soviet expansionism more than forty years ago.

With the end of the superpower conflict that characterized the cold war, the resolu-

tion of regional disputes will also assume a new importance in the effort to preserve global peace.

We have recently negotiated an end to the long-standing conflicts in Namibia and Angola.

The civil war in Nicaragua has been concluded, and free elections have brought to power a government committed to political pluralism and a market economy.

A settlement for El Salvador is finally within sight.

And there is new hope for a peaceful transition from minority to majority rule in South Africa.

Building on these achievements, we now need to intensify our efforts to begin a peace process that could lead to a just and lasting peace between Israel and the Arabs in the Middle East, to halt the civil war in Afghanistan, and to resolve the bloody struggle in Cambodia in a way that will prevent Pol Pot from returning to power in Phnom Penh, while giving the Cambodian people an opportunity to determine their own destiny.

Finally, in order to build a more peaceful world, we must continue and even accelerate our pursuit of verifiable and mutually beneficial arms control and reduction agreements.

A new world order should be characterized by minimal nuclear deterrence and dramatically reduced conventional forces.

We must complete the START I negotiations and push on to START II.

We must work for the negotiation of a comprehensive test ban treaty.

And we must seek to strengthen the non-proliferation treaty, and to expand its coverage to include all the world's potential nuclear weapons states.

We should also explore the possibility of creating nuclear free zones in sensitive areas such as South Asia and the Korean peninsula, where continued tensions between long-time rivals, combined with ongoing but surreptitious nuclear weapons programs, could easily lead to a military confrontation and even nuclear war.

Finally, we must fashion new and more stringent mechanisms for the control of chemical and biological weapons, combined with a vigorous effort to get all the countries of the world to subscribe to them.

Only by moving forward on all these fronts will we have a real chance of creating a new world order in which peace is much more likely than war to characterize the relations among nations.

One of the best means of achieving a more peaceful world is to seek a more democratic world.

Of the more than 50 major interstate conflicts that have disrupted the world's tranquility since Waterloo and the Napoleonic Wars 175 years ago, not a single one has pitted established liberal democracies against each other.

This is an extraordinary, and highly suggestive, record.

Stated bluntly, democratic countries are far less likely to go to war than authoritarian states.

Thus, one of the most encouraging developments of the '80s was the spread of democracy around the globe—commencing in Latin America, spreading to Asia, and culminating last year in Eastern Europe.

And now, even in Africa, where democracy has been a rare and fragile implant, political pluralism is being established in one nation after another all across the continent.

Yet there are still countries and peoples who labor under the heavy hand of authoritarianism.

In China, where an isolated gerontocracy wedded to the past resorts to brute force to deny the Chinese people their most basic freedoms.

In South Africa, where the white minority continues to hold the black majority in subjugation and servitude.

In Burma, where the State Law and Order Restoration Council brutalizes its citizenry.

And in Zaire, where Mobutu maintains his corrupt and repressive regime.

So it is entirely natural and appropriate that the effort to preserve peace should have as one of its central tenets the promotion of political pluralism.

This means that where democracy already exists, we should work to sustain it.

And where it does not exist, we should strive to establish it.

In those countries which are not already democratic, we ought to condition the offer of U.S. assistance, other than that needed to meet pressing humanitarian concerns, on specific democratic reforms and a real respect for fundamental human rights.

In instances where assistance is not available as a lever, economic sanctions can be imposed, although we must remember that sanctions work best when they are multilateral rather than unilateral.

And in extreme cases, when a regime is engaged in the systematic slaughter of its own people, it may even be necessary to mount some sort of international rescue mission—providing there exists an international consensus on the need for such an undertaking.

Finally, we should significantly expand the National Endowment for Democracy, which provides essential help in strengthening democratic organizations and institutions in fledgling democracies around the world.

Ultimately, the survival of democracy, let alone its spread, will depend on the extent to which democratic governments can translate the promise of democracy into a better life for their people.

It would be a serious mistake to take the survival of democracy for granted.

Unless the leaders of the newly emerging democracies can demonstrate that political pluralism and economic security are compatible concepts, the masses may look to demagogues and would-be dictators for a solution to the underlying social and economic problems that confront them.

In this contest between democracy and deprivation, between pluralism and poverty, the United States can provide three types of assistance: trade, aid, and debt relief.

The war in the Gulf has demonstrated that the United States is capable of acting decisively and wisely around the world.

It is now time to ask ourselves what we have learned from this experience, how the crucible of war can guide us in creating a generation of peace.

When Woodrow Wilson sought to define America's war aims during the First World War, he enunciated 14 Points, prompting French Prime Minister Georges Clemenceau, who bore Wilson little love, to remark that the good Lord Himself has required only ten.

Being of a somewhat more humble nature, I offer only seven conclusions that we might profitably extract from the Gulf conflict.

Number 1: even after the end of the cold war, we live in an unsafe and uncertain world where ethnic conflicts, religious rivalries, irredentist ambitions, and acts of terrorism can still threaten fundamental American interests.

Number 2: a strong defense will remain a necessary condition for the protection of our most vital interests.

Number 3: collective security rather than neo-isolationism or a Pax Americana offers the best hope of preserving the peace.

But for collective security to work, American leadership, as we learned in the Gulf, is absolutely essential.

Number 4: even as we attempt to preserve the peace, we must recognize that there are times when the use of force is not only justified but necessary.

Number 5: if force does not have to be used, it should be employed not only on a multilateral basis, and preferably with the endorsement of the Security Council, but whenever possible with the prior approval of Congress.

Number 6: if part of the new world order includes the sanctity of existing national boundaries, part of it should also be a recognition that governments do not have an international entitlement to transform the area within their borders into the equivalent of a free fire zone.

And finally, number 7: in the last decade of the 20th century, after the failure of fascism and the collapse of communism, it is the aspiration of men and women to be free, and to freely determine their own destiny, which constitutes the most powerful idea of our time.

It follows, then, that the promotion of pluralism, rather than the containment of communism, should become the primary objective, and the new foundation, of American foreign policy.

Now that the cold war is over, now that American values are in the ascendancy around the globe, we have an opportunity to fashion a new world order where considerations of justice and morality prevail over the realities of brute force and naked aggression.

Where potential lawbreakers know that the international community will act collectively to punish those who plunder their neighbors.

And where peace rather than war is the normal state of affairs among mankind.

Such a world will serve vital American interests.

This is one of the reasons why we dispatched half a million fighting men and women to the Gulf.

This is what those courageous Americans were prepared to shed their blood for.

And this is what some of them made the ultimate sacrifice for.

They gave their all in defense of the principle that aggression must not be allowed to pay.

They fought, and died, not only to liberate a country that was the victim of as bald and brutal an act of aggression as any we've witnessed in the past 50 years, but also on behalf of a vision and a dream of a better world.

We, those they left behind to finish the job, owe it to them to keep alive that vision and to give substance to that dream, so that their sacrifice shall not have been in vain.

If we shirk our responsibilities, if we fail to seize this historic but fleeting opportunity, we will have frittered away what is undoubtedly the best chance in a generation to turn that dream into a reality.

But if we act with boldness and creativity to fashion a new world order out of the chaos of the old, we just may have a chance of giving new meaning to the words of George Bernard Shaw, who reminded us that some men see things as they are and ask why, while other men dream things that never were, and ask why not.

Surely this is a moment for us to reject the counsels of cynicism and despair and, in-

stead, to dream things that never were and ask "why not?"

TRIBUTE TO DR. WALTER LEE SMITH

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. PETERSON of Florida. Mr. Speaker, I rise today to pay tribute to Dr. Walter Lee Smith. Throughout the years, Dr. Smith's tireless dedication to the development of post secondary minority education programs has earned him widespread acclaim and respect.

As a Fulbright and African-American Institute scholar, a former president of Roxbury Community College in Massachusetts and the immediate past president of Florida A&M, Dr. Walter Smith took the lead in furthering educational opportunities for blacks and minorities around the country and in many Third World nations.

This Monday, Dr. Smith will depart for the Republic of South Africa. As the director of the Tertiary Education Program support project, Dr. Smith will be responsible for developing a variety of post-secondary education programs for blacks and other previously segregated groups in South Africa utilizing public and private universities and education organizations in an effort to improve the quality of life and opportunities for minority communities in South Africa. Emphasis will be placed on government leadership, community development, and higher education.

This unique venture represents the first time the U.S. Government has taken the lead role in developing an extensive cooperative education program with the Republic of South Africa. Today, I would like to commend Dr. Smith for his outstanding achievements and offer my complete support in his upcoming project and his ongoing pursuit to achieve educational equality.

VOTES DURING OFFICIAL LEAVE OF ABSENCE, JUNE 25, 1991 THROUGH JUNE 26, 1991

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. RHODES. Mr. Speaker, during the leave of absence granted me by the House on June 25, 1991, I was not present for 12 recorded votes (rollcalls 190 through 201) on June 25, 1991 and June 26, 1991. Had a family emergency not prevented me from being present and voting, I would have voted as follows:

Rollcall 190—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Burton amendment to delete \$2 million for restoring the Chicago Public Library. Rejected, 104-318.)

Rollcall 191—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Burton amendment to delete \$3.65 million for the construction of the Gateway Park associated with

the Illinois and Michigan Canal National Heritage Corridor. Rejected, 92-323.)

Rollcall 192—"No" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Crane amendment to eliminate \$178 million, or all of the funding for the National Endowment for the Arts. Rejected, 66-361.)

Rollcall 193—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Stearns amendment to reduce funding for the National Endowment for the Arts by about 5 percent or \$7.4 million. Rejected, 196-228.)

Rollcall 194—"No" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Synar amendment to phase in an increase in grazing fees for livestock on public lands from \$1.97/AUM to \$8.70/AUM or to fair market value, whichever is higher, by fiscal 1995. Adopted, 232-192.)

Rollcall 195—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Upton amendment for across-the-board reduction in discretionary accounts by 1.67 percent, reducing spending by \$213 million—the amount projected for the firefighting accounts of the Interior and Agriculture Departments funded through an "emergency" provision in the bill, thus breaking the spending caps from the Budget Enforcement Act. Rejected, 169-249.)

Rollcall 196—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, final passage. Passed, 345-76.)

Rollcall 197—"Aye" (H.R. 2699, District of Columbia Appropriations fiscal year 1992, Rohrabacher amendment to reduce the Federal payment to the District of Columbia from \$630.5 million to \$611.3 million to limit overall growth to 2.4 percent over the fiscal 1991 spending level. Rejected, 153-270.)

Rollcall 198—"No" (H.R. 2699, District of Columbia Appropriations fiscal year 1992, final passage. Prohibits use of Federal funds for abortions, but allows the use of District funds for abortions. Passed, 300-123.)

Rollcall 199—"Aye" (H.R. 2707, Labor, HHS, Education Appropriations fiscal year 1992, Walker amendment for across-the-board spending reduction of 5.9 percent to limit growth to 2.4 percent of fiscal 1991 spending level. Rejected, 55-366.)

Rollcall 200—"No" (H.R. 2707, Labor, HHS, Education Appropriations fiscal year 1992, final passage. Includes language which prohibits HHS from using any funds to enforce abortion counseling regulations. Parental notification provision was stricken from the bill. Passed, 353-74.)

Rollcall 201—"No" (H.R. 2698, Agriculture Appropriations fiscal year 1992, final passage. Passed, 368-48.)

A TRIBUTE TO GARY SIPLIN, AN ASSET TO SOUTH FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to give recognition to an outstanding citizen, Mr. Gary Siplin. I am honored to have him living in south Florida and pleased to have this occasion to present

his achievements to you. In the April 29, 1991 issue of south Florida Business Journal, there was an article featuring Mr. Siplin and his accomplishments. I would like to take the time to share this article with you:

He didn't go to Harvard or come from some aristocratic family steeped in the law. And even after seven years with the county attorney's office, where he had won 95 percent of his cases for the county, his name wasn't common among the movers and shakers.

Few knew the name of Gary Siplin in 1989, except the folks over at Greenberg, Traurig, et al, one of the biggest, slickest, most white-bread law firms in South Florida. But they didn't get to be on top by missing a chance at talent.

"I had observed him and he was a gregarious and popular person," says Bob Traurig, a partner with the legal powerhouse. "With this and his background, we felt he would be a great asset to us."

Today, Siplin sits on the 20th floor of the Capital Bank Building on Brickell Avenue and looks across the city from a center of power. His name is still perhaps not so well known on the streets of Miami, but in the inner circles of power, it sparks recognition.

"He's a tireless worker for the economic enhancement of the black community," says Stan Tate, president of Tate Enterprises, a real estate management firm. Tate is also actively involved in a multitude of community service organizations, including the Public Health Trust. "He's very well respected as an attorney and he's a successful businessman. When it comes to this community, he's dedicated."

Siplin was the first black to be elected president of the Dade County Bar Association Young Lawyers Division. He produces and hosts his own weekly talk show on WMBM-AM and is a trustee of the Jackson Public Health Trust. A member of the board of directors of the Dade County Bar Association, he is also on the long range planning committee of the Florida Bar.

Last November, he founded The New Miami Group Inc., an organization of some of the area's young, aggressive black professionals intent on impacting political and economic change in the area.

"We have a moral, economic, political and legal obligation as taxpayers, citizens and voters to start making an effort to include blacks in the mainstream," he says. "And the truth is, it'll pay off for everyone. Give someone a job and before long, they'll be looking to buy a house, and their kids will go to a better school and in the long run, they'll be contributing to the community, rather than taxing it with high unemployment, crime and so forth."

"Money in the black community means jobs in the black community. Kids will work rather than be drug pushers or the next Michael Jordan, because let's face it, he's quite exceptional. But give them the option, give them a viable alternative and they'll take it."

Intent on providing those same kinds of opportunities for others, in 1989 Siplin persuaded Miami's most powerful law firms to contribute \$5,000 a year each for four years to his program to give local black law students a chance to intern with a federal judge. The innovative program is designed to help black law students become more marketable for employment in law firms, corporations and government once they graduate. \* \* \*

Growing up in Orlando, the second of four children, Siplin began at an early age to make opportunities for himself. In high school, he maintained decent grades, worked

as a busboy and dishwasher, and played on the football team. Playing ball got him a scholarship, good grades got him into the University of Pittsburgh and working taught him a lesson.

"It taught me the value of responsibility and that if you work hard, you can achieve a lot of things. It doesn't matter what kind of job you have, as long as it pays you. It's just a stepping stone to the future."

Fresh out of Duquesne University's School of Law in 1981, Siplin became a law clerk for Miami federal court Judge Edward B. Davis, a prime spot for an aspiring attorney, to learn about the trial system and the workings of a judge. Davis remembers Siplin well.

"I picked him out of a number of other candidates with the same academic ability because of his charm and personality," says Davis. "And I've followed his career since. He's worked hard."

Hard work and knowing the value of the dollar paid off for Siplin four years ago when he opened his own businesses on the side. With financing from a commercial bank loan, Siplin opened a hat shop. Hats in the Belfry, and later on, started a rickshaw business in Coconut Grove.

"I've always wanted to be my own boss," he says. "I like the independence of being a businessman. I've always liked hats and I thought it would be a profitable venture."

This is a good market for young, aggressive black professionals," Siplin adds.

In 1989, entrepreneur Siplin was ready to start his own law practice. But Greenberg, Traurig, convinced him to join their elite force.

Siplin says he feels no added pressure from being only one of two black lawyers at the 135-attorney firm. Rather, he sees his position as an incentive to other aspiring black professionals. The firm, he maintains, has been very supportive of his outside activities, including his role as one of the organizers of the boycott against Miami as a convention site following the snub of Nelson Mandela last year.

"I disagree with the boycott's position," says Traurig. "But I respect his right to be vocal about any issue he has a strong feeling about."

"It helps the community to know a politically active person like myself can be a part of a firm like this," Siplin explains, which is a predominantly white organization that is very powerful. I came here because I consider Greenberg one of the best firms in the country. They're good lawyers, and they offered me a good deal in addition to the support I've gotten as far as my political activities, like with the boycott, the Public Health Trust and now the New Miami Group. It'd be very difficult for me to do these things if I had to run my own office.

"The pressure doesn't come from being black; it comes from having to do my work in addition to all my community activities," adds Siplin.

Siplin says one of the things that attracted him to being an attorney was the impetus of being involved in politics.

"I always wanted to use my mind. I thought attorneys had a lot of power. And I also think attorneys are in the political arena. Politics have always interested me."

"If I couldn't be an attorney, I'd probably be an actor," he continued. "I've always liked acting. In fact, that's one of the reasons I became a trial lawyer, because I get a chance to act in front of people, convincing them to vote my way. And of course an offshoot of that is being involved in government."

This is where a smile crosses Siplin's face. Politics. It's the force that drives the man. Although he admits he still would like to have his own law firm, perhaps the first large black law firm, being involved in the decision-making and shaping of South Florida tops his list of priorities.

"I'm always going to be involved in politics whether it's elective, appointed or supportive. Run for office?" he quips. "Maybe one day, but not in the very near future. When there's the opportunity and the right time and the right support. But right now I'm satisfied leading the New Miami Group to a better community for us all."

Mr. Siplin is an asset to the community of south Florida. His life should be a model to all young business men and women across the Nation.

#### MILITARY CHILD CARE ACT OF 1991

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CAMPBELL. Mr. Speaker, today I am introducing the Military Child Care Act of 1991. This is an important piece of legislation which requires the Secretary of Defense to ensure that child care services are available for all members of the Armed Forces on active duty. These services are to be provided with funds appropriated to the Department of Defense. Military personnel serving our country deserve access to child care for their children. These personnel, who may be called away at any time, deserve to know that their children will have a place to go on a daily basis and that the other parent will not suddenly have to leave a job in order to supervise the children. The source of stability in knowing that his or her children will be supervised should be provided for our Armed Forces.

This bill can be seen as an extension of the Military Child Care Act of 1989. That bill focused on quality of facilities and staff. However, still close to half of all children in military families remain on waiting lists for child care services. My bill would provide care for those children. It maintains the standards from the former bill and provides better access for the children. This is an important, deserved piece of legislation for our military personnel. I hope this legislation receives serious consideration.

#### PROTECT THE WORLD'S TROPICAL FORESTS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KOSTMAYER. Mr. Speaker, most of us have heard about the crisis of tropical forest destruction and the permanent loss of wildlife, both plant and animal, that this devastation entails. The World Bank has estimated that 4,000 to 6,000 species are lost each year as a result of deforestation, and that perhaps 25 percent of the world's species could become extinct by the year 2050. Fifty million acres

were destroyed in 1989; at this rate, tropical rain forests will all but disappear in 60 years.

To help stop the eradication of the world's tropical forests, I have introduced the Tropical Forest Consumer Protection and Information Act of 1991. This legislation, endorsed by the Sierra Club, requires all imported tropical wood and wood products to bear labels stating the country of origin and species name of the wood at the point of sale.

The swift passage of this bill is essential to give the U.S. consumer the power to influence the quality of tropical forest management through consumer purchasing decisions, and to help save rain forests throughout the world that are threatened by uncontrolled logging. My legislation will give consumers the power of choice when they buy wood products.

The United States consumes about one-third of the tropical wood products traded globally. Consumers, who are increasingly aware of environmental issues, may not wish to perpetuate the unsound use of fragile forest resources. This bill would give tropical forest harvesters the economic incentive to use sustainable timber production methods.

Requiring country-of-origin labeling is the most important step Congress can take right now to address tropical deforestation. We can give our constituents the ability to effectively and positively influence the fate of the world's remaining tropical rain forests.

#### IT IS TIME TO ELIMINATE THE NOTCH

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MRAZEK. Mr. Speaker, I rise today in support of H.R. 917, Representative ROYBAL's notch legislation, and to respectfully urge the leadership to take action on this issue now. As most know, Congress enacted legislation in 1977 to correct a flaw in the Social Security benefit formula. The disastrous result, however, was a substantial difference in benefit levels for people with similar work histories but who slightly in age—the notch gap.

It is intolerable that our Social Security system is discriminatory. As a consistent supporter of legislation to correct the notch inequity. I have made the commitment to the elderly in my district to relieve their anguish and end this inequity. I have had many constituents write to me and suggest that Congress is simply waiting for notch babies to die rather than address issue. I am mortified that Americans believe we in Congress are too cowardly to make the right choice. Excuses are stale.

The notch issue is about fairness, and it is our responsibility to eliminate the notch inequity immediately. Notch babies worked and paid into the Social Security system and were promised that, like everyone else who paid into the trust funds, they would be treated equally. Further, the loss of benefits may mean the difference between purchasing nutritious foods or providing medicine to ensure good health care. The impact of this notch inequity is nothing less than astounding.

Let us stand together and show our courage to pass H.R. 917. To allow the iniquity to continue for another year would be unjust.

**HONORING ROBERT BERRY**

**HON. BARBARA-ROSE COLLINS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mrs. COLLINS of Michigan. Mr. Speaker, I rise today to recognize and honor the outstanding work of 7-year-old Robert Berry of Detroit. Little Robert took charge of a tense and emotional situation when his mother went into labor at their home. Hoping that his grandmother, who lives two doors away, would assist, he called for her to come quickly. When the grandmother arrived, she promptly called 911 for assistance. However, she panicked, handed the phone to Robert and ran outside for air.

Robert intently followed the directions of a 911 operator; he coached his mother and calmed her down by instructing her to take deep breaths. This young man even retrieved a blanket for the baby. The 911 operator stayed on the line with Robert until the ambulance arrived, about 7 or 8 minutes after a 7-pound, 1-ounce baby girl made her way screaming into the world.

Young Robert is earnest, caring, and responsible. He took charge of a situation without missing a beat. He is a hero and a big brother at the same time. I'm sure his loved ones will admire, respect, and cherish his love for years to come.

During a time of much concern over our black youth, young Robert Berry reminds us that our children are decisive, kind, helpful, and loving.

Mr. Speaker, I ask you and my fellow colleagues to join me in saluting brave young Robert Berry. Robert does not ask for recognition nor does he look for it. He's helped his mother in the past; when she fell ill with epilepsy he telephoned 911. His bravery serves as a model for the Detroit community and for America, a model of caring and responsibility.

**CONGRATULATIONS, HEATHER WALLING**

**HON. CHARLES LUKEN**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. LUKEN. Mr. Speaker, I rise today to congratulate Heather Walling, a graduate of Cincinnati's Colerain Vocational Center on being awarded first place in the national Project InVEST essay contest.

This contest was sponsored by the Independent Insurance Agents of America and is a joint program of both insurance companies and agents' associations to promote insurance training through a vocational education simulation. The program is active in over 140 schools nationwide. All students participating in this program had to submit an essay, and Heather's essay was chosen as the best by a

committee consisting of insurance agency, association, and company personnel.

Success has never been out of Heather's reach. As a senior she was a member of the Executive Committee for Business Professionals of America and was elected secretary of that same group at the regional level. After graduating in June, she achieved the goal of securing a full-time job with Nationwide Insurance Company and feels that the Project InVEST program has prepared her for what lies ahead in the future.

I am proud to have a person like Heather Walling in my district. I can only hope that other students will follow her lead and emulate her sense of pride and dedication. I wish her continued success in all of her future endeavors.

**THE ELECTION OF BORIS YELTSIN TO THE PRESIDENCY OF THE REPUBLIC OF RUSSIA**

**HON. JOHN J. RHODES III**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. RHODES. Mr. Speaker, today, Boris Yeltsin was formerly sworn in as President of the Russian Republic of the Union of Soviet Socialist Republics [U.S.S.R.]. In light of this election, I am introducing a sense of the Congress resolution congratulating both President Boris Yeltsin and the people of the Republic of Russia on the first democratic election in a millennium of Russian history.

Over 70 years ago, Russia was on the verge of a grave experiment, one that would bring only death and destitution to the people of that great nation. Inaugurated by the likes of Vladimir Lenin and Joseph Stalin, but with other players such as Leon Trotsky, a panorama of fear and hatred was laid before the nation for years to come.

With democratic elections having now taken place in the Russian Republic, this generation-long tragedy has hopefully come to an end. While the democratic election of Boris Yeltsin represents the affirmation of the rights of the individual to determine his or her future, it also represents the triumph of the ideals of democracy in a nation that previously had little experience with such an ideal.

If political democracy has emerged in the Russian Republic, hopefully economic liberty will quickly follow. In his inaugural speech, President Yeltsin noted that one of his most important priorities will be radical economic reform. Truly, this would represent another great victory for the Russian people, who have the richest of resources but the poorest of systems to bring what they have to their tables.

Soviet President Mikhail Gorbachev's handshake and speech congratulating the newly inaugurated President of the Russian Republic at his swearing in ceremony is a sign that Boris Yeltsin's program of reforms may face more cooperation in the future than it has in the past. It also serves as a footnote to the extent to which Soviet President Gorbachev has acknowledged the significance of President Yeltsin's election.

Clearly, all the ramifications of this election cannot be discussed within the confines of a

legislative vehicle commemorating the election. Nevertheless, this concurrent resolution, commemorating the election and congratulating all the people of Russia, serves to express the sincere hopes of the Members of Congress that this is but the first step in a march toward integration into the Western World and the brotherhood of nations that make economic liberty, political democracy, and human rights the foundation of their government.

**TEACHING AND REHABILITATING OUR YOUTH [TROY]**

**HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Teaching and Rehabilitating Our Youth Program [TROY] for their efforts to organize and create a system to aid troubled youths in my district.

The TROY program was formed as a supplement to public juvenile delinquency programs, reaching out to those youth who were slipping through cracks in the system. Rather than producing a study or a series of abstract recommendations, they are working to initiate rapid and fundamental change with demonstrable concrete results. The TROY program complements the efforts of the juvenile justice system by localizing the process of restoring Miami's troubled youths.

On October 1, 1991, the group will implement a five-part plan which consists of: One, public awareness; two, residential programs; three, non-residential programs and diversion; four, mental health; and five, advocacy and mentoring. This course of action will coincide with active support and involvement from various segments of the community, including schools, colleges and universities, community-based organizations, and the private sector.

The TROY program makes an important investment in Miami's youth. I commend the leadership of the TROY founders for supporting this important work. These include the program's initial coordinators: Judge Tom Peterson, Jennifer Schuster, and Odalys Acosta. Those involved with the HRS include: Hon. Janet McAliley, Margaret Hebson, Roger Cuevas, Joseph Mathos, Russ Wheately, John Stepherson, Walter Odon, and Ellis Berger.

Those members involved with the State Attorney's Office include: Leon Botkin, Kim Daise, Steven Spencer, and Lynn Episcopo. Those affiliated with the Public Defender Office are: Steve Harper, Samira Ghazel, Odalys Acosta, and Sandy Schwartz. Those involved in the JASS. Diversion are Shirley Almeida and Jeanette Garcia. In addition those involved from the community include: Dr. Harry Henshaw, Marc Schusheim, Barbara Hibson, and Michelle Puldy-Berger. Other founding members not mentioned also include: Judge C. Edelstein, Dorothy Taylor, Paul Sweeney, Seymour Gelber, Paul Cromwell, Judge Robbie Barr, Steve Leifman, Bertha Pitts, Dagmar Peizer, Steve Applebaum, Charle Jones, and Liz Perkins.

H.R. 2786

**HON. TOM CAMPBELL**OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to bring the House's attention to H.R. 2786, a bill I introduced on June 26, 1991. In light of the recent Supreme Court decision, *Rust versus Sullivan*, it has become absolutely vital to ensure that women continue to receive complete, honest, and thorough information on all their options during pregnancy. The Supreme Court decision severely restricts the patient-doctor relationship. The Federal Government should not tamper with this relationship. My bill reiterates that the Federal Government shall not create laws which in turn restrict a medical professional from advising a patient on all her safe, legal options, including the option of abortion.

All the cosponsors of this bill are Republicans. This should emphasize that the effort to preserve the doctor-patient relationship is bipartisan. Mr. Speaker, H.R. 2786 is essential for appropriate doctor-patient relationships in which complete medical information can be provided. I hope this legislation will be given fair consideration by the House of Representatives.

TRIBUTE TO MARK A. WALKER OF  
COVINGTON, TN**HON. JOHN S. TANNER**OF TENNESSEE  
IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. TANNER. Mr. Speaker, I rise today to honor the memory of a distinguished Tennessee jurist, the late Mark A. Walker of Covington, TN. Judge Walker died unexpectedly June 7, 1991, at Tipton County's Baptist Memorial Hospital. He was 82.

Mr. Speaker, it should be pointed out that Judge Walker was the grandson of the late U.S. Rep. Charles B. Simonton. Congressman Simonton so ably represented our congressional district from 1879 to 1883.

Judge Walker's career is filled with public service. He served two terms in the Tennessee House of Representatives. After serving his country in World War II, he was elected circuit court judge. He was reelected without opposition until his appointment in 1967 to the court of criminal appeals, where he was presiding judge. He retired from the bench in 1987.

My wife, Betty Ann, joins me in extending our sympathy to Judge Walker's two sons, Mark A. Walker, Jr., and Lawrence E. Walker, both of Memphis, and his daughter, Eileen W. Hatfield of Collierville.

As a tribute to Judge Walker, I would respectfully ask that an article about his life, which appeared in the June 12, 1991, edition of the Covington Leader be made part of my remarks for this day.

[From the Covington Leader, June 12, 1991]

NOTED JURIST DIED FRIDAY

Mark A. Walker of Covington died unexpectedly Friday morning in Baptist Memo-

rial Hospital-Tipton. Walker was the presiding judge of the Tennessee Court of Criminal Appeals from 1967 until his retirement on Oct. 1, 1987.

Services were held Tuesday at 2 p.m. in the Covington First Presbyterian Church, where he was a member, with Dr. David Shepperson, Jr. officiating. Interment was in Munford Cemetery in Covington with Maley-Yarbrough Funeral Home Inc. in charge of arrangements.

Born in Covington Sept. 8, 1908, his parents were Mark A. and Ella Simonton Walker. A graduate of Byars-Hall High School, he received a bachelor of science degree in 1931 from the University of Tennessee. He attended law school at the University of Tennessee, Knoxville, and the University of Wisconsin.

Admitted to the Tennessee bar in 1935, he practiced law in Covington. He was elected to represent Tipton County for two terms in the Tennessee Legislature from 1939-42 in the House of Representatives.

In 1942, Walker enlisted in the U.S. Navy and served for four years with tours of duty in the Western Pacific and the Battle of Okinawa. Following his discharge from the Navy in 1946 with the rank of commander in the U.S. Naval Reserve (retired), he campaigned for and was elected circuit judge of the 16th Judicial Circuit, which included Lauderdale, Tipton, Fayette, Hardeman, McNairy and Madison counties. He was re-elected as circuit judge, without opposition, in 1950, 1958 and 1966. The 16th Judicial Circuit later became the 25th Judicial Circuit, comprised of Lauderdale, Tipton, Fayette, Hardeman and McNairy counties.

The Court of Criminal Appeals was created in 1967 and Judge Walker was appointed one of the three members of that court and selected as presiding judge. This court, comprised of nine members, three from each grand division, meets at Jackson, Nashville and Knoxville. Elected to that court in 1968, he was re-elected in 1974 and 1982.

Judge Walker was a member of the American, Tennessee and Tipton County bar associations, American Judicature Society, Institute of Judicial Administration and Kappa Sigma fraternity. He was a Scottish Rite Mason, a Shriner, and a member and past president of the Covington Lions Club.

The West Tennessee Area Council, Boy Scouts of America, Eagle Scout Class of 1989 was named in honor of Judge Walker. A boy Scout in his youth, he was a member of Troop No. 2, sponsored by the Covington First Presbyterian Church. From 1921-24 he served as scoutmaster of Boy Scout Troop 1, chartered by the Covington Lions Club.

Walker, the widower of Lullie Eddins Walker, is survived by two sons, Mark A. Walker Jr. and Lawrence E. Walker of Memphis; a daughter, Eileen W. Hatfield of Collierville, and two grandchildren.

AMBASSADOR MAX KAMPPELMAN  
ADDRESSES OPENING PLENARY  
OF CSCE NATIONAL MINORITIES  
MEETING**HON. STENY H. HOYER**OF MARYLAND  
IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. HOYER. Mr. Speaker, July 1 marked the opening of the CSCE Experts Meeting on National Minorities in Geneva, Switzerland. The meeting comes at a critical time as na-

tional minority issues confront many of the CSCE Signatory States.

Ambassador Max Kampelman, the very able head of the U.S. delegation addressed in his opening statement the issues confronting the experts meeting in Geneva. "The growing ethnic and national minority tensions in Europe disturb us all because they symbolize direct threats to European security and stability," stated Kampelman. "The great challenge for us in this meeting is to explore whether the CSCE process is equipped with sufficient will and energy to deal constructively with those new threats."

Mr. Speaker, I am pleased to submit Ambassador Kampelman's statement for the RECORD and commend his eloquent remarks to my colleagues.

PLENARY REMARKS BY MAX M. KAMPPELMAN,  
HEAD OF THE U.S. DELEGATION TO THE  
GENEVA MEETING OF THE CONFERENCE ON  
NATIONAL MINORITIES, JULY 1, 1991

Mr. Chairman: One year ago, almost to the day, we adopted the Copenhagen Document, the first human rights document of the post-Cold War era. Since Copenhagen, CSCE has taken further strides at the Paris Summit, in meetings at Valletta and Krakow, and most recently at the Berlin Ministerial. Last fall, we welcomed a united Germany into our midst and only two weeks ago, Albania joined us, and by so doing, re-joined the family of Europe. We welcome Albania to our process.

These steps forward were possible because member states of the CSCE were willing to confront, overcome, and even eliminate formidable barriers to freedom and security on this continent—barriers that had kept Europe divided by force and by fear for more than forty years—barriers that the CSCE has worked to bridge and eradicate since the very inception of the Helsinki process which began in 1975.

We have made significant progress dismantling the most onerous and obvious obstacles to a Europe whole and free. But some remain, and they can only be removed through genuine, peaceful, political processes. We know that one such irritating obstacle relates to the understandable and historically justifiable aspiration of the Baltic States and their peoples for independence. The United States delegation joins the many others here in the conviction that our efforts to create a Europe whole and free call for the realization of those aspirations so that in the not-too-distant future, the circle of states around this table includes within it representatives from Estonia, Latvia and Lithuania.

The achievement of a Europe whole and free means much more than simply having all the states sitting at a table together, important as that is. Governments and citizens alike must work together to address and overcome deep-seeded problems that increasingly plague us and this continent. Many are legacies of the Cold War. Many reflect unresolved antagonisms that preceded it: authoritarian habits, entrenched old structures, and insular and intolerant attitudes. These can breed new divisions among us and frustrate the process of democracy-building and reform. The challenge is serious because it comes at a time when we have never been closer to a Europe whole and free.

The delegation of the United States is as persuaded as any delegation in this hall that the subject matter of the conference we begin today is vitally important. The growing ethnic and national minority tensions in

Europe disturb all of us because they symbolize direct threats to European security and stability. The great challenge for us in this meeting is to explore whether the CSCE process is equipped with sufficient will and energy to deal constructively with those new threats.

Europe has emerged from grievous spiritual and physical devastation. The Nazi brutalities, the devastation of war, the havoc of communism—all of these have taken their toll. Much of Europe is an environmental mess. Life expectancy in some parts of Europe is six to ten years below that of other parts of Europe. These and other symbols of chaos represent a backwardness which must be eliminated. It is time to proceed with a rebuilding of the continent.

The peoples of Europe have every reason now to look forward to a new dawn for democracy. They expect respect for human dignity and freedom for those who were held captive in the dungeons of history. The emerging democracies have desperately been organizing themselves to fulfill those responsibilities and to pull themselves out of state-controlled economic rigidity into expansive competitive market performance.

Most of Europe has come to appreciate that its task is to harmonize its political and economic energies so that they are consistent with the dramatic changes in science, technology and communication which are expanding the horizons of the human race in ways that bring our ideals and aspirations into near reality.

The group of twelve European states is rapidly moving in the direction of coordination, cooperation and unity in order to maximize that opportunity. We now have the Council of Europe, the European Parliament, the Court on Human Rights, the Western European Union—all based on the need to move toward integration—if we are to help our people realize their rightful expectations.

The emerging democracies of this continent understand the need to emulate that development and to be a part of it. Discussions have been underway to bring the whole continent closer together economically and politically. It is true that the economic problems are severe and frequently appear crippling, but the will and the means for dealing with those problems have been strong and increasingly self-evident. Just as a divided Germany belongs to yesterday and not to tomorrow, so must Europe leave its sharp divisions of yesterday behind as it joins tomorrow.

The continent of Europe is an old one. The human race is a relatively new one, still growing, still maturing, still evolving, still reaching to prove itself. Bigotry and discrimination and hate have so far been an integral part of our emerging species, but we know that, to the extent that it exists, such bigotry, discrimination and hate are inconsistent with our religious teachings and create barriers toward realizing our human aspirations. In my country, manifestations of it can still be seen in racial intolerance. In Europe, that manifestation takes the form of anti-semitism, in discrimination against the Gypsies, and in myriad other ethnic rivalries and hatreds.

The threatened disintegration of Yugoslavia is particularly dangerous. The traditional estrangements in that troubled country are exacerbated by the fact that boundary lines of the republics do not necessarily mark the boundaries between the various ethnic groups. We also know that violence does not respect boundary lines. That is why our ministers in Berlin issued a collective

statement of concern. That is why Secretary of State Baker travelled to Yugoslavia a few days ago. That is why we support the efforts underway by the Foreign Ministers of Italy, Luxembourg and The Netherlands to end violence and renew meaningful dialogue. That is why we support the recent call by members of the European Community to engage the CSCE emergency mechanism.

A new basis for unity in Yugoslavia is obviously called for. It will include greater autonomy for the republics. But these foundations for a united country can only be fundamentally achieved through peaceful means, by negotiations. Any political authority in that country that seeks to restore the authoritarianism of the past, that puts obstacles in the way of peaceful resolution of differences, that violates human and minority rights, that strives to impose a solution by force, distances itself from the CSCE family of nations and from our common achievement of a Europe whole and free. In that connection, we must here note our deep concern over the continued Serbian repression of the ethnic Albanian majority in the Province of Kosovo.

We note with interest the intention reported to us this afternoon by the distinguished representative of Yugoslavia. Yugoslavia is on our minds because it erupted into violence, but we know there are other similar problems. In Romania, Ceausescu, with dictatorial power, decided to turn his country's ethnic Hungarian minority into Romanians. Ethnic Hungarian cultural institutions were undermined and ethnic Hungarian villages were threatened with depopulation and replaced by new multi-ethnic towns. This is a continuing source of tension.

In Bulgaria, the twelve percent Turkish minority were by fiat suddenly turned into instant Bulgarians. In 1984, the Bulgarian army was used to compel persons bearing Turkish names to change to Bulgarian names. Turkish language newspapers and magazines were banned. Turkish ethnic dress and the use of the Turkish language were prohibited. This is a continuing source of tension.

We all hope that these and other illustrations of barbarism are ending with Europe's turn toward democracy and liberty. But the disputes are real and threaten European stability.

The United States does not believe that there is any single "magic pill" to national minority questions and concerns. We come to this table cognizant of the need to keep an open mind and to work with others toward solutions, particularly at this time when many CSCE countries are still in the early stages of forming new constitutions, revamping their systems, and building civil societies.

We come ready to listen and discuss, and to share our own perspectives as one of the world's largest and longest continual democracy and multi-ethnic societies. We know what has, through trial and error, worked for us. We will participate fully aware of our own inadequacies and of the fact that one cannot just transplant our own solutions, just as some solutions found by others may not prove workable in our country.

The United States is fully convinced that democracy and the principles of human liberty and freedom and the rule of law are fundamental if we are to act constructively in the face of these challenges. We know that, as Switzerland has matured and strengthened its democratic institutions, its German-speaking, French-speaking, Italian-speaking and Romansch-speaking citizens live to-

gether in harmony. We know that, as Belgium has strengthened its democratic institutions, the Flemish and Walloons relate peacefully with one another. We know that ethnic Swedes live comfortably in Finland. We know that the once-frightening words "Alsace-Lorraine" no longer mean violence between France and Germany. It is today one of Europe's more pacific, prosperous, democratic and cooperative regions in Europe.

The more a democracy matures, the more each individual's rights are protected, and the more we find that the rights of persons belonging to minorities are respected. The fundamentals of democracy are the basic rights of the individual citizen. Indeed, it all CSCE states were firmly established as democracies, ethnic and related concerns would be lessened considerably if not essentially eliminated. Democracy as it matures brings with it public confidence in the legitimacy of state authority and the integrity of its legal systems.

The rule of law is an integral part of a democratic society. Diversity and difference within our countries will continue. The challenge is to keep those differences within the bounds of law. With a society based on the rule of law, with a genuinely independent judiciary, that society can effectively channel differences of all kinds so that they generally remain within peaceful limits. An effective and justly-administered legal system produces public confidence and encourages a commitment toward stability.

The free and peaceful exercise of human rights requires a respect for the least of us and keeping the range of alternatives as wide as possible for the exercise of liberties by members of minorities. To this end, it is imperative that private citizens have the ability to take initiative and establish schools, churches, clubs, and media so that they may freely express, preserve and develop their ethnic, cultural, linguistic or religious identity, alone or in community with others.

These democratic structures and formalities must be accompanied by responsible democratic leadership. Intolerance and discrimination and hatred must be condemned and anti-discrimination laws must be enacted and enforced. Bigotry cannot be changed by law. Tolerance cannot be imposed. But acts of discrimination can be made unlawful. If pluralistic societies are to function well, governments must actively promote, encourage and reward attitudes of tolerance.

There is also the demand of national minorities for local autonomy. Differences arise as to which powers are to be delegated to the individual republics and which are to be retained at the center of government. This is intimately related to the status of minority groups within the republic. And here, again, many of these tensions could be dealt with if important aspects of governmental authority were vested in elected local officials rather than in officials of local governments who are appointed to their posts by the central government. Democratization and decentralization of power are important principles of responsible government.

I do not mean to oversimplify the problem. It's a serious one, primarily because it is usually accompanied by utter mistrust and frequently by disdain and even hatred of one group for another. And this is where leadership must play a vital role and CSCE must help provide that leadership.

The United States is convinced that the CSCE process can help our entire family of

nations meet the requirements and realize the promise of Europe in the 21st century. We urge a continued spirit of cooperation and understanding, restraint and dialogue. That is the CSCE way. We wish to do our share as we proceed along that way.

**CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS**

**HON. BARBARA BOXER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mrs. BOXER. Mr. Speaker, it is once again a great honor to join my colleagues in this very important effort to draw attention to the plight of Soviet Jews.

In recent months, we have rejoiced at the large number of Soviet Jews who have been allowed to leave the Soviet Union for Israel. But, for every person who is given permission to leave, there is another who is denied. One of those cases is that of Dmitri Berman.

On January 4, just days before his scheduled departure for Israel, Dmitri Berman's emigration and internal documents were seized by Soviet officials. Threatened with imprisonment and a retrial on a previously dismissed murder charge, Dmitri sought refuge at the Canadian Embassy in Moscow. There he has remained for 6 months awaiting an end to this ordeal, an ordeal which began 3 years ago.

At that time, Dmitri Berman was arrested for the murder of a serviceman in his hometown of Nikolaev, Ukraine. In the absence of any evidence linking him to the murder, Dmitri was tortured and humiliated in prison and forced into making a false confession. At trial, he was sentenced to 13 years of hard labor.

Through international pressure, however, all charges against Dmitri were finally dropped in August 1990, and the chief procurator of the Ukraine confirmed it in writing. Now the Soviet authorities want to reopen the murder case even though they have no new evidence.

In the words of David Waksberg, executive director of the Bay Area Council for Soviet Jews, "The renewed harassment of Dmitri Berman is a blatant violation of human rights. Berman was the innocent victim of an anti-Semitic scapegoating conspiracy, and now on the eve of his departure for Israel, he is again being persecuted \* \* \*."

Please join with me in calling upon the Soviet Government to allow Dmitri Berman to emigrate to Israel, and to provide for his safe passage out of the Canadian Embassy. We cannot let this injustice stand.

**A LETTER FROM THE HEART—ALABAMA'S SALUTE TO THE TROOPS**

**HON. BOB CLEMENT**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CLEMENT. Mr. Speaker, I want to share with my colleagues today a letter, a very special letter, that touched my heart and will touch the heart of everyone who reads it.

The letter was written by 1st Lt. Robert Craig, a member of the 82nd Airborne Division of the U.S. Army who attended an annual benefit concert staged by the country music group Alabama in their hometown, Fort Payne, AL.

This year an estimated 75,000 people attended the June Jam benefit concert on June 15, a concert the group dedicated to all of the men and women who had ever served in the U.S. military. Two of the attendees were Lieutenant Craig and another veteran, a soldier who had served in Vietnam nearly 20 years earlier.

I want to share with my colleagues the poignant letter written by Lieutenant Craig about his experience with the veteran from the Vietnam era which followed a salute to the troops during Alabama's June Jam concert.

JUNE 18, 1991.

Dear Alabama, I would like to thank you for the unforgettable experience my wife and I had at our first June Jam (June Jam X), and commend you for the outstanding service you give and example you set for our great nation. Undoubtedly, it was the most thrilling and exciting event I've had (save the reunion with my wife) since returning from Operation Desert Storm.

I would like to share with you an experience I had during the "Salute to the Armed Forces" portion of the Jam. I was fortunate enough to sit next to a Vietnam veteran, an Alabama native. Because of the enormous difference in the conduct of our wars and the conduct of the nation back home, I was, to say the least, nervous and extremely cautious. Later, I found out, much to my surprise, that he was even more nervous than I. After stumbling over ourselves for about an hour or so, the foundation was finally laid for a strong and emotional relationship, which I'm sure will last for years to come. Well, as the soldiers from past conflicts slowly moved across stage and took their place of honor, the crowd silently and reverently watched. However, when the jungle camouflaged, boonie capped-ranger tab wearing Vietnam vet came across the stage, the crowd wildly cheered and clapped, and gave him the welcome home he should have had 20 years ago. I looked at the old staff sergeant, my friend, and saw the tears of sadness, frustration, anguish, and exhaustion roll down his cheek. I have never seen a man stand so tall or look so proud. I will never forget what you did for that soldier. Thank you!

This fast paced and crazy world we live in seems to get harder and harder to live in. Ultimately, our Heavenly Father's plan will prevail and there will be no more pain and suffering. But until then we as a human race must work with what we have to make this world the best it can be. It is refreshing and inspiring to see people in a position of great influence do the noble and worthwhile work you do. The money you raise, the causes you support, and the influence you spread is truly beautiful. I would go back to Panama, Saudi Arabia, or anywhere else to fight and die for people like you. I am a great fan of your music, but a greater fan of your compassion, morals, and ethics.

A Forever Fan,

ROBERT R. CRAIG,  
1Lt IN, 82nd Airborne  
Division, U.S. Army.

Mr. Speaker, in my opinion this letter personifies a spirit of renewed patriotism and pride in America that is sweeping our great Nation.

I want to acknowledge the true from-the-heart emotions Lieutenant Craig conveyed in

his letter. I'd like to also commend the group Alabama.

**TRIBUTE TO BAY PORT, MI, FISH SANDWICH FESTIVAL**

**HON. BOB TRAXLER**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. TRAXLER. Mr. Speaker, the Great Lakes have, over the years, provided Michigan, as well as many other States, with an abundant and delicious source of fresh water fish. This resource has proven invaluable, not only from a recreational standpoint, but also as a boost to our State's economy.

In light of this, I wish to take the opportunity to give special recognition to the town of Bay Port, MI—often referred to as one of the world's largest fresh water fishing ports—upon the commencement of the 14th annual Bay Port Fish Sandwich Festival, being held on August 3 and 4, 1991. For the past 13 years, this friendly town of 550 located in Huron County on the "thumb" of Michigan's "mitten" has offered its famous, distinctive culinary delight, the Bay Port fish sandwich, to friends, neighbors and tourists alike.

Fresh water fishing has the distinction of being the biggest industry and largest employer in Bay Port, and this magnificent festival annually attracts thousands of visitors from Michigan and surrounding areas. Again this year, Bay Port townspeople will donate their time and energies to serve 10,000 Bay Port fish sandwiches to guests visiting their quaint fishing community. The dedicated efforts and steadfast commitment of these fine individuals do not go unnoticed or unappreciated.

Therefore, it is with great enthusiasm and pride that I salute all associated with the 14th annual Bay Port Fish Sandwich Festival. I encourage all citizens to join me in commemorating this gala event.

**DISTRIBUTION OF NEA FUNDS AMONG THE STATES MUST BE MADE FAIRER**

**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SHAW. Mr. Speaker, when the House recently considered the Interior and Related Agencies Appropriations bill for fiscal year 1992, I rose in reluctant opposition to the amendment offered by the distinguished gentleman from Illinois [Mr. CRANE], to that bill. Congressman CRANE'S amendment would strike funding for the National Endowment for the Arts [NEA] for fiscal year 1992.

Although I generally support funding for the NEA, my support for the NEA is growing tepid because of the regional funding inequities seemingly inherent in the way the NEA distributes funds to the States. I refer specifically to the gross discrepancy between the amount of NEA funds distributed to the State of New

York as compared to the amount given to the 17 States which comprise the Sunbelt region.

For example, according to NEA fiscal year 1989 statistics, New York State alone received a whopping \$11.1 million more in NEA grant money than all of the Sunbelt States combined. New York garnered an incredible \$39.9 million in NEA funds, while the 17 Sunbelt States (Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Texas, New Mexico, Arizona, Missouri, Oklahoma, Tennessee, Kentucky, and Arkansas) received only \$28.8 million.

Overall, New York easily led the Nation in NEA grant money in 1989. California ranked a distant second with \$16.2 million, getting less than half of New York's share. Texas, the third largest State in the Nation, led the Sunbelt region, ranking 8th nationally and receiving \$4.7 million. My home State of Florida, the fourth largest State in the Nation, received a paltry \$1.9 million and ranked 17th. Arkansas was ranked dead last among the 50 States, receiving only \$451,950 from the NEA in 1989.

New York's take from the NEA is so large, that not even the Sunbelt, combined with the NEA funds given to Idaho, Alaska, Delaware, Kansas, Maine, Montana, North Dakota, New Hampshire, Nevada, Rhode Island, South Dakota, Vermont, Wyoming, Iowa, and Nebraska can equal New York's share. I find it incredible that one State can receive more funds than 32 States from a Government agency that ostensibly is interested in all regions of the country.

As cochairman of the Congressional Sunbelt caucus, I wrote an article for the caucus' newsletter, hoping to alert the 154 members of the Sunbelt caucus to this disturbing fact. I was hoping that by bringing this fact to light, the NEA would correct this inequity for fiscal year 1990. Unfortunately for artists in the Sunbelt, this was not to be the case.

For fiscal year 1990, I found that the funding discrepancy still existed between New York and the 17 Sunbelt States, although the difference was not as dramatic as fiscal year 1989's figure. According to NEA statistics, New York garnered \$33.65 million in NEA funds, compared to the Sunbelt's share of \$28.9 million for a difference of \$4.75 million, last year. New York easily led the Nation again in NEA funding, receiving more than double the amount of funding received by California, which at \$15.96 million was a distant second. New York's share from the NEA funds given to Delaware, Idaho, North Dakota, New Hampshire, Nevada, South Dakota, Wyoming, and Hawaii can equal New York's huge share.

This regional funding inequity is obscene, a word with which I am sure the NEA is familiar. I voted against the Crane amendment this time; I did however, support the Stearns amendment, which would have cut \$7.4 million from the NEA. I voted for the Stearns amendment mainly to register my displeasure over the meager funds the Sunbelt receives from the NEA.

Mr. Speaker, I realize that New York is considered by many to be the cultural center of the Nation. However, I wonder how many aspiring artists in the rest of the country simply lack the resources to develop their artistic potential. The National Endowment for the Arts is

a national program—not a New York program. I will continue to follow this issue closely, and I plan to become more active on this issue in my role as cochairman of the Congressional Sunbelt caucus, especially when the NEA is due for reauthorization. This funding inequity is unfair and must be changed, either internally by the NEA, or if the NEA is unwilling, by the Congress.

**DANCYVILLE UNITED METHODIST CHURCH ADDED TO PRESTIGIOUS NATIONAL REGISTER**

**HON. JOHN S. TANNER**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. TANNER. Mr. Speaker, I rise today to recognize the dedicated work of members of the Dancyville United Methodist Church. Led by Ms. Dorothy Moore, their hard work and diligent effort was rewarded recently when their church and its adjacent cemetery were listed on the National Register of Historic Places.

That listing secured the church's place in Dancyville's history, rightfully protecting it from future building projects that might adversely affect the building's historic character and longtime role in the community. The church has a history in Dancyville and Haywood County dating back some 150 years. The Dancyville United Methodist Church is easily worthy of this coveted recognition.

The work of church members toward achieving this goal is to be commended. I've been going to Dancyville all my life and the community is filled with wonderful people. It remains a community wrapped in strong moral fiber and sound American values.

I want to join my friends in Dancyville and Haywood County in expressing my congratulations to Ms. Moore, the church, and its members on this historic achievement.

Clearly, it is a treasure worth preserving in Dancyville, TN.

I respectfully request that the attached article be included with these remarks.

**DANCYVILLE UNITED METHODIST CHURCH ADDED TO PRESTIGIOUS NATIONAL REGISTER**

Haywood County's contribution to the list of history-making places swelled by two March 13 when the Dancyville United Methodist Church and its adjacent cemetery on the southern edge of Haywood County were added to the National Register of Historic Places.

The church and cemetery, dating to the mid-19th century, were considered for nomination and examined by the 13-member State Review Board in January. Though Steve Rogers of the Tennessee Historical Commission said Monday that the church made the list in March, notification to the state came only last week.

The listing in the National Register of Historic Places of the Department of the Interior provides recognition of places worthy of preservation but does not encumber property with federal regulations.

The Dancyville church's inclusion reinforces its historic importance and assures protective review of federal projects that might adversely affect the character of the property. By virtue of its listing, the prop-

erty could qualify for certain federal investment tax credits for rehabilitation.

One of the Dancyville church members who has been instrumental in moving the church's nomination through the recognition process, Dorothy Moore, said that the community is overjoyed by the acceptance of the church and cemetery to the national register. Members of the community plan to purchase markers for the property as soon as possible.

**TRIBUTE TO ALAN "ACE" COHN**

**HON. MARCY KAPTUR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Ms. KAPTUR. Mr. Speaker, recently Toledoans lost a very valuable member of our community with the passing of Alan "Ace" Cohn. A World War II Navy veteran, Ace was actively involved in a number of Toledo organizations. He was a member of the Temple Shomer Emunim, the Toledo Museum of Art, and the Toledo Botanical Gardens. For over 30 years, he was a respected steel executive, and most recently was the president and treasurer for Globe Trucking Co. and managing partner with John Savage at SAVCO.

For over two decades, Alan was an active member of the Democratic Party. In 1968, was elected as a delegate to the Democratic National Convention. From 1968 to 1980 he served as a committeeman to the Democratic State Central Committee; and from 1966 to 1980 he served ably for 5 years as the Democratic State Finance Chairman, and was treasurer of the State Democratic Party. His knowledge and love of politics were evident in his commitment and tireless efforts on behalf of the Democratic Party.

He was also an avid sports fan. In 1968 he was appointed to the advisory board of the Toledo Mud Hens Baseball Club. He was also a driving force behind the formation of the Jamie Farr Golf Classic which has brought the LPGA to Toledo and is a source of great pride in our community.

I speak for all of those who knew Alan "Ace" Cohn in expressing our most heartfelt sympathy to his wife, Suzanne; their sons, Robert and Carlton; daughters, Julia and Rion Kweller; his sister, Elaine Wolson; and grandsons, Benjamin and Matthew Kweller.

Mr. Speaker, Alan Cohn was a valuable source of inspiration and guidance to all who knew him. We all, and I for one, will deeply miss him.

**INTRODUCTION OF THE LEAD CONTAMINATION CONTROL ACT AMENDMENTS OF 1991**

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. WAXMAN. Mr. Speaker, I am pleased to announce today the introduction of the Lead Contamination Control Act Amendments of 1991, a comprehensive strategy to fight the

most serious environmental threat to our children—childhood lead poisoning.

The statistics on childhood lead poisoning are truly shocking. Nationwide, 3 million young children—nearly one out of every six—have been exposed to enough lead to impair mental development. In some cities, half the young children may have suffered brain damage due to lead exposure.

Lead poisoning is pervasive. It is incurable. It reduces IQ's and diminishes thinking abilities permanently. The only good news is that it is also entirely preventable.

The legislation being presented today has precisely this aim—prevention. It provides an effective program to address the two most important causes of childhood lead poisoning: Deteriorated lead paint and lead in drinking water.

The legislation strengthens the program to reduce lead levels in drinking water, because drinking water is the most widespread source of lead exposure.

The legislation requires that families be warned about hidden hazards from old lead paint before they move into a home or an apartment, because families need this information to protect themselves from the most dangerous source of lead exposure.

The legislation strengthens the program to inspect schools and day care centers for lead contamination, because many children spend most of their time in schools or centers.

The legislation expands programs to test children for lead poisoning, because early detection is essential to protecting children from permanent brain damage.

And the legislation requires that lead in food, ceramics, and crystal pitchers be reduced, because there is no known safe level of lead exposure.

Taken together, these measures add up to an effective prevention program—a prevention program that this Nation cannot afford to overlook anymore.

A new report released today by the Natural Resources Defense Council underscores the seriousness of the lead problem and the urgent need for new legislation. Three years ago, Congress passed a law that required schools and day care facilities to test their drinking water for lead. Yet compliance has been abysmal. According to the report, my own State of California cannot even say how many schools or day care facilities have tested their water for lead. The same is true in other States.

I am particularly worried about what the report says about day care centers. Babies at day care centers are fed baby formula. Often this formula is made with boiled water. The process of boiling concentrates the lead. In several reported instances, young infants have become severely lead poisoned from drinking milk made from such lead-laden water.

Despite the substantial risks, the NRDC report says that fewer than 1 percent of the day care facilities in the country have tested their water to see if it is safe for making baby formula. This is an intolerable situation. The new legislation would make the testing requirement federally enforceable for the first time.

I expect Congress to move fast to pass comprehensive lead legislation. The House Health and the Environment Subcommittee will hold hearings on the legislation this month.

## THE PARTNERSHIPS FOR EDUCATIONAL ADVANCEMENT ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GOODLING. Mr. Speaker, today I am introducing the Partnerships for Educational Advancement Act. This bill will amend the Higher Education Act to provide incentives for 2-year postsecondary institutions of higher education and 4-year baccalaureate degree granting institutions to create articulation partnerships between the 2-year schools and the 4-year schools. The bill also creates a scholarship program for students at 2-year institutions to continue with their education toward a baccalaureate degree.

Since we know that more than one-half of all first-time, first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, these institutions represent a substantial and an important educational resource. The bill is designed to help assist students in bridging the gap between 2-year to 4-year institutions, enabling them to reach their individual potential, as well as contribute to the larger society.

This act, which amends title I of the Higher Education Act, will ensure that academic credits earned at a 2-year institution will be transferable to a 4-year baccalaureate institution. Below is a section-by-section description of the bill.

### SECTION-BY-SECTION DESCRIPTION

Section 1. **SHORT TITLE.**—This section names the bill "Partnerships for Educational Advancement Act of 1991."

Section 2. **ARTICULATION AGREEMENTS.**—This section amends the Higher Education Act of 1965 by creating a \$50 million program for articulation agreements between partnerships of 2-year and 4-year institutions of higher education. The section includes the findings and purpose of the programs.

The bill requires the Secretary of Education to make grants, from amounts appropriated, to States to enable States to make awards to articulation partnerships between 2-year postsecondary institutions and 4-year postsecondary institutions.

The Secretary is required to allocate the funds to the States according to a formula when amounts appropriated equal or exceed \$50 million. The Secretary is required to make grants on a competitive basis when the amount appropriated is less than \$50 million.

Each State desiring to receive a grant under the program submits an application to the Secretary. The application requires (1) the designation of a sole State agency as the State agency responsible for administering the program, (2) a description of how funds will be allocated, (3) certain assurances, and (4) provision for an annual submission of data concerning uses of funds and students served.

Each local partnership that desires to receive a grant from a State is required to submit an application that includes certain information including assurances that academic credit earned at the institutions in the partnership are transferable to the other institutions in the partnership, inservice training for teachers, and counseling services for students. Grants are for six years.

The State is authorized to use up to three percent of the State money for administration.

The State is required to give priority to grants which (1) encourage teacher education, (2) are participating in "Tech-Prep" education programs, (3) contribute their own institutional resources, (4) are not subject to a default reduction agreement, and (5) encourage articulation in subject areas of national importance as determined by the Secretary.

States are required to submit annual reports to the Secretary on the operation of the program. The Secretary is required to evaluate the programs and disseminate information about the most successful programs and the causes for success.

Section 3. **ARTICULATION SCHOLARSHIPS.**—This section creates a \$30 million scholarship program for students enrolled at a 2-year institution in order to enable students to continue their postsecondary education by pursuing a bachelor's degree at a 4-year institution.

The Secretary is required to conduct a national competition for selecting scholarship recipients. Scholars are selected on the basis of superior academic ability and leadership potential and priority is given to students demonstrating superior academic ability and financial need. The institution at which the student is enrolled must contribute a twenty percent match of the federal funds. The awards are for the second through fourth year of college and may not exceed \$10,000.

## LADY PANTHERS OF LEDFORD HIGH SCHOOL SOFTBALL CHAMPIONS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. COBLE. Mr. Speaker, there are some championship teams which start fast out of the gate and never look back. Then there are those championship squads which start out slowly but still come out on top in the end. The latter case is true of North Carolina's new 2-A high school softball champions—the Lady Panthers of Ledford High School in Thomasville, NC.

On June 6, Ledford captured the State softball title with an 8-6 victory over South Granville High School. The win capped a remarkable season for the Lady Panthers. At one point it did not appear that the Lady Panthers would be playing in any post-season tournaments. As Coach John Falls told the Lexington, NC Dispatch, "At one time we were 12-6, and I think the turn-around came about when we beat East Davidson and Central Davidson on consecutive nights. Right then, I started to tell people that we had a chance to make the playoffs."

The Lady Panthers did more than make the playoffs; they won the entire tournament. From a record of 12-6, Ledford went on to win its last 13 games to claim the State 2-A softball title, finishing the season with a record of 25-6. The Lady Panthers proved the point that it doesn't matter how you start, rather it's how you finish. The Lady Panthers finished extremely well.

Of course, much of the credit for the great finish to a remarkable season would have to

go to Head Coach John Ralls, who has guided the Ledford softball team for the past 12 years. Helping Coach Ralls direct the Lady Panthers to the championship were assistant coaches Tom Videtich and Paula Smith. Of course, Coach Ralls would be the first to tell you that a coach can do only so much. It is up to the players to get the job done. The Lady Panthers got the job done.

Congratulations to each and every member of the team: Julie Baughn, Lesli Chastain, Michelle Compton, Christy Craven, Janet Fields, Alicia Halker, Jennifer Halker, Wendy Huie, Tricia Hunt, Karen Little, Misty Petty, Joanna Russell, Arithia Stewart, Gretchen Uselman, Angie Vaughn, Stephanie Wood, Sherri Young, and scorekeeper Sherri Brown. Also congratulations go to Principal Max Cole, the faculty and staff, the students and their families, and the entire Ledford community for their support of an outstanding athletic program at Ledford High School.

The Lady Panthers may not have started out as No. 1, but that is where they finished—No. 1. Congratulations from all the citizens of the Sixth District of North Carolina.

#### HOW MUCH LIBERTY?

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. DUNCAN. Mr. Speaker, to me, Warren Brookes is one of the most intelligent and most consistently accurate columnists on the American scene today.

I wish every newspaper in the United States carried his columns, because many people do not have access to the kind of information he provides.

His column which ran in the July 4 issue of the Washington Times does not have many of the specific details contained in most of his columns, but it is a thoughtful and interesting article that I would like to call to the attention of my colleagues and other readers of the CONGRESSIONAL RECORD.

#### HOW MUCH LIBERTY?

(By Warren Brookes)

Today America officially celebrates the restoration of national self-confidence through the Gulf victory. It is not a time for raising unpatriotic doubts.

Yet as significant as the achievements of U.S. military might in the Persian Gulf were, President Bush surely understands they do not erase the picture of a country whose domestic agenda is in such intellectual as well as policy disarray.

It is easy to blame this on an administration too preoccupied with polls and process to think coherently about principles. It is even easier to scapegoat a Congress that, among other things, swept a sleazy scandal behind the victory banners.

But the fact is, on this 216th Independence Day, the Americans who elected these folks are extremely ambivalent about how much "independence" they really want. With a government that now takes almost 39 percent of our personal income in taxes, and spends more than 42 percent, it is clear we tolerate a great deal less than Thomas Jefferson would ever have imagined when he wrote the Declaration of Independence.

While Americans complain bitterly about taxes, they do not take kindly to most efforts to restrain government spending, and despite a record of relentless regulatory failure, they continue to demand more, not fewer, rules to protect them from every exigency, and especially against failure.

They have apparently never pondered Jefferson's questions in his first Inaugural address in 1801, when he said, "Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the forms of kings to govern him?"

Jefferson was willing to "let history answer this question," and it certainly has. But that has not diminished the basic appetite to put our security in the hands of others. It's as old as the Bible. Despite all his warnings of the dangers, the prophetic Samuel found the people still said, "Give us a king."

Today, as we celebrate our willingness to fight for freedom and independence, we have gladly ceded much of it to the politicians and bureaucrats who celebrate with us, even as their own careers depend on making us more dependent on them than ever.

The irony is that the worldwide revolution in information technology is geometrically increasing the sheer knowledge power of the individual. That is decreasing the power of governments to control the marketplace for both ideas and capital.

How Jefferson, the perpetual inventor and all-around Renaissance man, would have loved the laptop computer that enables an individual at home or anywhere to access the information resources of the world and "vote" with his savings for or against the policies of governments. Not only would he have rejoiced in its remarkable technology, he would immediately have understood its liberating potential.

After all, he said he knew "of no safe repository of the ultimate powers of society, but the people themselves," an idea that is anathema to a Washington now totally committed to seizing more of that power for the benefit of special interests.

Even so, there are some highly positive signs of a countertrend, and on the Fourth we are entitled to celebrate civilian victories as well as military ones.

First and foremost, President Bush's courageous decision to name Judge Clarence Thomas to the Supreme Court is more than matched by the almost unimaginable fortitude with which Judge Thomas has surmounted life's challenges. From the poverty and racism of a Deep South boyhood to his honors career at Holy Cross and Yale Law School, his is truly an affirmation of Jefferson's dream and a rebuke of the culture of victimization. That rebuke will unleash a backlash.

Second, a bipartisan commission headed by Sen. Jay Rockefeller, West Virginia Democrat, proposed a \$52 billion program to help families with children, \$40 billion of which would be in the form of tax cuts and credits, not for new government spending or bureaucracy. Fire a shot for the "safe repositories." Worry about the unenthusiastic Washington establishment reception.

Last month, the Senate voted 55-45 to make it a law that anytime the government imposes a sanction, environmental or otherwise, that devalues your property, it should pay for that "taking" under the Fifth Amendment. Say a cheer for economic freedom. Say a prayer because the vote was so close.

Aside from these tender straws, the wind blows hard in the statist direction. Even as

technology is decentralizing power, Americans now seem eager to let the government make more of their decisions. They want vibrant economic growth but no environmental risks; they want strong, dynamic banks, where their money will be 100 percent guaranteed; they want affirmative action, but not quotas; they want to be competitive, but they don't want any losers; they want unlimited health care for more limited costs.

In short, they want to celebrate their "independence" but not endure its pain. Jefferson warned that political parties would divide along this fault line, and they have. What he didn't predict was our relentless tendency to straddle it.

#### SPECIAL TRIBUTE TO MR. ED MURPHY

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. NORTON. Mr. Speaker, I am pleased to pay special tribute today to Mr. Ed Murphy, founder of the Harambee House Hotel—now the Howard Inn—in the District of Columbia, the Nation's first black-owned and operated, full-service, luxury hotel. Mr. Murphy will be honored for that unique distinction during a 6 p.m. ceremony tonight at the Howard Inn. During tonight's celebration, a commemorative plaque recognizing Ed Murphy's historic accomplishment will be unveiled and installed in the lobby of the hotel he founded.

This evening's historic plaque ceremony dedication will be the culmination of a year-long effort initiated by Robert DeForrest, president of the Afro-American Institute for Historic Preservation and Community Development; Cathy Hughes, chief executive officer of ALMIC Broadcasting and popular WOL radio personality; and Robert Hooks, well-known actor, writer, activist, and master of ceremonies for tonight's ceremony. This threesome led a spirited campaign to have Ed Murphy acknowledged as founder of the Harambee House Hotel, and to award him his rightful place in African-American history. Said Robert Hooks in a letter to Howard University officials during the yearlong campaign urging them to recognize Murphy's rightful place in that history: "Ed Murphy is the product of the American dream, to own and operate a business in the heart of his community \* \* \* and to represent a positive image to inspire our young business men and women \* \* \* that they can succeed."

Having spent his childhood years in the inner city, Ed Murphy opened his first food service business in that area at 11th and O Streets NW. From that first small carryout shop, he expanded into other restaurants and clubs and, in 1964, opened the first Ed Murphy's Supper Club on Georgia Avenue NW., near Howard University.

"Murphy's" soon became the favorite relaxation spot for community leaders, educators, politicians, attorneys, government officials, entertainers, and a cross section of Washington's grassroots citizens; it was unusual for one business to attract such a wide range of patrons. Business connections, lasting friendships, and even marriages began there and,

of course, Ed Murphy was always on hand as the founder, owner, and genial host, making everyone feel welcome and at home away from home.

In 1972, Ed Murphy moved across Georgia Avenue to open the new Ed Murphy's Supper Club, and eventually opened a similar club in the lobby of the Frank D. Reeves Municipal Center, the first operation of this type in a DC Government office building. But it was at the original club site on Georgia Avenue near Howard University where the development plans for his ultimate dream, the Harambee House Hotel, were born and nourished. In 1978 that dream became a reality; Ed Murphy opened the multi-million-dollar, 150-room building, the first such black-owned luxury hotel in the United States. It later changed both its name and ownership, but no one would want the spirit of Harambee—Unity—that marked the creation of what is now known as the Howard Inn to be either altered or undone.

Washington, DC, and the Nation can take pride in the exceptional accomplishments of Ed Murphy, a man who had the heart to dream and the intestinal fortitude to make that dream come true.

#### LIBRARIES IN AMERICA 2000

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. OWENS of New York. Mr. Speaker, I would like to submit the following speech for publication in today's CONGRESSIONAL RECORD. I delivered the speech today during the White House Conference on Libraries, which is being held this week at the Washington Convention Center, and it concerns the role of libraries in American education:

#### LIBRARIES IN AMERICA 2000

Fellow delegates, observers, and all who care about education and libraries, welcome to this very brief but vital White House summit of our citizens. This assembly which meets only once each decade is indeed a very serious gathering. We who care about democracy, education and libraries have a vital mission for America. All who want to see more education take place in a "learning society" and a "nation of students" must go forth with a vital message for America.

There are some self-evident truths about the process of learning that are being overlooked as our leaders prepare to transform the education effort in our nation. Our mission is to go forward with the vital message that libraries still make a great contribution to our democracy by providing the most education for the least amount of money. Libraries are worth it!

Literacy and productivity are very necessary for the strengthening of our democracy. Basic literacy, information literacy, computer literacy; literacy of all kinds enhances productivity. And productivity guarantees that our enterprises will be retained here at home to provide jobs for American workers who are also the consumers who keep our economy healthy. And nothing bolsters democracy like a healthy economy. Citizens who have a stake in society, citizens who don't have to struggle daily for survival,

citizens with some time to breathe free; these are the people, the volunteers, the voters who make our democratic institutions work. Literacy, productivity, democracy; it's all connected.

Undergirding all three of these components, cementing literacy, productivity, and democracy together is education. The President has launched a great crusade to improve education in America. Improving literacy, improving productivity, and increasing the capacity of all citizens to participate in our democracy are parts of the President's master plan. It is all connected.

Education is presently on center stage in Washington. In the months ahead the debates will escalate and spread rapidly. Our mission, indeed, it is the sacred duty of all who care about libraries; at this conference we must develop ways to add our voices to this critical dialogue. As some of the most enlightened among our nation's citizens we must insist that all discussions of the future of education in America are deficient, defective, and distorted if they do not include a significant role for libraries.

An America in the year 2000 without upgraded, modernized and accessible libraries and public information systems will be comparable to a human body without a backbone and skeleton. Without libraries our expanding educational reform efforts, no matter how well-intentioned, will collapse in a monstrous swollen mass.

Not only must we remember that libraries provide the most education for the least amount of money, we must also remind all of the education decision makers of America that the habit of reading, and the habit of using the library, and the habit of learning are inextricably interwoven.

Students who do not read can not learn. Students who enjoy reading learn faster and more consistently. Children who are in close proximity with books in their home libraries or their school libraries or their public libraries learn to read faster and they read more as they grow older. These are undisputed facts. These are simple but self-evident truths.

The facts and the truth are on our side but nevertheless our mission is a difficult one. Giant contradictions stand blocking our common sense message to America. Led by the President and the Governors there is a great crusade to transform education in America. We applaud this highly desirable undertaking. But even while the momentum for educational change is mounting they are cutting the budgets of libraries all over America. They are firing librarians; they are wrecking library schedules; they are smothering book acquisition funds; they are closing libraries; this is happening all over America.

These developments represent a malignant and ugly contradiction. If the habit of reading and the habit of using libraries and the habit of learning are inextricably interwoven, then how can we destroy the effectiveness of libraries while at the same time we are striving to create "a learning society," "a nation of students"? How can we declare our libraries a non-essential service while we are striving to strengthen our democracy?

America 2000 is the label they have placed on the President's master plan for the transformation of education in America. At the heart of his national blueprint is the set of six national education goals. All of these goals involve the reading and information searching skills which are encouraged and sustained by libraries.

#### AMERICA'S EDUCATION GOALS

By the year 2000—

1. All children in America will start school ready to learn.
2. The high school graduation rate will increase to at least 90 percent.
3. American students will leave grade four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.
4. U.S. students will be first in the world in science and mathematics achievement.
5. Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
6. Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

#### GOAL 1. BY THE YEAR 2000, ALL CHILDREN IN AMERICA WILL START SCHOOL READY TO LEARN

Libraries are essential to the achievement of this goal. Education research indicates that the single most important activity in preparing pre-school children to read is reading aloud to them. Studies by Durkin (1966), Chomsky (1972), Goldfield and Snow (1984) and others have found that both the sheer quantity of the material read to a young child and the continued use of progressively more advanced reading material are directly related to the extent of that child's "reading readiness" skills when he or she enters school. A study by William Teale, however, found that too many young children are missing out on this essential element of literacy preparation.

Libraries work to fill this gap by exposing young children and their parents and other caregivers to the wide variety of children's literature they need to develop their "reading readiness" skills. Many also provide training to parents and caregivers on how to select appropriate reading materials and how best to use them with children. They are shown not just how to read to their children, but how to read with them.

The Howard County (MD) Public Library's BABYWISE program, for example, has developed a series of teaching kits which they regularly deliver along with books, toys, and educational games to family day care providers in the community.

The Hennepin County (MN) Public Library conducts workshops for family day care providers on the selection and use of children's literature which the county social services agency has made a part of its in-service training requirement for providers.

The Brooklyn Public Library's Children's place program serves 45,000 preschool children and their caregivers every year. The staff teaches parents, day care providers and others how to prepare their children to read and learn.

The Jacksonville (FL) Public Library conducts regular reading workshops for functionally illiterate parents and their children. While their children attend a story hour program, their parents are taught how to read, using the same books their children are listening to. Later, the parents then read the story to their children.

The Rogue River (OR) Public Library has an outreach program in which volunteers visit the families of newborns to give them a library card, deliver a presentation on the

services of the library for parents of young children, and instruct them on how to read to children.

**GOAL 2. BY THE YEAR 2000, THE HIGH SCHOOL GRADUATION RATE WILL INCREASE TO AT LEAST 90 PERCENT**

An estimated 14 to 25 percent of students entering high school nationwide will drop out before they finish. Research indicates that youth who are the most likely to drop out are those who are the least prepared academically and the least involved in school activities. Libraries have been playing an active role in targeting special services to these students to help improve their academic performance and prevent them from dropping out of school.

In Shawnee Mission, Kansas, the public and school district libraries have joined forces to sponsor an 8-week summer reading program for elementary and middle-school students. Every year about 2,500 students participate in the program, each averaging five visits to the library during the summer.

In South Carolina, public libraries sponsor 2,007 summer reading programs for low-income children attending summer food program sites. Over 46,000 children participated last summer.

In Illinois, public libraries sponsor summer literacy programs for 1st through 5th graders who have met minimum requirements for promotion but are behind in their reading skills.

In Baltimore, the Enoch Pratt Public Library operates three homework centers in which volunteers provide assistance to students in completing their assignments and offer a wide selection of books and materials which supplement the regular curriculum.

In Decatur, Georgia, the DeKalb Public Library operates a Homework and Study Center for students during after-school hours and on weekends. Library staff, which includes experienced teachers, provide homework help to students. Typewriters, computers, calculators and other equipment is available for students to do their work with. Books and other materials, including educational software and videos, are provided which are designed to complement the instruction students receive in the classroom.

The Cambridge (MA) Public Library operates a Books for Homeless Children program which provides books, cassette tapes, and story hours in Boston homeless shelters.

**GOAL 3. BY THE YEAR 2000, AMERICAN STUDENTS WILL LEAVE GRADES 4, 8, AND 12 HAVING DEMONSTRATED COMPETENCY OVER CHALLENGING SUBJECT MATTER, INCLUDING ENGLISH, MATHEMATICS, SCIENCE, HISTORY, AND GEOGRAPHY**

Report after report on educational reform in recent years has proclaimed the importance of re-orienting our current curricula and methods of instruction to better develop "information literacy", the new set of skills which are required in a knowledge-based economy.

Inevitably, libraries must be central to developing these new information access skills and facilitating the lifelong learning that has become an economic imperative. As one library educator put it: "If the challenge is to learn how to learn and how to place one's learning within a broader societal and information environment, then libraries and their resources become the logical center for such learning."

Mainstream educators are, to some extent, only just now discovering what library professionals have known all along. Over the last thirty years, the library science community has produced a solid body of research

which has established the link between access to and regular use of a library with academic achievement at the elementary, secondary, and postsecondary level. These studies have established that students who have access to a library staffed by a full-time professional and who are given instruction in its use read more often, score better on standardized tests, and have superior reading, spelling, vocabulary, and comprehension skills to those of other students.

**GOAL 4. BY THE YEAR 2000, U.S. STUDENTS WILL BE FIRST IN THE WORLD IN MATHEMATICS AND SCIENCE ACHIEVEMENT**

All of the recent reports concerning the crisis in math and science education have focused on the need to reconfigure our current authoritarian instructional approach in which "teachers prescribe and students transcribe"—to one in which there is greater participation and hands-on learning by students. Libraries and their resources are essential partners in this new, more interactive method of instruction. They provide multimedia materials to supplement classroom instruction and offer a non-competitive environment in which independent, self-directed learning is facilitated. The Whitehall (MT) High School library worked with the school's science department to develop a Videotaping through Microscopes program to enhance student participation in difficult microbiology experiments and in learning how to use the microscope. The exemplary Discover Rochester program effectively teaches math, science, and other concepts to at-risk 8th graders by exploring various facets of the Rochester environment through group and individual research projects that rely heavily on the resources of local libraries and archives. Libraries contribute to math and science instruction in other, more unexpected ways as well as by introducing math and science teachers to literature outside their disciplines which may be useful in the classroom. Some of the most promising new curricula in elementary math instruction, for example, draws on such disparate sources as Gulliver's Travels and Haitian and African folk tales for math problems.

Public and school libraries also promote math and science education by using new technologies to give teachers, students, and parents greater access to science and math information and resources. The Radnor High School library in Pennsylvania, for example, instructs science students in the use of electronic databases like DIALOG for performing science research. Automated bibliographic networks allow users to identify, locate, and obtain highly specialized information from libraries throughout the nation.

A number of libraries also sponsor instructional television networks which provide instructional programming to the classroom and to the community at large. In Leon County, Florida, for example, the library-sponsored instructional television network offered a series of after-school programs designed to help students with their homework and to familiarize and involve parents with what their children are learning in the classroom.

Libraries also provide students and their families with free access to microcomputers and other expensive information technologies which they may not be able to purchase on their own. Last year 44,000 people used the free Apple microcomputers offered by the New York Public Library at 54 locations, many of them students working on classroom assignments. The library is the only place in all of New York City where microcomputers can be used for free.

**GOAL 5. BY THE YEAR 2000, EVERY ADULT AMERICAN WILL BE LITERATE AND WILL POSSESS THE KNOWLEDGE AND SKILLS NECESSARY TO COMPETE IN A GLOBAL ECONOMY AND EXERCISE THE RIGHTS AND RESPONSIBILITIES OF CITIZENSHIP.**

Because they do not have the same stigma as schools and other public institutions, libraries are an important way to reach people who are functionally illiterate. The Onondaga County (NY) Public Library conducts outreach for its literacy program at the waiting rooms of social service agencies; libraries in South Carolina target outreach to persons at substance abuse treatment centers; the Missoula Public Library in Montana offers a literacy program at a local mall; and the Lane County Library in Oregon uses a bookmobile to deliver literacy materials and instruction to rural residents.

Libraries have also been effective in delivering literacy instruction to members of special populations who are often overlooked by other providers. In Colorado, a library-sponsored bookmobile provides low-literacy reading materials and literacy and English-As-A-Second-Language instruction to migrant farmworkers throughout the state. The Chicago Public Library offers library services and peer tutoring to inmates at the Cook County Jail. The New York Public Library has provided English as a Second Language instruction to 11,000 adults and literacy instruction to another 3,500 since 1984.

In addition to attacking illiteracy, libraries also provide critical resources to respond to the growing basic skills deficit in the American workforce. There are few jobs that do not require sound basic skills. One study of a broad cross-section of occupations from professional to low and non-skilled found that fully 98% of them required reading and writing skills on the job. Yet an estimated 20% of the workforce today has deficient basic skills, reading at or below the 8th grade level. Most job-related reading materials, however, require at least a 10th or 12th grade reading ability.

As the "peoples' university", the public library is also an essential resource for the pursuit of lifelong learning by adults. Lifelong learning has now become an economic imperative as skills levels rise and the economy changes. As it is, Americans change employers and occupations more frequently than workers in all other advanced industrial economies. Every year 20 million Americans take new jobs. Only 25% have previous experience in the same occupation—the rest need additional training.

Libraries are working to fill the gap. Last year in New York State alone, over 428,000 people obtained job, career, and education information and counseling services through their local library. These users received career counseling and advice on developing a resume, information on job and educational opportunities, and participated in programs on how to start small- and home-based businesses.

For many years now, libraries have been engaged in all of these laudable activities which are in harmony with Goal Five of the national goals enumerated in America 2000. Public libraries have been steadfastly and routinely promoting adult literacy, the ability to compete in the workplace, and citizenship.

What is being proposed in section III of the booklet entitled America 2000 is not really new. They propose "skill clinics" where "people can readily find out how their present skills compare with those they'd like to have—or that they need for a particular

job—and where they can acquire the skills and knowledge they still need.” Such a clinic would be very much like a combined Education Information Center and Job Information Center, two innovations which have already been pioneered by the Brooklyn Public Library and other libraries throughout the nation.

America 2000 also proposes a “recommitment to literacy” and a “National Conference on Education for Adult Americans” which “will be called to develop a nationwide effort to improve the quality of accessibility of the many education and training programs, services, and institutions that serve adults.” Libraries are the experts on accessibility for programs that serve adults. Librarians should be assigned a leadership role in the development of such a national conference. At this White House Conference on Libraries, we should all resolve to initiate certain concrete steps toward participation in such a conference on the education of adult Americans which would greatly strengthen our democracy.

**GOAL 6. BY THE YEAR 2000, ALL SCHOOLS WILL BE FREE OF DRUGS AND VIOLENCE.**

Violence in schools is usually perpetrated by students who have learning difficulties. Students who can not succeed in school are usually the students who can not read. Students who turn to drugs are usually the students who can not cope with the instructional regimen. These correlations are well established. Studies have also shown that most students are reading more books at the fourth grade level than at the seventh grade level. The absence of good libraries, the absence of aggressive nurturing encouragement for reading takes its toll on American students. Drugs, violence and other negative influences are usually found only where this kind of vacuum exists. Libraries and reading promote self-worth and self-esteem. Libraries fill up such youthful vacuums with positive substance.

All of the people who care about libraries should become familiar with all of the six goals. Librarians and libraries can contribute a great deal toward the realization of these goals. And as we facilitate the implementation of these goals we will again have the opportunity to demonstrate to the budget-makers of America how essential libraries have become in the process of promoting literacy, productivity, and strengthening our democracy.

It is a tragic fact, but in 1991, with the age of information being fully recognized, our solemn mission in this great democracy continues to be one of lifting the veil of ignorance from the eyes of our leaders. With respect to the utility of libraries we must continue an uphill fight against distorted visions, and warped priorities, irrational administrative prejudices, a casual but devastating contempt for an institution and a process that is taken for granted. Those of us attending this conference clearly understand that libraries strengthen our democracy by providing the most education for the least amount of money. But there is some near-derthal force at work all over America which blinds the budget-making officials and they can not see this self-evident truth.

How can so many educated men and women who have all used libraries to gain their credentials and their decision-making positions decide repeatedly to cripple or destroy libraries? How can so many lawyers in the legislative and executive branches of government who subscribe to one of the most efficient and effective information systems in the world, how can these masters of infor-

mation literacy continue to dismiss libraries as non-essential? Libraries are not an emergency service like the fire and police departments. But libraries are essential for education. Libraries are essential for democracy. A nation that sincerely strives to become “a learning society”, “a nation of students”, must have leaders who clearly understand that libraries provide the most education for the least amount of money. Libraries are the cheapest conveyors of the fuel which generates the enlightenment that keeps our democracy strong.

In order to succeed America 2000 needs the assistance of libraries and librarians of all kinds—school librarians, college librarians, public librarians, special librarians. Obviously we can not wait to be invited to make our contribution. It is our duty to voluntarily and enthusiastically join the effort to strengthen our democracy by improving education.

One of the most fertile ideas in this far-reaching proposal is the call for “Bringing America On-Line”. The following paragraph appears in the America 2000 exposition without any follow-up explanation. We must all resolve that this conference should be the beginning of a process to render the most meaningful possible interpretation of this paragraph:

“Bringing America On-Line: The Secretary, in consultation with the President’s Science advisor and the Director of the National Science Foundation will convene a group of experts to help determine how one or more electronic networks might be designed to provide the New American Schools with ready access to the best information, research, instructional materials and educational expertise. The New American School R & D teams will be asked for their recommendations on the same question. These networks may eventually serve all American schools as well as homes, libraries, colleges and other sites where learning occurs.”

No other component of America 2000 speaks more directly to the mission of this conference than this proposal for “Bringing America On-Line”. It would be useful to have the President’s Science Advisor and the Director of the National Science Foundation involved in this monumental project. But the librarians of America represent the group which truly has the expertise to bring America On-Line. The dream of a national information highway is a familiar dream for librarians. Librarians can readily understand how all six of the education goals could be better implemented nationally through such an information network. Librarians know that all of the citizens of the “learning society” that we hope to create; that every member of this “nation of students” projected by the President; librarians can clearly understand how all Americans from pre-kindergarten to post-doctoral would be greatly benefited by America On-Line.

In the end “Bringing America On-Line” may prove to be the most creative element of America 2000 while at the same time it may be the least costly. But the key component, the chips that will make America On-Line work are the libraries already scattered across America. School libraries, public libraries, special libraries, law libraries, etc; all libraries will be necessary. We can not make America On-Line work if we cripple and destroy our libraries. What could be the world’s most comprehensive and most accessible information system will never be constructed if we continue to cut budgets and close libraries.

A national system that places valuable information at the fingertips of all Americans is a system which greatly strengthens democracy. For the majority of our citizens local libraries will serve as their point of access to such a system. If the libraries are not there the system will not work. It’s all connected.

The practical and immediate challenge of this White House Conference is to establish an agenda which facilitates the binding of the work of libraries to America 2000 and any other similar efforts to greatly improve education in America. Information and education provide the backbone of our American democracy.

And beyond the immediate practical work of this conference is the ongoing mission for every delegate and all others who care about libraries. We must strive harder to lift the veil of ignorance from the eyes of our budget-making leaders. Go tell the President and the Governors, the Mayors, the legislators and all others who make budget decisions that the habit of reading and the habit of using libraries and the habit of learning are all inextricably interwoven. Go tell these same leaders that libraries provide the most education for the least amount of money.

These are self-evident truths. They are obvious to librarians. In order for us to save the libraries which are vital for the strengthening of our democracy, these self-evident truths must become a fixed and permanent revelation in the minds of all of our leaders. Only this kind of public insight and wisdom can guarantee that our American democracy will long endure.

**TRIBUTE TO THE HONORABLE  
JAMES R. DOOLEY**

**HON. ESTEBAN E. TORRES**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. TORRES. Mr. Speaker, I rise today to recognize an extraordinary individual, the Honorable Judge James R. Dooley. Judge Dooley is retiring after 15 years of service to the U.S. Bankruptcy Court.

Judge Dooley was born in Anderson, SC. He is married to the former La Curtis Ruth Walls. Judge Dooley has one son, Jerold Richard Dooley. As valedictorian of both his high school and college graduating classes, Judge Dooley graduated magna cum laude from Benedict College, SC.

Upon graduation from the John Marshall Law School in Chicago, Judge Dooley was awarded numerous honors and prizes. Elected to the Order of John Marshall, Judge Dooley received the Bobbs-Merrill Co. Prize, the Illinois Constitutional Law Prize, and the Post-Graduate Scholarship, as well as many others, signifying his attainment of the highest rank each year of his graduate studies.

Judge Dooley served actively both the World War II and the Korean war. Rising from the rank of sergeant to 1st lieutenant in 1942, he was on active duty from 1942 to 1946 and again from 1951 to 1952 during the Korean war. Mr. Dooley served as 1st lieutenant in the U.S. Army Reserve from 1945 to 1953 as well.

Judge Dooley was admitted to the Illinois Bar in November, 1950 and to the California Bar 3 years later. He practiced privately for a

short time in late 1953 and then served as assistant U.S. attorney for the U.S. Department of Justice in Los Angeles from 1953 until 1976.

During the years of his service, Judge Dooley continued to earn high praise from his colleagues, as he served in many positions of leadership. From 1962 until 1976 Judge Dooley served as first assistant chief of the Civil Division in the U.S. Attorney's Office. As a well liked and well respected member of the Bar, Judge Dooley chaired the Disciplinary Board of the State Bar of California as well as the Federal Courts and Practice Committees of the Los Angeles County Bar Association in the early 1970's. Judge Dooley has served in many executive positions, including president, of the Los Angeles Chapter of the Federal Bar Association as well. Appointed as bankruptcy judge in November 1976 Judge Dooley continued to uphold his high standards of dedication and service for which he has earned his honorable name.

Mr. Speaker, on February 2, 1991, civic leaders and members of the legal community will be gathered to praise the Honorable Judge James R. Dooley and bid farewell to this outstanding individual. I ask my colleagues to join with me in a salute to a dynamic leader and respected individual, James R. Dooley, for his distinguished record of achievement and public service both to the people of Los Angeles and to people of the United States as a whole. Let us all wish him a long, peaceful, and joyful retirement.

TILEM, BUXBAUM & ASKENAIZER.

Los Angeles, CA, June 13, 1991.

Re: Testimonial Certificate for Hon. James R. Dooley

Congressman ESTEBAN TORRES,  
Washington, D.C.

Attention: Robert Alcock

DEAR CONGRESSMAN TORRES: This letter is written on behalf of the Judge Dooley Testimonial Dinner Committee, on which I serve. Judge James R. Dooley has indicated his desire to retire from the bench of the U.S. Bankruptcy Court, effective at the end of this year, after 15 years of service.

Judge Dooley is well liked and respected by members of the bar who have appeared before him, and other members of the bench who serve and have served with him. Accordingly this committee was formed to honor Judge Dooley upon his retirement.

On behalf of the committee, I would like to know if you would sponsor a House Resolution recognizing and honoring Judge Dooley for his years of service. Although the formal dinner will not take place until February 2, 1992, I would like to obtain the formal resolution prior to the end of November, 1991. It is presently our intention to print copies of the resolution in the program, and we need ample time to accomplish this.

To assist you, a copy of Judge Dooley's resume is enclosed herewith. Please call if you require additional information.

Very truly yours,

DAVID A. TILEM.

#### RESUME

1. Name: James R. Dooley.
2. Home address: 4046 Mantova Drive, Los Angeles, CA 90008.
3. Business address: 312 N. Spring St., Rm. 901, Los Angeles, CA 90012.
4. Home telephone: (213) 298-1092, business telephone: (213) 694-4070.
5. Date of birth: August 9, 1920, place of birth: Anderson, South Carolina.

#### 6. Education:

High School: Reed St. High School, Anderson, South Carolina, Graduated during May or June, 1937.

College: Benedict College, Columbia, South Carolina, Graduated May 27, 1941 with a B.S. degree.

Law School: The John Marshall Law School, Chicago, Illinois, Graduated on June 24, 1950 with a juris doctor degree.

#### 7. Military service:

I was on active duty in the United States Army during the following periods:

Date of entry	Date of discharge	Serial No.	Rank at discharge
June 5, 1941	July 2, 1942	14048141	Sergeant.
July 3, 1942	Feb. 9, 1946	01574226	1st Lieutenant.
Mar. 27, 1951	July 12, 1952	01574226	1st Lieutenant.

I was also a First Lieutenant in the United States Army Reserve from October 20, 1945 to April 1, 1953.

#### 8. Court admissions:

Admitted to Illinois Bar on November 29, 1950.

Admitted to California Bar on July 22, 1953. Admitted to U.S. District Court for the Southern (now Central), District of California in 1953.

Admitted to U.S. Court of Appeals for Ninth Circuit on April 5, 1954.

#### 9. Practice of law:

Engaged in private practice of law in Los Angeles, California from September 1953 to about December 13, 1953.

Served as Assistant United States Attorney, U.S. Department of Justice at Los Angeles, California from December 14, 1953 to October 31, 1976. Served as First Assistant Chief of the Civil Division in the United States Attorney's Office from May 1962 to October 31, 1976.

10. Community or professional honors and other public recognition that I have received:

(1) I was graduated from college magna cum laude, and I was valedictorian of both my high school and college graduating classes, by virtue of having the highest scholastic standing.

(2) Upon graduation from The John Marshall Law School, the following honors were conferred upon me:

(a) Election to the Order of John Marshall, an honorary scholarship society.

(b) The Bobbs-Merrill Company Prize, for highest standing in Senior year, including both afternoon and evening divisions.

(c) The Illinois Constitutional Law Prize, for best examination in the subject of Illinois Constitutional Law, Evening Division.

(d) The John N. Jewett Scholarship Prize, for highest rank in First Year, Evening Division.

(e) The Arba N. Waterman Scholarship Prize, for highest rank in the subjects of the Second Year, Evening Division.

(f) The Edward T. Lee Scholarship Prize, for highest rank in the subjects of the Third Year, Evening Division.

(g) Post-Graduate Scholarship, for highest rank for entire course, Evening Division.

(3) On June 25, 1965 I received an award from the Attorney General of the United States for meritorious services.

(4) I served as a member of the Disciplinary Board of the State Bar of California from May, 1970 to December 31, 1973 and was Chairman of said Disciplinary Board during the year 1973.

(5) I served as Chairman of the Federal Courts and Practice Committee of the Los Angeles County Bar Association for the years 1970-71 and 1971-72 and as Vice Chairman for the years 1968-69 and 1969-70.

(6) I served as a Delegate of the Los Angeles County Bar Association to the State Bar Conference of Delegates for the years 1972, 1973, 1974, and 1975, and as an Alternate Delegate for the years 1970 and 1971.

(7) I was President of the Los Angeles Chapter of the Federal Bar Association for the year 1972-73; First Vice President for the year 1971-72; Second Vice President for the year 1970-71 and Treasurer for the year 1969-70.

(8) During the year 1973-74 I was a Chapter Liaison member of the National Membership Committee of the Federal Bar Association.

(9) During 1975 I was a Delegate of the Los Angeles Chapter to the National Convention of the Federal Bar Association held at Atlanta, Georgia from September 9, 1975 to September 13, 1975.

11. Date of appointment as Bankruptcy Judge: November 1, 1976. Reappointed on: August 27, 1986.

#### 12. Published opinions:

Set forth below are published opinions I have written.

(1) In Re Gertz, 1 B.R. 183 (Bkrctcy. C.D. Calif. 1979).

(2) In Re Bonant, 1 B.R. 335 (Bkrctcy. C.D. Calif. 1979).

(3) In Re Supergrate Open Steel Flooring Co., 1 B.R. 650 (Bkrctcy. C.D. Calif. 1979).

(4) In Re Casselli, 4 B.R. 531 (Bkrctcy. C.D. Calif. 1980).

(5) In Re Co Petro Marketing Group, Inc., 6 B.R. 119 (Bkrctcy. C.D. Calif. 1980); reversed, In Re Co Petro Marketing Group, Inc., 11 B.R. 546 (Bkrctcy. App. 9th Cir. 1981), reversed in part, 680 F.2d 566 (9th Cir. 1982).

(6) In Re Oak Glen R-Vee, 8 B.R. 213 (Bkrctcy. C.D. Calif. 1981).

(7) In Re Polivnick, 8 B.R. 621 (Bkrctcy. C.D. Calif. 1981).

(8) In Re Fritchard, 8 B.R. 688 (Bkrctcy. C.D. Calif. 1981).

(9) In Re Stewart, 10 B.R. 214 (Bkrctcy. C.D. Calif. 1981).

(10) In Re Trotter, 12 B.R. 72 (Bkrctcy. C.D. Calif. 1981).

(11) In Re Falck, 12 B.R. 835 (Bkrctcy. C.D. Calif. 1981).

(12) In Re Jordan, 13 B.R. 401 (Bkrctcy. C.D. Calif. 1981).

(13) In Re Tropicana Graphics, Inc., 24 B.R. 381 (Bkrctcy. C.D. Calif. 1982).

(14) In Re Halub, 25 B.R. 617 (Bkrctcy. C.D. Calif. 1982).

(15) In Re Ericson, 26 B.R. 973 (Bkrctcy. C.D. Calif. 1983).

13. Current membership in bar associations, fraternities, & civic organizations:

Los Angeles County Bar Association.

John M. Langston Bar Association.

Federal Bar Association.

American Judicature Society.

Judicial Council of the National Bar Association.

Judicial Section of the California Association of Black Lawyers.

National Conference of Bankruptcy Judges (former Treasurer).

Bankruptcy Study Group (member Board of Directors) (Now L.A. Bankruptcy Forum).

NAACP.

American Legion.

Alpha Phi Alpha Fraternity.

Town Hall.

14. Marital status: Married.

15. Maiden Name of spouse: La Curtis Ruth Walls.

16. Name of son: Jerold Richard Dooley.

17. Hobbies: Music, photography, horticulture.

## CHINESE CHAGRIN

## HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, the United States of America last week celebrated more than 2 centuries of liberty. On the other side of the globe, imprisonment, torture, and executions continue in China unabated. There is no liberty to celebrate in China; and, while the solutions to China's political problems ultimately lie with the Chinese people, the responsibility for human rights is universal.

The Dalai Lama of Tibet has said, "We are living in a very interdependent world. One nation's problems can no longer be solved by itself. Without a sense of universal responsibility, our very survival is in danger." Today, as the House of Representatives considers legislation regarding China's MFN trade status, I urge my colleagues to accept this universal responsibility to champion human rights on every front by supporting House Joint Resolution 263 and H.R. 2212.

I am proud to be a cosponsor of both of these bills, which, together, send an important and necessary message to Beijing that the civilized world condemns their persecution of political prisoners; that the civilized world abhors their persecution of religious orders; that the civilized world rejects China's occupation of Tibet and the oppression of Tibetan people; and, finally, that the civilized world remembers the terror and bloodshed at Tiananmen Square 2 years ago.

More than 1,000 prodemocracy civilians were killed by government troops in the early days of June, 1989. Some were shot in the back. Others were crushed beneath military tanks. Several hundred were secretly executed later for their participation in the June demonstrations. Since the massacre at Tiananmen Square, President Bush's diplomatic overtures toward China have done nothing to ease Beijing's repressive hand. More than 200 people have been sentenced to death for prodemocracy demonstrations, and during the first 2 months of this year alone, Amnesty International has documented at least 120 executions in China. The political and religious prisoners on China's death row can wait no longer for Bush's diplomatic overtures to chip away at China's oppressive, hardline policies.

The legislation on the floor today makes clear that basic human rights preempt trade interests. Another bill which I am proud to cosponsor, H.R. 2743, further asserts the prevailing importance of human rights by penalizing importers of goods made in a foreign country with the use of forced labor. Forced labor is a central feature of China's judicial system—a feature I find abhorrent.

Opponents of H.R. 2743 and of the legislation on the floor today claim that a trade relationship with China is important to American business and to our economy. The numbers speak otherwise: in 1990, the United States spent \$15.2 billion on goods made in China, while the Chinese bought only \$4.8 billion in American products.

So, the question today is not fundamentally about economics, but about vital, universal principles of liberty and human rights. I ask each of my colleagues in the House to join me in this call for democratic reform and respect for human rights in China, by overwhelmingly approving the legislation before us.

## ARIZONA'S TRUE NATURE

## HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KOLBE. I would like to bring to the attention of Members two of the world's best private nature sanctuaries: The Ramsey Canyon Preserve and the Muleshoe Ranch Preserve.

Located in southern Arizona, and managed by the Nature Conservancy, these preserves embody nature in its purest form. The Preserves are home to hundreds of birds of all stripes and colors, rare and endangered wildlife, and offer ecosystems of unmatched quality. Characterized by contrasts of rugged Sonoran desert juxtaposed with green riparian corridors, these preserves truly are spectacular.

Visitation is controlled, but if you are fortunate enough to secure reservations, you will find a wonderland of hiking, star-gazing and birdwatching. Cabins come equipped with modern conveniences and are inexpensive and free from the disruption often found at some of the more burdened parks and forests.

Thanks to the great work and vision of The Nature Conservancy, nature is protected here in its most pristine condition for future generations of flora, fauna, and man. These preserves serve as an example of how to preserve the natural world for the benefit of all, most importantly for those whose existence depends on it.

I commend to my colleagues an article detailing the virtues and spectacle of the Ramsey Canyon Preserve and the Muleshoe Ranch Preserve. The article appeared in the New York Times on May 19, 1991, and is titled: "Arizona's True Nature."

[From the New York Times, May 19, 1991]

## ARIZONA'S TRUE NATURE

(By Bruce Selcraig)

On vacations I'm usually a decent fellow. But when I go car camping with my wife at state and national parks, I find myself tempted to pummel the I.Q.-less campers who think all Mother Nature lacks is a good cow-sized stereo boom box. So this spring, to avert an ugly scene of vigilantism—"Camper Strangled With Own Cassette Tape!"—we sought refuge at two Arizona preserves managed by the Nature Conservancy.

Peace at last. We spent a restful, enlightening week watching rare hummingbirds, hiking in deep green box canyons and gorgeous desert highlands and learning about habitat protection, sometimes within 10 minutes of suburban fast-food sprawl, yet not once did we hear a television, radio, phone, car alarm or whining tourist. We didn't see any litter, not one stray aluminum can at either site. There were no rude guests, no rude waiters (your cabin has a kitchen), smoking is virtually banned, the staff is friendly and intelligent and it all cost slightly more than

staying at a chain motel. If this is ecotourism, sign me up.

The Nature Conservancy, now 40 years old with 550,000 members, has protected more than 5.3 million acres of land and manages some 1,600 preserves in the United States, the largest private nature sanctuary in the world. Its mission has been "to find, protect and maintain the best examples of communities, ecosystems and endangered species in the natural world," which often means keeping out people. But with little fanfare the Conservancy allows day visits at many of its preserves and overnight camping or lodging at a select few in Montana, California and Arizona. Two of the best for extended stays, and bird watching, are in southeast Arizona, where green "mountain islands" jutting out of the rugged Sonoran desert create a wild-life habitat that has drawn naturalists for decades.

The Ramsey Canyon Preserve, 87 miles southeast of Tucson and 10 miles south of Sierra Vista, is a cool 300-acre sanctuary in the Huachuca Mountains bounded on three sides by the Coronado National Forest. The moist environment provided by swift year-round Ramsey Creek and an elevation of 5,500 to 6,300 feet at its lowest and highest points attracts a renowned collection of about 200 bird species, including some 14 species of hummingbirds that come to Ramsey Canyon from Mexico between April and October. (Hummers sighted this spring include the Blue-throated, Magnificent Black-chinned, Broad-tailed, Rufous, Anna's, White-eared and Broad-billed.) Thirty thousand people visit Ramsey annually—they came from all 50 states and 24 foreign countries in the first half of 1989—yet there are only 6 overnight cabins and 13 parking spots for day visitors, so it never seems crowded, even on the hiking trails. The downside, of course, is that you have to make overnight reservations about a year in advance for peak birder months (April, May, August) and popular weekends (fall, holidays, etc.), but other months and weekdays are much easier. Also, if you can't stay at the preserve, there is a bed and breakfast next door, the Ramsey Canyon Inn (602) 378-3010, and many motels in Sierra Vista.

It is that need to manage people and nature that makes the job of the husband-and-wife preserve managers Tom Wood and Sheri Williamson so, uh—Mr. Wood searches for a neutral word—"challenging," he says smiling. "When someone's hot water heater goes out in their cabin at 2 in the morning," says Mr. Wood, who has lived at Ramsey for over two years, "I don't feel much like a biologist. Our mandate is clear—to protect species. When we can accommodate the public that's just icing on the cake. But our mandate is not to try and please everyone." That means no playing in the creek, hiking off the trails or picnicking—nothing to disrupt the plant and animal life—yet Conservancy guests welcome such rules. "They are our best policemen," Mr. Wood says.

"I get a particular satisfaction out of seeing older adults who don't know a thing about this place leave with a sense of enlightenment," says Ms. Williamson a biologist who, like her husband, is a Texan. "One day a woman came from Houston with high heels, pedal pushers and large hair," she recalls. "She didn't care much for birds, but she looked through the telescope we have set up in the parking lot and saw a baby golden eagle take its first flight. Well, I thought we were gonna have to bury her right there she was so ecstatic. That's what makes this job worthwhile."

That and, of course, the hummers. Consider this: Hummingbirds, of which there are 338 species, weigh only 2½ to 8 grams (a penny weighs three grams), yet some can thrive at 15,000 feet in the Andes or migrate from central Mexico to southern Alaska. At rest their hearts beat 500 times a minute. Humming like distant Volkswagens they zoom through Ramsey Canyon in bursts of blues and reds and greens, hovering above the sugar-and-water feeders in the parking lot, where birders sit throughout the day in quiet fascination (Nonbirders, take binoculars.) Experienced birders like Mr. Wood and Ms. Williamson, without binoculars, can identify some by their distinctive humming and mannerisms.

If hummers don't flutter your wings, maybe the box canyon will. Throughout the week Mr. Wood or Ms. Williamson will take a few hikers leisurely crisscrossing Ramsey Creek until the base of the canyon walls, which rise 100 feet, converge within inches of your outstretched fingertips. Along the way you'll see an abandoned cabin where Sanborn long-nosed and Mexican long-tongued bats bivouac, and learn that without their agave-pollinating skills we would not have tequila. (Ask Wood to do his pygmy owl calls.) There is an old mossy pond where frog specialists have identified a croaker as yet unknown to the rest of the world. Along the banks are dozens of apple trees planted by settlers in the 1800's, grand 250-year-old sycamores, Douglas firs towering over desert yuccas, manzanita, willows, big-tooth maples, eight varieties of oaks, walnut, a half dozen kinds of orchids and the endangered native lemon lily. Only a lucky few spot the coatimundi, mountain lion, javelina and ridge-nosed rattlesnake that also reside nearby.

"A lot of the lure here," Mr. Wood explains, "is due to artificial political boundaries. This abundance of animal life occurs frequently in Mexico"—less than 10 miles south—"but rarely in the United States." This is where Mr. Wood echoes the Conservancy theme of preserving diversity. He explains that we simply do not know how everything works in the natural world, who depends on what for survival, how all the intricate and outwardly insignificant pieces fit. "So we observe the first rule of the tinkerer," her says, paraphrasing the pioneering conservationist Aldo Leopold, "which is to save all the pieces."

There are two easy, self-guided hiking trails a short distance from the cabins, and almost 70 miles of tougher hikes nearby that run the ridge of the Huachuacas. Ramsey Preserve also has a fine bookstore, which helps the place turn a profit.

About the cabins: They were built in the 1940's and 1950's as part of the 20-acre Mile Hi Ranch resort, which the Conservancy later bought. They're charmers at \$60 a night, double occupancy. Ours had a king-size bed, an old Coldspot refrigerator, an organic composting toilet, a book-shelf with "The Unpublished Journals of John Muir" and a kitchen furnished with everything from a coffee maker to cookie sheets (some have microwaves). All six cabins are steps away from rushing Ramsey Creek, and each has its own hummingbird feeder. The cabins evoke such loyalty that many of the guests return to the same place year after year, leaving behind homemade artwork, utensils or frilly curtains.

About 110 miles north of Ramsey Canyon and east of Tucson, 28 miles down gravel ranch roads cut through high desert, is the Muleshoe Ranch Preserve, an historic and fabulous spread that contrasts greatly with

Ramsey. Ramsey has 300 acres, 30,000 visitors a year, a cool moist climate and is jogging distance from town; Muleshoe has 55,000 acres of mostly desert grassland, 500 visitors a year and is so remote there are no known words here for pizza delivery.

Muleshoe feels like a Mexican afternoon. When the air is so still and so dry and the sky like turquoise it makes you forget where you work. You can hike for miles through wondrous land, maybe even see a luscious pink-and-black Gila monster, as we did on our first hike, but you might find yourself just reading, gazing, napping. I spent much of one night in the small courtyard outside our casita soaking up stars that could pass for overhead track lighting. The night was so silent the thought of television felt like nails down a chalkboard. You are reminded here of the restorative powers of genuine peace and quiet.

Once part of the enormous holdings of the cattle baron Henry Clay Hooker and a frontier version of a European health spa that attracted hundreds of Easterners to its hot springs in the 1890's, the Muleshoe Ranch is now jointly managed by the Nature Conservancy, the Forest Service and the Bureau of Land Management. (The Conservancy actually owns only 6,600 acres.) In 1982 the Conservancy spent \$1.6 million for the land which features most of the watershed area for seven perennial or permanently flowing streams that contain five endangered native fish species. There are also some 200 varieties of birds, mountain lions, black hawks, javelinas, bear, deer, salamanders and frogs. The hawks perch in the cottonwoods along the streams, while golden eagles and peregrine falcons eye the bighorn sheep grazing on the rimrock 2,500 feet above. The Muleshoe's 90 square miles take in parts of four lovely canyons, some of which had pre-Columbian Indian activity, and contain plant communities as diverse as desert scrub and Ponderosa pines. The elevation is 3,300 to 7,660 feet, so, as with Ramsey, warm clothing is needed for early mornings and late evenings, even in summer months.

For hikers, there are three developed trails, including an interesting nature loop, and six longer underdeveloped ones. You may be by yourself. Know where you're going, take water and tell the staff which trail you've taken. In October and April they offer four-daylong pack trips by horse that the staff says are geared to both the novice and experienced rider; included in the \$395 price are all meals, horses tents and guides. When you're done, and walking funny, take advantage of the Muleshoe's hot tub, a metal stock tank filled by the 115-degree hot springs that lured so many tourists here a century ago.

#### STATUS REPORT ON THE INTERNATIONAL FUND FOR IRELAND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HAMILTON. Mr. Speaker, I would like to draw to the attention of my colleagues the attached report by the Department of State on the activities of the International Fund for Northern Ireland and Ireland [IFI]. The United States continues to be a major contributor to IFI. The Foreign Assistance authorization bill passed by the House on June 20, 1991, authorizes another \$20 million in U.S. Economic

Support Fund assistance for the IFI in each fiscal year 1992 and 1993. The IFI continues to be an important tangible demonstration of the support of the American people for the political and economic objectives of the 1985 Anglo-Irish agreement and its goals of reconciliation and economic integration in Northern Ireland.

The report follows:

U.S. DEPARTMENT OF STATE,  
Washington, DC, July 2, 1991.

HON. LEE A. HAMILTON,  
House of Representatives.

DEAR MR. HAMILTON: Knowing of your interest in the International Fund for Ireland, I thought you might be interested in some recent activities of the Fund. These comments are largely based on reports from officers of our Consulate General in Belfast, who have devoted a great deal of attention to the Fund.

They report that the Fund has been getting good press in Northern Ireland lately, with a number of project openings and announcements enhancing its image. In the past months several new projects in all six counties of Northern Ireland and in everything from rural development to urban regeneration have been announced. Consulate officers participated in inaugural ceremonies for various projects and visited others. They received repeated strong public thanks from officials and participants for the U.S. contribution.

#### URBAN DEVELOPMENT

The Fund has recently announced that 41 new projects in Northern Ireland will be offered grants totaling 1.7 million pounds sterling under its Urban Development Plan. These grants are expected to attract additional private investment of 5.5 million pounds, and will create 450 new permanent jobs, as well as temporary construction jobs. Competition for the grants was stiff, with over 400 applications received. The program is designed to aid economic and social regeneration of urban areas with a focus on stimulating private investment. Many of the approved projects, which are spread evenly throughout the Province, will bring vacant buildings into productive use, renewing the physical fabric of run-down areas, and bolstering civic pride.

#### RURAL DEVELOPMENT

On April 4, the IFI announced that it would be spending 572,000 pounds in addition to funds already spent on a rural action project which will encourage diversification by small or part-time farmers in the most deprived areas of South Armagh and West Fermanagh. Under the project, 60 farmers are engaging in a diverse range of enterprises with commercial potential, such as strawberry and mushroom culture. The project will also fund R&D work on crops and markets.

The Consul General has visited the mushroom project, which struck him as an excellent method of supplementing incomes of marginal farmers. The project appears innovative and has a connection with a producer of mushroom spore in the Pittsburgh area. Managers of similar projects tell us that by introducing new crops and new technology to small farmers, they hope to keep more young people on the farms and stop the waves of emigration from Rural areas.

#### CARRICKMORE

The International Fund, in partnership with the Department of Environment (DOE), launched a 1.9 million pound program for the County Tyrone town of Carrickmore, April

10th. The money will be spent over the next two years on the economic regeneration of the town center. The package will include a multi-purpose Community Resource Center with 18,000 square feet of workspace. Speakers at the opening ceremony for the project thanked the U.S. for its contribution.

Carrickmore is typical the Province's smaller disadvantaged towns. It has very high unemployment levels and is a Provo stronghold, as the graffiti on its walls testify. The commercial premises are run-down and, as a divided community, it has had rather more than its share of inter-communal violence. Indeed, the Carrickmore ceremony had been scheduled for an earlier date but was postponed because of the sectarian murder of a man in a village nearby.

Consulate officers have had a good bit of contact with Carrickmore, although it won't appear on anyone's tourism map for some time, and the Consul General participated in the opening ceremony. On an earlier visit, he had been struck by the high quality of the board of the Development Group, most of whom are local businessmen. The Board also drew much praise at the ceremony. Given the community rifts brought on by the "troubles," just bringing a cross-community group together is a difficult feat. Several residents told the Consul General that the IFI-backed project has helped engender a new spirit of optimism in Carrickmore. We share with Fund Chairman John B. McGuckian the sense that the Carrickmores are just where the Fund should be operating.

#### KEADY AND DARKLEY

The Consul General participated with the Northern Ireland Minister for the Environment, Richard Needham, Mr. McGuckian, and Seamus Mallon, the Member of Parliament for the area, in the opening ceremonies for two IFI Projects in the particularly disadvantaged towns of Keady and Darkley, South Armagh. This major regeneration project, costing 1.5 million pounds, is the first project of IFI's Community Regeneration and Improvement Special Program (CRISP) to be announced for the troubled South Armagh area. The money will go toward construction of a business center and the refurbishment of a derelict mill in Keady Town Center. The local District Council is adding 30,000 pounds to open a Heritage Center based on the town's historic linen industry. All of the speakers went out of their way to stress the importance of the U.S. contribution to the Fund, and to offer their sincere thanks for the U.S. interest in Northern Ireland affairs.

#### DUNGANNON

The Consul General and Vice Consul visited a newly opened enterprise center in Dungannon on May 13. Local politicians joined them for a tour of the premises, which contains 34 small businesses. The project, which cost one million pounds, was co-funded by the IFI, the Dungannon District Council, and the Local Enterprise Development Unit (LEDU). Local Councillors made frequent reference to the importance of the center for the town, which has been hard hit by violence, and all thanked the U.S. for its contribution.

#### WEST AND NORTH BELFAST

The Vice Consul also paid repeat visits to two West and North Belfast enterprise centers to check on progress. The Ashton Development Center, located in the troubled New Lodge area, will open its new IFI-Funded Enterprise and Retail Center in July. This center is notable for the level of community support it received. Most of the 5,000 resi-

dents of the area, which suffers from 70 to 80 percent male head-of-household unemployment, chipped in 10 pounds for the construction. Managers tell us that since the construction there have been no incidents of vandalism or paramilitary graffiti although the center is only twenty yards from the spot where teenager Seamus Duffy was killed by a plastic bullet during the disturbance two years ago. The manager added that this year there was decidedly less violence, which he attributed in part to the center's existence. Again, the U.S. dimension was noted, and the management has requested that an American official formally open the center in August.

Farsset Enterprise Center, located directly on the "Peace Line," which divides the Protestant Shankill from the Catholic Falls areas, was officially opened by Ambassador Catto in June last year. Since then, the center has increased its occupancy and maintained its 50-50 split between entrepreneurs from each community. Managers have encouraged cross-community groups to visit the center and note that they have experienced almost no crime or vandalism since the center has been in operation.

Our contracts with International Fund activities have led us to conclude that the Fund has succeeded in changing its image from the early days when it was accused of making the rich richer. By showing that it will go where some fear to tread, and by making a commitment to troubled areas with high unemployment, the Fund has attracted praise from all corners of Northern Ireland. So popular is the Fund that even some stronghold Unionists, once adamantly against the IFI for its links to the Anglo-Irish Agreement, have been aggressively pursuing grants for projects in their areas.

I hope that these observations and conclusions have proved useful to you. If you have further questions, we will do our best to reply.

Sincerely,

JANET G. MULLINS,  
Assistant Secretary,  
Legislative Affairs.

#### TRIBUTE TO BYRON PRESLEY BOYD, SR.

#### HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime, dear friend of mine, Byron Presley Boyd, Sr., of Sedalia, KY, who died March 3, 1991, at Community Hospital in Mayfield, KY, at age 92.

For 33½ years Byron Boyd was the efficient, successful and friendly postmaster at Sedalia, KY. He retired from that position in 1968.

Byron Boyd's service to his community extended well beyond his work with the U.S. Postal Service. He was an active member of the Sedalia Baptist Church where he served on the church's board of deacons. He also was a member of the board of trustees of the Mid-Continent Baptist Bible College, which is located in my hometown of Mayfield, KY.

He is survived by his lovely wife, Orna Lassiter Boyd of Mayfield; his son, Byron Boyd, Jr., of Cadiz, KY; a daughter, Carolyn Herndon of Greenville, AL; seven grandchildren; and seven great-grandchildren.

I was very fond of and admired Byron Boyd, Sr., and I miss him.

My wife, Carol, joins me in extending our sincere sympathy to the family of Byron Boyd, Sr.

#### RESTORING FUNDING FOR RURAL ELECTRIFICATION

#### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GEKAS. Mr. Speaker, I rise today to praise the continued work of the Rural Electrification Administration. The REA has historically played a prominent role in assisting rural electric cooperatives throughout Pennsylvania in providing affordable electric services to rural families and businesses.

I am gratified that the Appropriations Committee recently decided to restore funding for REA loans in the fiscal year 1992 Agriculture appropriations bill. During last year's budget maneuvers REA loans were cut by 25 percent. Many rural areas of my district in Pennsylvania rely both directly and indirectly upon insured loans to the REA for reliable and competitively priced electricity. The restoration of the 25-percent cut in funding for REA loans will help to alleviate an almost 2-year backlog in loan applications.

I am pleased by such policy developments which aid my rural constituents. However, I felt that the fiscal year 1992 Agriculture appropriations bill, H.R. 2698, included far too many frivolous expenditures. As our Nation struggles to solve our present budget shortfalls Congress must make fiscally responsible legislation its top priority. With this consideration as my guide I voted against final passage of H.R. 2698. Though I support many of the provisions contained within the Agriculture appropriations bill, such as REA, I though the overall bill lacked the degree of fiscal responsibility our present budget situation demands. I look forward to supporting a conference report for the fiscal year 1992 Agriculture appropriations bill that more accurately reflects the budget realities we now face.

H.R. 917

#### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GAYDOS. Mr. Speaker, H.R. 917, the Social Security Notch Adjustment Act of 1991 would end the monthly payment inequity created by the Social Security Amendments of 1977.

H.R. 917 targets relief to those retirees most adversely affected—namely those born between 1917 and 1921 who work after the age of 61 and those born between 1919 and 1923 whose benefits are lowest—the so-called notch babies.

Some people may tell you that eliminating the payment injustice which affects the more than 12 million notch babies would be too costly. Don't believe them.

H.R. 917 preserves the financial health of the Social Security System by limiting additional benefit costs to a maximum of 4.7 billion dollars during the mid-1990's and declining after that. In fact, even with passage of this bill, the total trust fund reserves will grow by almost one trillion dollars during the decade of the 1990's

We have fought unsuccessfully for more than 10 years to reduce this inequity, and we will succeed eventually.

Let's give this issue the attention it deserves and provide the relief these retirees desperately need.

I urge all of my colleagues to support bringing this issue to the floor and, once on the floor, I urge all of my colleagues to support H.R. 917.

**REV. MAX SALVADOR IS DESIGNATED AN HONORARY CANON OF TRINITY CATHEDRAL**

**HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring the good works of Rev. Max Salvador of South Florida to the attention of my colleagues. Reverend Salvador has been designated an honorary canon of Trinity Cathedral by Bishop Schofield of the Episcopal Diocese of Southeast Florida.

Reverend Salvador received the designation of honorary canon on June 9 along with three other outstanding priests. These new dignitaries of the Episcopal Church reflect the ethnic diversity of South Florida because they come from differing cultural backgrounds.

Reverend Salvador fled Cuba in July of 1961 and founded the "Iglesia Episcopal de Todos Los Santos," where he continues today as its rector. The founding of this church was the beginning of the Hispanic ministry which today serves a very diverse community.

The "Iglesia Episcopal de Todos Los Santos" is celebrating Reverend Salvador's designation as an honorary canon at a banquet in his honor on Sunday, July 14.

Reverend Salvador received the designation of honorary canon for his commitment to our Miami community. He is committed to helping not only the members of his church but the entire South Florida community. Bishop Schofield commended Reverend Salvador for being "able to be in places where the Episcopal Church needs to be."

Bishop Schofield also said that Reverend Salvador is an example of what good can be done when we use the gifts we are given. I concur in that sentiment and feel we need to encourage all those to give of themselves for the betterment of our community.

**INTRODUCING THE NATIONAL ALTERNATIVE FUELS AND MOTOR VEHICLES ACT OF 1991**

**HON. JAMES H. SCHEUER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. SCHEUER. Mr. Speaker, today, I am introducing the National Alternative Fuels and Motor Vehicles Act of 1991, a bill to encourage the use of alternative fuels including natural gas in the Nation's motor vehicles.

The need for this bill is clear. The Nation's energy security and air quality are seriously affected by the use of petroleum in the transportation sector.

To highlight the importance of addressing this problem we need only remember that our transportation sector is almost completely dependent on petroleum. Further, by 1989 petroleum consumption in the transportation sector alone exceeded domestic production of oil by 33 percent. The recent war with Iraq underscores our vulnerability and the tremendous cost to the Nation for its sole reliance on petroleum.

From an environmental standpoint, our reliance on petroleum has resulted in severe urban pollution. The Congressional Office of Technology Assessment estimates that about 100 cities, housing half of the American population, do not meet the national standards for ozone—a pollutant that damages lungs and respiratory function.

Even though great progress has been made in reducing individual energy and motor vehicle emissions—up to 60–80 percent depending on the pollutant—compared to emissions from vehicles built in the 1960's, cars and trucks still account for almost half of the emissions that are instrumental in forming ozone. The expected future growth in the number of vehicles and vehicle miles driven forge our resolve to act.

The bill I am introducing today offers the potential of addressing energy security and mitigating urban air pollution. The bill encompasses a comprehensive program. It provides Federal funding for cost-shared research and development, demonstration, and commercialization initiatives, education and training, and infrastructure development at the State and local level. It also sets forth requirements for acquisition of alternative fuel vehicles by fleets on an annual basis for the years 1995–2000.

This bill is broad-reaching in its coverage and will augment many of the commendable initiatives already underway by States, localities and the private sector. The bill forms a Federal partnership and focused framework of leadership for collaboration with innovative entities to expedite adoption of alternative fuels. This broad interaction is the only way to continue the momentum needed to assure a responsible national energy strategy.

A summary of the bill follows. I urge my colleagues to support the bill.

**SUMMARY OF THE NATIONAL ALTERNATIVE FUELS AND MOTOR VEHICLES ACT OF 1991**

**TITLE I—ALTERNATIVE TRANSPORTATION FUELS**

Sec. 101.—Establishes a Mass Transit Program that authorizes the Secretary of En-

ergy in consultation with the Administrator of the Urban Mass Transportation Administration to enter into cost-sharing cooperative agreements and joint ventures with municipal, county or regional transit authorities to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit.

Sec. 102.—Directs the Secretary of Energy in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation to provide financial assistance to encourage use of natural gas and other alternative fuels for public and private fleets. Priority is given to fleets where the use of alternative fuels will have a significant effect on the ability of an air quality region to comply with ambient air quality regulations.

Sec. 103.—Directs the Secretary of Labor to establish a training and certification program for technicians conducting conversion of vehicles to alternative fuel vehicles.

Sec. 104.—Directs the Secretary of Energy to carry out a cost-sharing program of research, development, and demonstration with public and private entities to improve natural gas and other alternative fuel vehicle technology.

Sec. 105.—Establishes Federal programs to promote vehicular natural gas use and directs the Secretary of Energy to institute an educational program on alternative fuels, identify and report to Congress on barriers to Federal Government purchase of alternative fuel vehicles, and report to Congress on how to promote the use of alternative fuel vehicles within the context of Federal, State, and local traffic control measures.

Sec. 106.—Addresses the regulation of the sale of alternative fuels including a provision that clarifies that the owning or operating of facilities used for the retail distribution of vehicular natural gas does not in and of itself result in a company being regulated under the Public Utility Holding Company Act of 1935.

Sec. 107.—Clarifies State regulation of the sale of alternative fuels by sellers of transportation fuels.

Sec. 108.—Provides that the Secretary of Energy may assist State governments in establishing an office of alternative fuels and alternative fuel programs on the condition that States cost-share at least 50 percent of the cost.

**TITLE II—ALTERNATIVE FUEL FLEET REQUIREMENTS**

This title sets requirements for acquisition of alternative fuel vehicles by covered fleets on an annual basis for the year 1995–2000. The percentage of alternative fuel vehicles to be acquired are 10 percent in 1995, 15 percent in 1996, 25 percent in 1997, 50 percent in 1998, 75 percent in 1999, and 90 percent in the year 2000 and after. Certain large truck and bus fleets are exempted from meeting these requirements. Title II also provides exceptions based on availability of vehicles and fuel.

**TRIBUTE TO WIN CURRIER**

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Mr. Winston Currier of Alameda County in recognition of his long and distinguished career as a journalist, as well as his many other contributions to his community.

Win Currier was born in the city of Alameda in 1927. He graduated from Alameda High in 1943 and received his M.A. degree from the University of California in 1948. His journalistic career began while he was a sophomore in high school where he covered local events and became interim sports editor during World War II.

In 1950, Mr. Currier moved to San Leandro to rejoin his former publisher, Abe Kaufman, who had sold the Alameda Times-Star and purchased the San Leandro Morning News. In 1965, Mr. Currier was named as managing editor of that paper and also served as sports editor until the paper closed in 1972. At that time he returned to the Alameda Times-Star.

During his lengthy sportswriting career, Mr. Currier has covered three Superbowls, three World Series, one All Star game, and one Heavy Weight Championship. He has written for national sports magazines and contributed an article for a book on the history of the Oakland Raiders.

In 1943 Mr. Currier served as a public address announcer for the Oakland Oaks, a minor league baseball team in the Pacific Coast League. He was also an announcer for many years at Washington, Lincoln, and Thrasher Park in San Leandro.

Currently, Mr. Currier writes a column every Monday and covers softball, basketball, Alameda City tennis, swimming, and the Elks Hoop Shoot 6 or 7 days a week. A recipient of many awards, he was named San Leandro's Outstanding Young Man of the Year in 1952. More recently, he has been honored by the San Leandro Chamber of Commerce, the San Leandro Lions, the San Leandro Boys Club, and has been given the key to the city of San Leandro.

Married to his wife Martha for 43 years, he is the father of two daughters Debra and Candice. He has contributed a great deal to his community over the years, and they are the better off for it.

#### ROSENWALD SCHOOL REUNION

##### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ALEXANDER. Mr. Speaker, during the July 4th holiday period, I was honored to be a speaker at the Rosenwald School Reunion in my hometown of Osceola, AR.

The school, which was founded in 1925, is one of those built around the country through the philanthropy of Julius Rosenwald.

Julius Rosenwald was a Chicago businessman who contributed about \$66 million to improve living conditions and opportunities for Blacks in America.

The fund, which was established in 1917, built about 5,000 schools in rural areas of this country—including Rosenwald in Osceola.

Julius Rosenwald knew—and those who attended Rosenwald School knew—that education is the key to success and to improving ones standard of living.

Because of the abject poverty of the students, it wasn't always easy for the students of Rosenwald to get to class or to stay in school.

But, they did it because they knew that an education was their only way out of that poverty, and now have gone into all parts of the country to make their lives.

Those returning to Rosenwald show all the signs of success. They are living proof of the "American Dream"—that opportunity awaits our citizens who have the education and desire to succeed.

They came together over the 4th of July holiday to remember and to celebrate—not only to visit together and renew old acquaintances, but to recall what Rosenwald School stood for and what it gave to them.

They remembered their teachers as well as those who volunteered their time, effort and money to make the school better for its students.

They also remembered community leaders who served not only to improve Rosenwald School, but worked to ensure that job opportunities existed for them when they graduated.

One of those was the late William Albert Milton Graves Sr., who was a teacher, minister, and tireless worker in the effort to make life better by expanding economic opportunities.

The reunion was dedicated to Reverend Graves. His widow, Magdeline Smith Graves, taught at Rosenwald School.

Mr. Speaker, the event celebrated Rosenwald School, but it also celebrated the better life that education makes possible.

The history of Rosenwald School mirrors one of the greatest social changes in the history of our Nation.

It was born because of the lack of opportunity for Blacks to obtain a decent education and came to its end almost 20 years ago with the full integration of the public schools.

From 1925 to 1971, Rosenwald School stood as a beacon to those who wanted a better life, and it was so remembered by those attending the recent reunion.

I was certainly honored to take part in the celebration and congratulate those who organized it—including Linzell Miller, Albert Veasley, Jr., Mable Parker and Alfred McFarland.

Schools are more than brick and mortar. Schools are people, each with his own hopes and dreams of a brighter future.

Rosenwald was certainly such a school.

#### HONORING NIKOLA TESLA

##### HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to recognize Nikola Tesla, who contributed a great deal toward scientific development in the United States. Today members of the Tesla Memorial Society, Inc., celebrate the 135th anniversary of the birth of this outstanding scientist and inventor.

Nikola Tesla was born in 1856 in what is now known as Yugoslavia. He was educated at the University of Prague as an electrical engineer. His first job was in the Austrian Government Telegraph Engineering Department. He then moved on to Budapest and Paris

where he engaged in electrical engineering. In 1884, Tesla came to the United States, and for a short time worked for Thomas Edison. Eventually he was able to start his own business.

Tesla pioneered the use of alternating current, which now serves as every household's main source of electricity. His inventions include the induction motor, which has been incorporated into thousands of machines, arc and incandescent lamps, induction coils, transformers, condensers, and many other electrical devices.

Mr. Speaker, I am greatly honored to recognize, along with the Tesla Memorial Society, the birthday of this distinguished scientist. The great contributions of Nikola Tesla to our society must be recognized.

#### PAYING TRIBUTE TO DR. ROBERT LORD CURRY

##### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Dr. Robert Lord Curry, who retired on June 30 after serving for 19 years as the 140th pastor of Old St. George's United Methodist Church.

Dr. Curry has served as the steward of this historical shrine church, America's first church and the world's oldest Methodist church. He has become one of this Nation's leaders in landmark church preservation.

Dr. Curry has been instrumental in preserving many of Philadelphia's 13 historical churches and other significant religious sites. He has been involved in preserving many landmarks including the first religious publishing society to print the hymnal, the church with the first African-American pastor, and St. George's Church, where Mother's Day originated.

Dr. Curry has been an active leader of the community as well as a leader in church preservation. He has served as a member of the World Methodist Council, the historical groups of the United Methodist Church and of various other community groups. He has also become an expert on Francis Asbury, the founder of the Methodist Church and has lectured extensively on the subject.

I would like to thank Dr. Curry for all that he has done for Old St. George's Church, the city of Philadelphia, and our Nation's historical churches. I wish he and his wife, Jane, a healthy and happy retirement.

#### END THE NOTCH INJUSTICE

##### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KANJORSKI. Mr. Speaker, ending, once and for all, the injustice of the Social Security notch which wrongly reduces the benefits of those born between 1917 and 1921 is long overdue. Our seniors should not be forced to

choose between eating, paying the electric bill or having their prescriptions filled.

Since my election to Congress in 1985, I have pledged to fight for a solution to the notch problem. Not only am I convinced of the basic fairness of our cause, but there is no question that it is my duty as the representative of the people of Pennsylvania's 11th Congressional District.

I have received more than 11,000 letters from the senior citizens in my district on this issue alone. In my conversations with my constituents, and at every town meeting, I am asked why honest, hard working men and women, who happen to be born during the notch years, are being penalized by the system.

The Social Security notch is an inequality that calls into question the fairness of our Social Security system.

Correcting that inequity is necessary, affordable, and long overdue.

We have been waiting for a solution for far too long. However, we have now crossed a crucial threshold with more than a majority of Members of the House of Representatives having cosponsored H.R. 917, legislation which I am an original cosponsor, to eliminate the notch.

We must now build on the momentum of this key milestone to move us forward so that by the end of this Congress, we will have passed H.R. 917 and corrected this grave injustice.

We have an obligation to ease this terrible burden that was placed upon the shoulders of our seniors. We must end the notch to restore the full benefits for which these senior citizens have worked so very hard and to which they are so justly entitled.

#### THE COST OF SSC IS TOO HIGH

#### HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SLATTERY. Mr. Speaker, today the Senate is considering the Energy and Water appropriations bill.

The Senate bill contains \$534 million to fund the superconducting super collider project in Texas.

Put simply, the costs of the SSC are too high, and its benefits too uncertain, for the SSC to be a responsible recipient of America's limited research dollars.

Senator BUMPERS of Arkansas agrees and has offered an amendment to cut SSC funding.

I urge his colleagues in the Senate to approve his amendment.

Arguments against the SSC are made even stronger by the recent resignation of J. Fred Bucy, Chairman of the Texas National Research Laboratory Commission.

In his resignation statement, Bucy complained that no foreign contributions from Japan or other nations are likely.

It is no surprise that foreign governments are reluctant to support the project.

They can see that the SSC is a boondoggle, even if some here at home cannot.

Again, I urge my colleagues in the Senate to support the Bumpers amendment.

MS. LIREN MO

#### HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SCHEUER. Mr. Speaker, I wish to bring to my colleagues' attention a disturbing experience of a fellow New Yorker, a freelance journalist, on a recent visit to Chinese-occupied Tibet.

As she was about to return to Beijing from the city of Xian, Ms. Liren Mo was seized by Chinese authorities and accused of "interfering with China's internal affairs." Chinese officials detained and interrogated Ms. Mo for 24 hours, while her belongings were seized, damaged, and in some cases destroyed.

The next day, the Chinese expelled her from China. She is prohibited from returning for 3 years.

Mr. Speaker, this is an outrage. An American tourist, possessing all the proper visas, was discourteously harassed and unceremoniously expelled by a country that enjoys full diplomatic relations and most-favored trading status with the United States.

It appears the sum of Ms. Mo's unpardonable offenses were the regular tourist activities of meeting local people and taking photos. To the paranoid Chinese occupiers of Tibet, such behavior is considered incompatible with tourist status.

I ask: What do these martial autocrats have to hide? Ms. Mo was accompanied at all times by a tour guide, local guide, and driver.

Despite the constant presence of Ms. Mo's companions, authorities saw it fit to expose nine rolls of her film, confiscate 167 travel photographs, and retain audio tapes, a notebook, and personal articles such as an address book and souvenirs.

And according to recent reports in the Washington Post, Ms. Mo's experience is not unique.

Some of Ms. Mo's photographs were of the military parade celebrating the "40th anniversary of the peaceful liberation" of Tibet. Others were of Tibetans in the capital, Lhasa, hungry and poor, begging for food.

Obviously, the Chinese administrators of the "autonomous region of Tibet" are not as proud of their record as they would have the world believe. I urge us all to take note.

#### "IT'S TIME TO BRING JUSTICE TO CYPRUS"

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. STARK. Mr. Speaker, for 17 years, the island nation of Cyprus has lived under Turkish occupation. Kuwait was liberated in a matter of months, but hundreds of thousands of Cypriots continue to suffer under Ankara's yoke. Turkey is an important American ally

and has played a critical role in NATO over the years. Nevertheless, their human rights violations cannot be ignored.

I would like to include in the CONGRESSIONAL RECORD a statement of Anastastos Simonidis, the consul general of the consulate general of the Republic of Cyprus in San Francisco. It's time to implement the 24 resolutions passed by the United Nations on this matter. Justice has been delayed for far too long.

#### THE CYPRUS PROBLEM: BACKGROUND AND UPDATE

Cyprus, an island in the Eastern Mediterranean, gained its independence from Britain in 1960. Its population of 650,000 is composed of 82 percent Greeks and 18 percent Turks. Turkey invaded tiny Cyprus in 1974, using as a pretext the coup by the Greek junta against President Makarios, to implement its long-held military designs and occupied 40 percent of the republic.

Today, 200,000 Cypriots, that is more than 30 percent of all the population of Cyprus, are refugees in their own land; 1619 persons are missing and their whereabouts are still unknown. In order to change the demographics, 85,000 settlers were brought in from Turkey causing the indigenous Turkish Cypriot population in occupied Cyprus to become a minority. Turkey has been held accountable for many violations by the European Convention on Human Rights.

Unlike Kuwait, the Cyprus problem in its basic dimensions of aggression, invasion, continuing occupation, human rights violations and attempted secession, remains unresolved 17 years after the invasion and in spite of 24 United Nations resolutions. Resolution 3212, of 1974, was unanimously endorsed by the U.N. Security Council; it has therefore a legally binding force, yet it has never been implemented. The U.N. resolutions call for the respect of the independence, sovereignty and territorial integrity of the Republic of Cyprus, the withdrawal of the Turkish troops, the return of the refugees to their ancestral homes and the ascertainment of the fate of all the missing Cypriots, among whom some American citizens.

The use of American-supplied arms by Turkey in its invasion of Cyprus, was a violation of the 1961 Military Sales and Foreign Assistance Act. When Secretary Henry Kissinger refused to invoke the relevant law provisions, the U.S. Congress reacted and imposed a partial arms embargo; it was never effectively imposed and was lifted in 1978 following assurances that its lifting would result in Ankara's flexibility toward a just solution.

These assurances were never honored and in fact at Ankara's instigation, the Turkish Cypriot leader, Mr. Rauf Denktash, declared in 1983 the area of Cyprus under Turkish occupation "an independent state" recognized only by Turkey, of all countries of the World. The declaration was in violation of the 1960 Treaties signed by Turkey recognizing and guaranteeing the independence and territorial integrity of Cyprus; it was denounced by the U.S. Administration and both Houses of Congress. The U.N. Security Council called the attempted secession legally invalid and asked for its reversal (Resolution 441 and 550) in 1983 and 1984. Ankara defied the action by taking further aggressive steps including the declaration of the Turkish Lira as legal currency and the importation of more Turkish settlers in the occupied part of Cyprus.

The Cyprus government and the Greek Cypriot side have made serious concessions, in the many rounds of negotiations, in their

effort to bring about a solution; they have accepted Federation, similar to that of the USA government, as the form of their own government, with total demilitarization of the Republic. The basic prerequisites, as President Vassiliou has proposed, are the withdrawal of the Turkish occupation troops, the freedom of movement, settlement and property ownership anywhere in the republic with international guarantees for all its citizens. The reason for the lack of progress is the systematic effort of Ankara and the Turkish Cypriot leadership to legitimize the results of the invasion and the partition of the island.

The government of Cyprus and its people have shown the good will to solve the problem for the welfare of all Cypriots and the aim at the re-unification of the island. They fully support the efforts of the U.N. Secretary General and hope that the newly found respect for the U.N. resolutions will contribute to a settlement.

As has often been stated by Administration officials, finding a solution to the Cyprus problem would be in the best interests of the United States and would contribute to regional stability and international legal order. It would further strengthen NATO by improving the relations between Greece and Turkey.

Cyprus lent all of its support to Operation Desert Storm. Considering the similarities of the violations involved in the Kuwait and Cyprus invasions, Cyprus and its people look upon the United States to similarly bear the weight of its diplomacy upon Turkey and the Turkish Cypriot leadership for a solution based on the U.N. resolutions. In his address to Congress after the Gulf victory, President Bush spoke of the Rule of Law and "a new world order in which the principles of Justice and fair play protect the weak against the strong".

Cyprus demands the same standard!

The U.S. Congress which over the years has demonstrated its sympathy and support for the just cause of Cyprus, has an important role to play. It should exercise its leverage on Turkey to withdraw its occupation forces from Cyprus, thereby assisting towards a just settlement within the framework of the United Nations resolutions.

The time for an intensified effort to achieve this goal is now!

**SACRED HEART CHURCH'S 75TH ANNIVERSARY**

**HON. JOHN P. MURTHA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to recognize the Sacred Heart Church of Central City, PA, which will celebrate its 75th anniversary on July 14.

In so many of our small towns all across the Nation, churches serve as cornerstones of the community. Central City is no exception, and the Sacred Heart Church serves more than 200 families as a place to worship and a place for friends and relatives to gather.

The history of Central City's Sacred Heart Church goes back to 1914, when Father Ignatius Pilz established the parish. For 2 years, services were held in private homes, but in 1916, the church building itself was constructed. Today, Msgr. Ignatius Wadas, only

**EXTENSIONS OF REMARKS**

the second Pastor in the Church's history, leads Sacred Heart's congregation.

I'd like to offer my congratulations to the congregation at Sacred Heart Church on the 75th anniversary of the church. The strength of our small towns is in the character and values of the residents of these communities, and Sacred Heart serves Central City to promote and broaden these traditional values. I am certain that Sacred Heart will continue to prosper and grow, and I know we all wish the congregation well as they embark on their next 75 years.

**ACTRESS ELISABETH SHUE ADDRESSES STUDENT WINNERS OF "AN ARTISTIC DISCOVERY"**

**HON. TED WEISS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. WEISS. Mr. Speaker, the opening ceremonies of "An Artistic Discovery"—the Congressional High School art competition and exhibition—were particularly memorable this year. Certainly, the celebration of the competition's 10th anniversary contributed to the excitement. Also, nearly 250 Members of Congress participated this year by holding local high school art competitions in order to encourage the artistic talent of young people in their Districts.

One participant in the ceremonies, actress Elisabeth Shue, beautifully expressed the very essence of the exhibition—the impressiveness of the works and the passion and vision which they contain. She offered her encouragement for these young artists, praising the students' abilities and urging them to hold on to their artistic identity and their self-confidence.

Elisabeth herself embodies the idea that success within an artistic discipline can come even at a young age, provided that one has the talent and dedication. Elisabeth has both of these traits. She has starred in some of America's favorite movies, such as the current comedy hit "Soapdish" and films such as "The Karate Kid," "Back to the Future," "Adventures in Babysitting," and "Cocktail." She also has an impressive career on stage and is currently a senior at Harvard University.

Mr. Speaker, I am pleased to share Elisabeth's comments on the opening of "An Artistic Discovery" with my colleagues and ask that they be printed in the RECORD.

REMARKS BY ELISABETH SHUE AT OPENING OF CONGRESSIONAL HIGH SCHOOL ARTS EXHIBITION—JUNE 27, 1991

Thank you. It's an honor to be here today as your guest. I'd like to thank the Arts Caucus for having this wonderful event. I'm a little overwhelmed. I'm not used to speaking in front of so many people without a script.

Yesterday I spent a long time with all of your beautiful artwork. What an incredible achievement it is for you to have your work hanging here in our Nation's Capitol. It made me think about what I was doing when I was your age. In high school my greatest achievement was getting to class on time. So I have great respect for each one of you.

There was so much beauty and magic in your work. I was also struck by the obvious love and passion behind your paintings. You each had something important to say.

If there is one word of advice I could leave you with, it would be to keep your individual passion and voice alive no matter what you end up doing in your life.

It is fragile and needs to be nurtured and protected. You may come up against barriers of intense criticism or self-doubt. I hope you will keep the faith in your heart that what you have to say is important.

Our country needs you and people like you to inspire us with your vision and passion. Thank you for the inspiration you've given me.

**TRIBUTE TO BOY SCOUT TROOP 82**

**HON. RONALD K. MACHTLEY**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today and join Boy Scout Troop 82, from Portsmouth, RI, in celebrating their 25th anniversary of Scouting on July 13, 1991.

Troop 82 was chartered to St. Mary's Episcopal Church in 1966, and it has been dedicated to shaping the future of its Scouts ever since. From the outset Troop 82 has maintained a strong emphasis on outdoor activities. Troop 82 has participated in numerous national jamborees, high adventure camps, and many other camping experiences.

The troop and its members have earned many awards and honors for excellence, including 63 Scouts that earned the highest honor of Eagle Scout. Troop 82 has taken part in service projects that have benefited the wild rivers and parks of Rhode Island and its communities. In addition Troop 82 has done volunteer work for senior centers, health centers, schools, libraries, and churches.

Troop 82's accomplishments represent a dedicated effort from its Scouts and adult Scout leaders. Please join me in congratulating Troop 82 for 25 years of accomplishments. I extend my best wishes to Troop 82 for the future.

**CLARENCE THOMAS**

**HON. ROBERT H. MICHEL**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 10, 1991*

Mr. MICHEL. Mr. Speaker, in the weeks to come there will be much written and said about the nomination of Judge Clarence Thomas to be a Supreme Court Justice. But I doubt anyone will get to the heart of the matter better—or quicker—than writer Peggy Noonan in a recent Wall Street Journal article.

Miss Noonan captures the political and social aspects of the battle over Judge Thomas's nomination and analyzes the personal side of Judge Thomas's rise from poverty to his current status.

As the battle over the Thomas nomination grows, the air will be filled with slogans and slander. It is good to know someone has cut through all the rhetoric and set the issue before us as it should be.

At this point I wish to insert in the RECORD, "Clarence Thomas: To be Young, Gifted and

Black" by Peggy Noonan, in the Wall Street Journal, July 9, 1991:

CLARENCE THOMAS: TO BE YOUNG, GIFTED AND BLACK

(By Peggy Noonan)

Judge Clarence Thomas is about to become a lesson. This is rather a burden to put on any man or woman but it is inevitable in his case because he is young, gifted and black and now the center of one great row. His life's story is a moving one, with its beginnings not in the black bourgeoisie, as Thurgood Marshall's were, but in the hardluck South, his mother a maid, the grandparents who scrimped and saved to put him in school.

A question in which lesson his life best demonstrates. Some say that he is living proof that in America anything is possible, and that's true, and some note his rise to eminence demonstrates again the progress we have made as a nation in terms of race, and that's true too.

But the lesson that should not be lost is the transcendent one: Clarence Thomas made it in America because he was loved. His mother loved him. And when she could no longer care for him she gave him to her parents to bring up, and they loved him too. And they cared enough to scrape together the money every year to put him in a Catholic school where they hoped the nuns would teach and guide him and they did. He got love and love gave him pride and pride gave him confidence that he had a place at the table.

This is something we in the age of the-family-that-is-not-a-family forget: the raw power of love and how it is the one essential element in the creation of functioning and successful people, and how its absence twists the psyche and the heart. (The children of the mother on crack are not consigned to lives of uselessness and pain because AFDC payments are low; they are so consigned because crack has broken the maternal bond that brings with it caring and succor.) Lives like Judge Thomas's remind us of this simple truth.

It was once thought that to choose a conservative black for a high appointment put liberals in an uncomfortable position, but we will learn in the Thomas hearings that this is no longer so. Not that the hearings will be color blind, it's just that senators are going to use Mr. Thomas's race to prove things about themselves with it.

Senators of the left will use him to prove they are not minority-whipped. They will demonstrate through measured abuse that they are able to treat a black man as their equal. Their ferocity, they will think, is proof of their sophistication, a compliment: "Our party doesn't patronize minorities." This will be cloud cover for their real intention, which is to serve the interests of the interest groups—the pro-abortion lobby, the civil rights lobby, labor—that control their careers.

Some on the right will use Mr. Thomas's race to demonstrate again that ours is the party of true racial progress, that not a trace of racism clogs the conservative heart. Expect an especially spirited defense from Jesse Helms.

The left will be tough not only because Mr. Thomas represents ideological insult. Those on the left are unmoved by Mr. Thomas's climb from nothing to something because he didn't do it the right way—through them and with their programs. His triumph refutes their assumptions; his life declares that a good man of whatever color can rise in this

country without the active assistance of the state. This is a dangerous thing to assert in a highly politicized age.

And to make it worse, Judge Thomas didn't "make it on his own." He has been helped all his life by affirmative action, but the kind liberals do not see and cannot accept: the uncoerced, unforced affirmative action that Americans tend to take when someone at a disadvantage—race, physical disability—needs help.

When Mr. Thomas made his moving statement at Kennebunkport last week he thanked the people who had helped him along the way, including the nuns who taught him. (What a touching and old-fashioned thing to do. If Sandra Day O'Connor had thanked the nuns it would have been a skit on "Saturday Night Live" and an issue in her confirmation.) The nuns' affirmative action for Clarence Thomas was the only effective, meaningful kind: the kind we perform for individuals, not because it is state-mandated but because it is right, not because we love a race but because we care for people and love our country.

One strategy to be expected from Mr. Thomas's opponents: deference and respect. Expect phrases of rolling sympathy as senators of the left bring up for him his humble origins and congratulate him on his grit and determination. Already I can see Joe Biden's telegenic tick of a smile, the one he uses to show how civil he is in spite of his growing moral exasperation. He will celebrate Mr. Thomas's gifts and use them against him. "But what, Judge Thomas, about those who were not born with your advantages, and by that I mean not wealth and comfort but brilliance and determination and a family. What about those poor blacks not greatly gifted or guided—what about them?"

For Judge Thomas's proponents, two great hopes: One is that the administration will hit America where it lives and go over the heads of the talking suits and straight to the people, presenting as witnesses on television the affirmative action crew that lifted a young boy with nothing to great heights—the mother who was a maid, the grandmother who saved up the tuition and the nuns who helped open his eyes. The force of their presence will remind us that real change in a democracy comes from the people up, not from the government down.

The second hope: that the administration will demonstrate moral confidence in its choice and not go into a defensive crouch. In 1980, '84 and '88, the American people voted overwhelmingly for presidents who promised to appoint conservative jurists. The left calls the Thomas appointment a hijacking, a right-wing coup for the court, but this is the opposite of the truth. Mr. Thomas's appointment is not a traducing of the people's will but a fulfillment of their directive.

#### OFF BUDGET STATUS OF THE SOCIAL SECURITY ADMINISTRATIVE EXPENSES

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HORTON. Mr. Speaker, today I am pleased to join Government Operations Committee Chairman JOHN CONYERS in introducing legislation to exclude from the Federal budget expenses for the administration of the Social

Security Old Age, Survivors and Disability Insurance [OASDI] Program.

Congress voted to remove the benefits and trust funds of the Social Security OASDI Program from the budget; however, the language in the conference report on the legislation created a loophole allowing the administrative expenses on the program to remain under the domestic spending appropriation caps and be counted in the budget deficit reduction process.

Past Social Security Administration [SSA] budget cuts have left the SSA with scarce resources to perform its mission. Budget constraints have forced this agency to cut its personnel and reduce the level of its services to beneficiaries. Backlogs have arisen in every area. In the local offices, phone calls are not being answered, disability claims are not being processed, even the neediest clientele do not receive the assistance they are entitled to by law. The downsize Social Security agencies and cut their staff at a time when the rate of new disability claims is growing alarmingly, can lead to the deterioration of our Social Security system.

The American people deserve better. Social Security, a program for and financed by the public, should respond to the public's needs promptly. Administrative expenses are an essential part of the program. The work of the Social Security agencies are funded out of Social Security trust funds and this should guarantee that senior citizens and disabled persons receive the service they are entitled to in a timely manner.

Due to its self financed nature, our Social Security Program and its administrative functions lie beyond the budget deficit problem and therefore should be kept out of deficit reduction procedure.

The need for this legislation is clear. With its administrative funds remaining on the Federal budget and facing possible sequester or impossible budgetary limitations, the Social Security Administration will not be able to fulfill its operational responsibilities. This bill clearly states that the expenses for administering Social Security programs should not be part of the Federal budget. It would close the loophole for using the program's surplus in budget deficit calculations. This would ensure that the administration of the Social Security Program will be fully funded. I believe this was the intention when Congress voted in favor of last year's Budget Reconciliation Act amendments, and I urge my colleagues to join Chairman CONYERS and myself in getting this legislation enacted.

#### MEDICAL COVERAGE VERSUS COST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ANDERSON. Mr. Speaker, America's health care system is facing conflicting goals that threaten to tear it apart. On one hand, there is the desire to provide universal health care for the 37 million uninsured in our country. On the other, both Federal and State Gov-

ements, faced with limited resources, must emphasize controlling skyrocketing health care costs. Can these two goals be met so that we can provide health care to all Americans without bankrupting local and State governments? The current health care debate has too often focused on an ideal system rather than confronting these conflicting demands. To this point, only the State of Oregon has made the tough choices necessary to solve their health care problems. Oregon's proposal would overhaul the Medicaid program and provide all its citizens with health care coverage. This proposal is sure to make Oregon a testing ground for future health care reform.

Medicaid is a State and federally financed health care program whose eligibility is linked to federally assisted welfare programs, such as Aid to Families with Dependent Children [AFDC] and Supplemental Security Income [SSI]. Furthermore, all pregnant women with incomes up to 133 percent of poverty, and all children up to the age of 6 whose family's income is up to 133 percent of poverty, are also covered by Medicaid. Even with these provisions, only 50 percent of those who live below poverty are covered by the Medicaid program.

Oregon's health care system had left 450,000 people in the State uninsured, and there was a growing consensus that their system needed reform. A State commission was formed to recommend improvements in the Medicaid system. The commission realized that, although basic health care coverage for those below poverty was the goal, the State's budget would not allow universal care to be obtained through increased spending. Their conclusion was that for everyone in the State to have health care coverage, care would have to be rationed.

The tough choices came when determining which procedures would or would not be covered in the new system. A list of 709 procedures, ranked in order of importance, was established. In preparing this list, preventive care and treatment for curable diseases took precedence over expensive medical procedures. For this reason, mammograms will be covered by the new state-wide insurance plan, although they were not covered by Medicaid. Of the 709 procedures, the State could provide coverage for 587.

Rationing care in this manner has been criticized as being both inadequate and inhumane. The commission also recognized that their proposal is not ideal. However, they felt it was preferable to allowing 450,000 people remain uninsured. There will certainly be difficult moments on the individual level when people are denied treatment. On the other hand, denying one person expensive treatment for a terminal illness may allow 10 women to receive mammograms, or 10 babies to be fully immunized. Choosing between these cases is difficult, but necessary in order to reform our health care system and maximize the value of health care spending.

Critics of this proposal point out that Oregon is providing universal access at the expense of those who already have little to give, namely poor women and children. This could be a reflection of the small political power base that these groups have rather than the best method to improve the Medicaid system. The proposal, though, comes to grips with the fact

that health care resources are limited. Our Nation's health care debate must be centered on this principle if we are to accomplish real reform of the current system. If nothing else, Oregon's health care proposal reminds us that tough choices lie ahead.

#### HOPE FOR THE POOR

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GINGRICH. Mr. Speaker, I want to make sure all my colleagues saw the following article by HUD Secretary Jack Kemp that appeared in Roll Call on Monday, July 8. HOPE is a bold and innovative program that will help low-income families join the American mainstream by becoming homeowners.

#### KEMP'S HOPE PLAN GIVES POOR A WAY TO ACQUIRE ASSETS

Last year, Congress passed the National Affordable Housing Act, authorizing a bold new program to permit public housing residents to manage and ultimately own their own homes. President Bush asked for \$885 million to fully fund Homeownership and Opportunity for People Everywhere (HOPE) at the authorized level in fiscal 1992. In a landmark vote, the House recently passed the Kolbe-Espy Amendment providing \$360 million for HOPE, including \$151 million for homeownership in public housing.

This marks a radical break with the past. As the Senate Appropriations Committee begins its deliberations over the HUD budget, we will press for full funding of HOPE and an unhesitating assault on poverty.

The day of the House vote, I was in Chicago visiting the Henry Horner Homes, whose tragic story is told in Alex Kotlowitz's moving book, *There Are No Children Here* (Doubleday).

Like Alex Kotlowitz, I saw both the dismal conditions and the resilient spirit of the place. Hours later, Rep. Mike Espy (D-Miss), during the House debate, defined the problem. He said, "Without acquiring assets, the poor are destined to remain poor."

More than a quarter century ago, Lyndon Johnson declared "unconditional war on poverty" and predicted a "Golden Age of urban living." But we have little to show for the \$2.6 trillion we spend trying to build a Great Society. The evidence suggests that any new and successful war on poverty requires a dramatically different approach based on expanding access to assets and private property.

After two years at the Department of Housing and Urban Development, I've discovered that America doesn't have one economy—we have two economies, separate and unequal.

Our mainstream economy is based on entrepreneurial capitalism. It links individual effort with reward and is based on incentives for work, saving, investment, education, and family.

But our second economy—the welfare economy—is more akin to Third World socialist economies than to the capitalist West.

Human effort and productivity are punished. Those welfare recipients and unemployed fathers who take jobs and get married end up as net losers because of lost benefits and new taxes. In effect, they pay a marginal tax rate in excess of 100 percent. It is a grim

world in which the rules of the market are reversed by government fiat.

The good news is that government policies can change; the forces that cause poverty can be reversed. As Michael Sherraden of Washington University in St. Louis, author of *Assets and the Poor* (M.E. Sharpe, Inc.), has written: "America has needed a different welfare idea, an idea more suited to capitalism, oriented toward accumulation and economic independence."

He's right. Acquiring assets powerfully affects the way people think, promoting achievement, inspiring confidence, and encouraging planning for the future. As President Bush recently observed while visiting the resident-managed Cochran Gardens public housing community in St. Louis, assets become a catalyst for entrepreneurship and upward mobility.

Today, through HOPE, we in the Bush Administration are attempting to bring the power of private property to distressed communities, empowering public housing residents to own their own homes. Full funding of HOPE in fiscal 1992 would help create over 30,000 new homeowners in public and assisted housing and start an additional 60,000 families on their way toward homeownership.

Unlike existing programs, HOPE funds will stretch much further because HOPE requires that three to four federal dollars be matched by one dollar in local support.

The match can be "hard" or "soft" and may include tax abatement, economic development, child care, sweat equity, locally funded mortgage buy-down programs, and administrative costs. Moreover, federal funding needed for operating assistance and further rehabilitation will end after the housing is sold to residents.

Our HOPE regulations do not permit rehab and operating costs to exceed those allowable under current public housing programs. And the short-term costs of empowering public housing residents to own their own homes will be far less than the ultimate costs of providing open-ended operating subsidies and modernization funds.

From Moscow to Managua, socialism is on the run and governments are privatizing their housing stock. Yet in the United States, some still support expanding one of the world's last socialist schemes—that 50-year old relic known as public housing. With more than 100,000 boarded-up vacant units and funding for new construction still in the pipeline (some of it dating back to the Ford Administration), the last thing the poor need is more conventional public housing construction.

Isn't it time to stop treating low-income people as "sharecroppers"? (In the words of Bertha Gilkey of Cochran Gardens.) Poor people don't need more subsistence-level government subsidies. Rather, they need an asset and private property base on which to build their futures.

Some people still cling to the short-sighted and dispiriting notion that for public housing residents poverty is a permanent condition. These cynics suggest static incomes will prevent poor families from ever affording homeownership. But HOPE is not just a housing program; it is an empowerment program. It provides incentives for low-income families to escape poverty and helps give them the resources and opportunities to do it—from job training to entrepreneurship.

Congress has already provided funding in fiscal years 1990 and 1991 for the development of more than 15,000 new public housing units. In addition, there are almost 18,900 units reserved but not yet under construction, and an additional 8,860 units on the way.

As the appropriations process unfolds for fiscal 1992, Congress faces what may be its last chance to live up to the bold and hopeful aims of the National Affordable Housing Act it passed and praised with such fulsome rhetoric.

A TRIBUTE TO H. ROBERT  
CATHCART

HON. THOMAS M. FOGLIETTA  
OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Mr. H. Robert Cathcart, the president and chief executive of Pennsylvania Hospital in Philadelphia. Mr. Cathcart will retire on August 31, after 42 years of service at our Nation's first hospital.

Mr. Cathcart, in his tenure, has built upon a tradition of excellence to establish the Pennsylvania Hospital as one of America's premier health care facilities. Further, he advanced the Hospital's most important mission, established by its founder, Benjamin Franklin: to provide the finest medical care for all people—rich and poor.

Through his superb leadership, Mr. Cathcart has become a model administrator to his colleagues in the medical profession. His influence reaches throughout the country and the international health care community as well.

For more than 20 years, he has served the American Hospital Association in various leadership posts. He served as chairman of their Board of Trustees in 1976, Speaker of the House of Delegates in 1977 and he was awarded with their Distinguished Service Award in 1983. Mr. Cathcart is also a recipient of the American College of Healthcare Executives Gold Medal for outstanding service, not to mention several other honorary degrees as well.

He has also taken his expertise abroad. Mr. Cathcart served as a consultant to many foreign governments, including Thailand and Saudi Arabia.

I would like to thank Mr. Cathcart for all that he has done for Pennsylvania Hospital, for the people of Philadelphia, and for the United States of America. I wish he and his wife, Tressa, much happiness in their retirement.

AND THE CHILDREN SHALL NEED

HON. CHARLES B. RANGEL

OF NEW YORK  
IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. RANGEL. Mr. Speaker, the Washington Post recently ran a three-part, front-page series about problems faced by children whose mothers abused drugs during pregnancy. One of those articles focused on the large number of drug-exposed children entering schools and the strain this will place on our educational system. I wish to include that article in the RECORD and remind my colleagues that the Select Committee on Narcotics Abuse and Control will hold a hearing on this topic July 30.

We all remember the advent of crack babies a few years ago when the crack epidemic exploded on our Nation's streets. Today, those babies are growing into school-age children. Many babies who were not diagnosed as drug-exposed at birth are now showing signs of disability due to their mothers' drug abuse. This phenomenon is, without a doubt, one of the most devastating effects of America's drug crisis and will be a critical issue facing urban schools in the next 5 years. Some researchers predict that, by the end of the decade, up to 60 percent of all students in urban schools will have been exposed to drugs before birth.

On July 30, the select committee will examine ways the Federal Government can help teachers and schools cope with this new challenge. We will hear from superintendents, teachers, children's advocates, and the Assistant Secretary of Education for Special Education and Rehabilitation.

There is not much time. We must act soon. A failure to address drug-exposed children's needs now will lead to a host of social welfare and law enforcement costs in the future. It will also mean a deficient education for other students in the classroom as drug-exposed children detract teachers' attention. I look forward to presenting the House with our committee's findings:

CRACK'S CHILDREN: AND THE CHILDREN SHALL NEED DRUG-INDUCED DISABILITIES WILL TAX SCHOOL RESOURCES

(BY MICHELE L. NORRIS)

The kindergartners spill into their East Harlem elementary school each morning bubbling with enthusiasm, but for some enthusiasm is not enough.

There is the little girl who is almost 6 but has the language skills of a child half her age. She repeats what sounds like "Kiyeh da boo" over and over until a baffled aide discovers that the child is trying to say, "Can I have the book?"

Then there is the little boy who is unable to sit still for more than a few minutes. He fidgets in his seat so feverishly that his desk is out of position with his row. Another child has such problems controlling his hands that he sometimes drops his face into his plate to eat lunch; picking up a spoon or a fork is too taxing.

Their problems seem disparate, but these students all have something in common: Their bodies and brains developed in wombs contaminated by crack.

As the smokable form of cocaine known as crack marked its fifth year as a popular street drug last year, so too did the first generation of children born to women who smoked crack while they were pregnant.

Those 5-year-olds entered kindergarten last fall in New York, Los Angeles and Miami, cities where the crack epidemic first took root. Schools in those cities have been hit with a crush of troubled students who frazzle teachers who often are untrained or simply too burdened to meet their extraordinary needs.

"It is not like there are one or two special cases where the children exhibit bizarre behavior," said Hattie Brown, a kindergarten teacher at PS 146 in the East Harlem section of New York. "I am talking about a whole lot of children who are not functioning where they should be. We all better put our seat belts on, because in five years it is going to be real bad."

The crack market in Washington and its suburbs began to flourish about a year be-

hind New York's. So this fall the first sizable number of local children exposed to crack in the womb will enter city and suburban schools. And crack's soaring popularity since the mid-1980s indicates that the pool of crack-affected youngsters will grow dramatically each year until at least 1995.

Compounding the problem for local schools is that the vast majority of these children will not be in special programs geared to their needs. They will share desks, textbooks and lunchrooms with other students. And all the children who were not exposed to crack in the womb will suffer as their teachers become preoccupied with the crack-affected youngsters' overwhelming problems.

"We are going to have to do something to save these other children," Brown said. "Because the crack kids are going to take up all their teachers' energy."

Concerned about the future expenses facing the state, New York State Comptroller Edward Regan estimated that in nine years there will be about 72,000 children in New York City who were exposed to crack in the womb.

Officials in the District and its suburbs have declined to offer such an estimate. But local hospitals, using sporadic drug testing, found that more than 2,000 drug-affected babies were born in 1990, enough to fill about 80 kindergarten classes. The total number is certainly much larger.

Exactly how many children have been exposed to crack in the womb is unknown because maternal drug testing by hospitals is sporadic. Studies in Florida, Tennessee and Philadelphia show little disparity in the rate of prenatal drug use between poor women seeking care at public health clinics and more affluent women who see private doctors.

"Don't be fooled into thinking that these children only reside in the ghetto," said Ira Chasnoff, president and founder of the National Association for Perinatal Research and Education, the preeminent research facility on maternal substance abuse. "They are everywhere. They are in rural America. They are in the suburbs. They come in all colors and creeds."

THE PROBLEM EXPLODES

Drug-affected children are not new to school systems. Brown, who has taught in New York's most blighted neighborhoods, has worked with children exposed in the womb to heroin, alcohol, powdered cocaine and other drugs since she began teaching in 1969. But before this school year, Brown said, she had never witnessed so many children with such short attention spans, children who seem to have no control over their actions and who are so inconsistent in their behavior and abilities.

At an age when most youngsters are losing their teeth and learning the alphabet, many crack-affected children show Alzheimer's-like symptoms, beginning a task only to stop moments later, unable to recall what they were working on. Poor coordination also is common. Preschoolers have trouble picking up everyday objects such as building blocks, crayons and eating utensils. They bump into walls, trip over nothing and fall to the floor when they try to sit down.

There is no typical profile for a crack-affected child. Their problems can include extreme hyperactivity, uncontrollable mood swings, language delays, disorganized thinking, lapses in short-term memory, poor coordination and difficulty with fine motor skills.

"Teachers are out there on their own because the collective education community

has been so slow in responding to this problem," said Valerie Wallace, a school psychologist who works with the Los Angeles school system's program for drug-affected children. "They are on the front lines and they often don't know how to even identify the children, let alone deal with their special needs."

Trying to identify crack-affected children through behavior alone is tricky. Their problems are easily confused with or compounded by other factors common to children of poverty, including lead poisoning, a lack of prenatal care, abuse, neglect or poor diet and rest habits.

Studies in Los Angeles, Chicago, Philadelphia and Miami have shown that a majority of crack-affected children suffer from problems that will make it difficult for them to flourish in a traditional classroom setting.

Most schools subscribe to a code of behavior that is difficult, even impossible, for some crack-affected children to follow. Sitting at a desk for hours on end is an onerous task for an extremely hyperactive child. And quietly reading a book can seem impossible for students with attention deficit disorder—a condition in which children cannot screen out unimportant sights and sounds.

The sounds that serve as background noise in most school buildings—slamming doors, screeching chairs, coughing and playground noise—present constant interruptions that can't be disregarded by crack-affected children.

\* \* \* \* \*

#### INCREASING DEMANDS

So far, efforts to develop teaching strategies for crack-affected youngsters have taken place in specialized classrooms and pilot programs restricted to a small number of students. The vast majority of crack-affected children will begin school in normal classes where overwhelmed teachers will have no special assistance to cope with their needs.

As the children get older and as the demands of school are increasingly beyond their reach, schools are likely to move many of them into special education, where instruction and therapy can drive the annual cost of educating a student to \$10,000 or more than in a regular classroom. Los Angeles, for example, spends \$15,000 a student each year in its special program for drug-affected children, compared with just more than \$3,000 a year in a regular classroom, said Carol Cole, a special education specialist who helped design the Los Angeles pilot program.

"As kindergarten and first-grade and other teachers see that the problems are more than just immaturity, that is when we are probably going to see these children go to special placement," Cole said.

Already, the influx of crack-exposed children is swelling the demand for special education services in New York and Los Angeles. More than 1,600 students were referred for special education evaluations in New York City during the school year just ended, compared with 1,071 referrals last year. New York State Comptroller Regan said the annual cost of providing special care for crack-affected infants will peak in the late 1990s at more than \$176 million. Officials have not estimated the cost in the Washington area.

Maurice Sykes, director of early childhood education in the District, said the city will try to keep drug-affected children out of special education by providing teachers with training and written materials to help them deal with troublesome students in a normal classroom setting, regardless of the cause of their problems.

Such an approach assumes that crack-affected children can function in a normal classroom setting despite their problems, an assertion that is still being tested.

"In spite of all their problems, the children are coping because children, as we know, are incredibly resilient," said Johnson, principal of PS 146. "Somehow I have to have the hope that given the proper nurturing, the proper care, the proper love, that the children will become productive."

#### SPACE STATION BOONDOGGLE

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. DUNCAN. Mr. Speaker, I have spoken out and have voted against the space station project because of its unbelievably expensive price.

Some have predicted that the space station will become the single biggest boondoggle in the history of the Federal Government, and that is really saying something.

I would like to call to the attention of my colleagues and other readers of the RECORD the following articles about this project:

"LET'S GO BACK TO THE MOON"

(By James J. Kilpatrick)

WASHINGTON.—By one of those nice coincidences that come along now and then, two publications dealing with the exploration of space recently turned up in the same mail.

One was the report of a study group headed by Thomas P. Stafford; a retired Air Force general. The other was an article by Gregg Easterbrook in the New Republic for July 8.

The two pieces should be required reading for all members of Congress before they appropriate funds for the National Aeronautics and Space Administration. On June 6 the House agreed to throw another \$2 billion into Space Station Freedom. This would amount to an irrevocable commitment to keep this indefensible project alive.

Of particular interest is this remarkable fact: The Stafford commission ignores Space Station Freedom almost altogether. The report mentions the space station in one paragraph on page 102, and recommends its program in a single sentence on page 113. That is it. If ever a costly project were damned with faint praise, the space station surely qualifies.

NASA's people say their space station is a must. The Stafford people say their lunar base is a must. There is not money enough in the federal treasury to finance both undertakings. Writing from a low orbit of ignorance, I am bound to say that the Stafford approach makes more sense to me. For Congress to put more money into Freedom is to support a job-saving boondoggle. It is pure folly.

Gregg Easterbrook writes with what someone once described as the bell-like ring of authority. His criticism of Space Station Freedom is cogent, concise and devastating.

When NASA proposed the space station in 1984, the project was to cost \$8 billion (about \$11 billion in 1990 dollars). It was to serve as a kind of garage for satellite repair. It would refuel outbound spacecraft and undertake environmental studies. There would be new opportunities for astronomy. The station would house eight astronauts for months at a time. Under the heading of "life sciences,"

the project would accumulate data on the long-term effects of zero gravity. The crew also would study manufacturing under conditions of microgravity.

The grand plans of 1984 have shrunk. The pending design would house only four persons. All missions except microgravity and life sciences have been eliminated, and microgravity is about to go.

Largely because of design changes mandated by Congress, the cost has soared into orbit. Now NASA itself concedes a basic construction cost of \$30 billion. The General Accounting Office says \$40 billion. When the necessary expense of shuttle missions is figured into the calculus, realistic estimates of this venture rise to more than \$100 billion.

Easterbrook identifies problems that are almost bound to result in disaster. The space station would have to revolve in a low orbit, a condition that will require periodic reboosting. The complex components must be assembled in space. This will require 23 to 26 shuttle flights for delivery.

"Suppose another shuttle fails during the construction period, and launches undergo the kind of lengthy suspension that followed Challenger. The Freedom design can withstand one to two years of flight suspensions without falling back into the atmosphere. Downtime after Challenger was three years."

Merely to keep the station in orbit will require "an unprecedented degree of maintenance." By one informed estimate, Freedom will need 3,700 man-hours a year.

"So far American astronauts have accumulated about 400 total hours walking in space, and they found the experience profoundly exhausting. Under the current estimate, each member of Freedom's four-person crew would spend two hours per day space-walking with wrench and hammer. In other words, the main purpose of being on the space station will be to maintain the space station."

It needs to be said that the Stafford group offers no cost estimates whatever for its series of lunar missions, but over the next 20 years—the anticipated life span of the space station—the Stafford program clearly offers us a better bargain.

NASA's defenders place great reliance upon the "inspiration" that a space station would provide for youngsters who will be the space engineers of the next century. This strikes me as so much hokey. If youngsters are to be inspired and earthly jobs are to be preserved, let's go back to the moon.

SAY NO TO THIS "ORBITING PORK BARREL"

(By Robert L. Park)

Even as Congress prepares to close dozens of military installations, rendered excess by the end of the Cold War, it seems determined to spend \$30 billion for Space Station Freedom. Yet, the troubled space station program is as much a relic of the Cold War as a B-52 bomber base. Worse, the space station is a hideously expensive science project that is scorned by the scientists.

Yesterday frustrated representatives of many of the nation's leading scientific societies delivered a letter to members of the Senate urging them not to fund the space station at the expense of scientific programs. Already, however, 50 senators have signed a letter endorsing the bloated boondoggle. The House has already voted its approval. Ironically, it is Congress that insisted that scientists state their priorities. The lawmakers warned that the customary practice of claiming that every science project deserves funding will not wash under the new spending caps agreed to by Congress and the White

House. Congress, they said, must be told which programs should not be funded.

The scientists obliged, and their message could not have been clearer. There is no scientific justification for a permanently manned space station. That message was carried by Nobel laureates in congressional testimony, major scientific societies in uncharacteristically blunt public statements, and by individual scientists in articles and letters and visits to congressional offices. The consensus was overwhelming. Even NASA scientists privately applauded the efforts of their colleagues.

NASA struck back by explaining what is really at stake. A map of the United States was sent to congressional offices with the number of businesses with space-station contracts marked on each state. The map was labeled: "Businesses Getting Bucks." Science is just science, but a space station is an orbiting pork barrel.

Indeed, \$30 billion is only the beginning. That just buys an empty garage. The full cost to build and equip Freedom is estimated at \$118 billion. If you include operating costs over what NASA claims will be a 30-year life, it comes to an S&L bailout-sized \$180 billion.

What, you may be wondering, would the astronauts do up there for 30 years? Count tomato seeds? On a recent shuttle flight that lasted only six days, the crew was reduced to videotaping 2,438 jelly fish swimming in zero gravity. The scientific discovery of the mission was that the jelly fish seemed confused. Who wasn't? I once asked the former head of the Soviet space science program what the cosmonauts do all day on board Space Station Mir. They try to stay alive, he replied.

That's not easy on a space station. Space is a harsh environment. Muscles atrophy, bones that no longer resist gravity lose calcium, nerves degenerate, debilitating bouts of space sickness are a persistent problem, and the body is exposed to severe levels of cosmic and solar radiation.

Ronald Reagan, who started all this in 1984, saw the space station as a sort of microgravity research and development laboratory, turning out wondrous new alloys and medical advances and collecting important scientific data. Space, they were fond of saying in the Reagan White House, is just another place to do business. As a commercial environment, however, microgravity turned out to be microimportance.

The redesigned Freedom will be limited to studying the deleterious effects of exposure to a space environment. But why expose humans to such conditions? In the exploration and uses of space, human beings have become an expensive and unnecessary burden. Robot satellites relay communications, track weather systems, peer into the backyards of our adversaries, scan space and Earth for the telltale flashes of forbidden nuclear tests and serve as precise navigational beacons. Robot spacecraft have penetrated the noxious clouds of Venus with radar eyes and analyzed the soil of Mars for signs of life.

While exploring the outer planets of the solar system, our robots passed through radiation belts no human could survive; they are the logical extension of our frail bodies. It is widely believed in Congress, however, that a public weaned on Star Trek would not support a space program that did not involve a human presence in space. I think they underestimate the public and shirk their responsibility to lead. The new technologies and advances in science produced by the space program have more than justified our past investment. But the market for space suits is limited; the future is in robots.

#### COALITION OF SCIENTISTS DECRIES SPACE STATION: LETTER TO SENATORS QUESTIONS POTENTIAL COST

(By Curt Supple)

An extraordinary coalition including many of America's most illustrious scientific and mathematical societies yesterday made a last-ditch attempt to protest proposed spending for the Bush administration's program to build a space station.

The consortium of 14 professional groups warned that the "excessive cost" of the planned \$30 billion manned space station will drain so much funding from the support of science that it "threatens the vitality" of essential research programs and imperils U.S. leadership in world technology.

In a joint letter sent to each member of the Senate, the presidents of the American Physical Society, the American Chemical Society, the American Geophysical Union, the American Mathematical Society and Sigma Xi, among others, also sharply questioned the "scientific, technological and educational merit of the currently planned station."

Not since the widespread opposition to the Reagan administration's "Star Wars" project has a federally sponsored program met with such extensive criticism from such a wide range of scientific organizations.

"It is quite unusual for organizations representing such a broad spectrum of sciences to join together," said Robert L. Park, executive director of the physical society's Washington office. "It has happened in the past only when there is a threat to the future of American science."

That threat, Park said, arose on June 6 when the House voted 240-173 to approve \$1.9 billion in next year's budget for the space station while cutting funding for numerous programs within the National Aeronautics and Space Administration (NASA) and other agencies. The Bush administration lobbied strenuously in the House for the space station, which already has been named Freedom, and is expected to exert equally heavy pressure in the Senate, where NASA funding is under consideration today as part of a multi-agency appropriations bill.

The scientists' diplomatically worded statement, announced at a news conference here, stopped short of calling for the project to be killed, as a House appropriations subcommittee voted to do earlier this year. "It's a compromise," said Annette Rosenblum, senior science policy adviser at the chemical society. "We are not in favor of stopping any one project cold."

Instead, the societies' letter affirms the concept of a "balanced" space program but notes that the scientists are "especially disturbed" by the possibility that current outlays for the space station—and "escalating costs in subsequent years"—would drain scarce funding from the National Science Foundation, Environmental Protection Agency and other research projects.

The primary goal of the space station—which the General Accounting Office recently said may eventually cost \$10 billion more than current estimates—is to study how human beings fare in space in preparation for a long voyage to Mars. But in March the National Research Council's Space Sciences Board reported that the space station "cannot be supported on scientific grounds."

More recently, a number of scientific groups—including several that were not signatories to yesterday's letter—have issued separate statements criticizing the program. In May, the Council of Scientific Society

Presidents concluded that "scientific justification is lacking for a permanently manned space station."

Last month the Institute of Electrical and Electronic Engineers—many of whose members derive their livelihoods from space and defense contracts—cautioned that spending more than \$10 billion on the station would "seriously detract from other important civilian space programs such as satellite communications and remote sensing."

Nonetheless, about half of the members of the Senate already have expressed support for the space station program.

Last month, Office of Management and Budget Director Richard G. Darman derided protests from scientific groups as "factional cannibalism" and said that space-station opponents were "politically naive" in believing that money saved from the project would be transferred to other research programs.

"We are not sanguine about the prospects for success," Park said. "But we do have an obligation to speak out."

#### THOUGHTS OF ROC'S FREDRICK CHIEN ON LIFE AND WORK

##### HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HARRIS. Mr. Speaker, I have been made aware of an inspirational article in Taipei's Central Daily News (June 12, 1991) authored by Dr. Fredrick Chien, Foreign Minister of the Republic of China. As many of my colleagues know, Minister Chien served as the Representative of the Republic of China in Washington from 1983 through 1988. During his Washington tenure, Ambassador Chien frequently impressed his friends with his keen intelligence, wit and humor, leading many of us to believe that he was a born diplomat. Yet interestingly enough, in this article Minister Chien reminisces about his bashfulness as a child and his conscientious efforts to be productive in both his studies and his work. To help my colleagues better understand Fredrick Chien and anyone else interested in the thoughts of a great Chinese diplomat, Professor Nathan Mao of Shippensburg University has translated Dr. Chien's article as follows:

"IN THE UNIVERSE THERE IS ABSOLUTELY NO EASY SITUATION; IN THE HUMAN WORLD WHERE WOULD YOU FIND TIME TO WASTE"

(By Fredrick Chien)

At my home a couplet of two lines calligraphed on two vertical scrolls hang on the wall. It says: "In The Universe There Is Absolutely No Easy Situation; In The Human World Where Would You Find Time to Waste." Every day before I leave my house, I would always glance at the couplet—for self enlightenment and inspiration. After more than ten years, I have truly realized the importance of giving every situation some second thoughts and treasuring the time I have. I have benefitted greatly from the wisdom embedded in the couplet.

I have served a long period of time in the foreign service and on many occasions I have been required to speak extemporaneously with wit and skill. Consequently many people think I am a born diplomat. But, in truth, when I was a young child I was very bashful and even somewhat unsociable. I remember the year when I was four attending

kindergarten. Due to my inward nature I was unable to adjust to other children and I cried all the time. Teachers did not know how to handle me, so within a week the principal sent me home to my parents.

To help me overcome my shyness, my parents deliberately sent me to grade school even earlier than usual. Still I kept to myself and I very seldom had anything to do with classmates.

When I was in eighth grade my family moved from Shanghai to P'eiping. For a year and a half I attended a Christian school which emphasized the intellectual, moral, physical and social development of children. And this progressive curriculum was the key which unlocked my inner self. From then on my loner personality changed as I opened myself.

At Chienkuo Senior High School and later at the National Taiwan University I participated in a number of activities, through which I became not only more open but also more experienced. But I did not dare to ignore my school work. In fact, I became even better at it. During my four years at college, I usually earned the highest or the second highest grade point average. I always feel that maintaining a high academic average is a student's first responsibility and extra-curricular activities are just that—extra things to do after school work has been completed. One's priorities must not be reversed.

After graduating from college I had two years of reserve officer training. The training benefitted me tremendously. It sharpened my sight and auditory abilities, allowing me to concentrate when I studied and to be in control of my surroundings. For many years now, if proper arrangements have been made, I am able to preserve my energy either working or studying. This ability is the end result of my reserve officer training.

At Yale University I made special efforts to avoid wasting time. I acknowledged for a fact that my academic preparation and mental abilities were behind those of my American classmates. Therefore I did not dare to lose any possible moment when I could be studying. Every time professors went to the library to secretly check on students' progress, they would always find me in the library. It did not matter when they would visit the library.

I am too stingy to part with one second, one minute. Even when I am extremely busy I must find time to read a few books. In today's world if a person can't enrich himself he will be ignorant of new knowledge and new information. I have always felt that I don't have enough time at my disposal and I therefore truly realize how important it is to "treasure time." This applies not only to studying but also to working as well.

In nearly twenty years of public service I have a new assignment every five years. Every time I take on a new job I have to start from the beginning. When I was little, elders would always say: "Eat what you have in your bowl, but what is in the pot." I have always kept this maxim in mind. Before an assignment becomes a reality, I always concentrate on my post at hand, trying my best to do it right.

I am a public servant and I try my best in every thing I do. If one day I discover that I can't contribute any more to my country, I will consider giving my post to someone else. Otherwise I will steadfastly keep to my post, any time and any where.

## EXTENSIONS OF REMARKS

## STATEMENT ON UNSUNG HEROES

## HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, I would like to call the attention of my colleagues to an event that took place in my district recently. Too often, we in the Congress are so riveted to the high profile events within the beltway that the momentous community level events tend to not be recognized for their significance in the day-to-day lives of our constituents. A few weeks ago, a neighborhood newspaper within the 7th Congressional District, The Austin Voice, celebrated the accomplishments of community members whose dedication and commitment have enriched the lives of fellow residents.

In so recognizing the accomplishments of these individuals, the paper is reaffirming the standard measurement to inspire our younger population and manifesting the community's honor in its citizens.

The following are the recipients of the recognition awards:

Mr. and Mrs. Dwayne and Cata Truss for coaching boys and girls baseball and softball teams in the Nelson Mandela Baseball/Softball league.

Ms. Mary Munoz for her unfledgling work with teens in drug prevention and alternative lifestyle modeling.

Ms. Mary Henley for founding the Comprehensive Community Organization to provide adult literacy instruction.

Ms. Cynthia Richardson for instituting cultural and entrepreneurial changes in the Austin community.

Mr. Albert Sharp for this tireless work with young offenders and the forgotten and invisible youths of Austin.

Ms. Susie Haynes and Ms. Amy Conley for their unselfish commitment to rescuing homeless women and children.

I join The Austin Voice in celebrating the accomplishments of these individuals and I thank each of the honorees for the valuable contributions they have made to the 7th Congressional District.

## HAWAII TEAM BILLS

## HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ABERCROMBIE. Mr. Speaker, today I am introducing several important bills to extend and improve benefits received by our veterans. These legislative proposals are companion bills to similar proposals introduced in the U.S. Senate by Hawaii Senators Inouye and Akaka. I take great pleasure in joining with my fellow House Member the Honorable PATSY MINK, and my distinguished counterparts in the other body by introducing these bills. This is yet another example of the Hawaii delegation working as a team for the citizens of Hawaii.

The first of these bills provides for the establishment of a post-traumatic stress disorder

treatment center in Hawaii. This facility will be designed to provide war related mental health disorder services to veterans and active members of the armed services.

The second bill authorizes veterans who are rated totally disabled as a result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the armed services.

Mr. Speaker, I am also introducing a bill which will allow former POW's who are rated with a 30 percent services-connected disability, who were honorably discharged to have the use of the post exchange and commissary privileges.

Finally, Mr. Speaker, I am introducing proposals which would help determine claims by Filipinos who performed military services on behalf of the United States during WWII, and to provide for incentive pay for the Department of Veteran Affairs psychologists.

Mr. Speaker, I want to thank my fellow colleagues from the State of Hawaii for their cooperation, and urge my fellow Members in the House to support these bills. The veterans of this country have made great sacrifices for this Nation. As American citizens we owe them a great debt that may never be fully repaid, and it is our duty to ensure that their needs are satisfied.

Mr. Speaker, I insert the texts of these bills to be printed in the RECORD:

H. R. —

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

## SECTION 1. ESTABLISHMENT OF A POST-TRAUMATIC STRESS DISORDER TREATMENT PROGRAM IN HAWAII.

(a) ESTABLISHMENT.—Chapter 73 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"Subchapter V—Miscellaneous Programs

"§7381. Post-traumatic stress disorder treatment facility in Hawaii

"(a) The Secretary shall establish in Hawaii a post-traumatic stress disorder diagnosis and treatment facility to be known as the "Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders". Activities shall be conducted at the facility in accordance with this section.

"(b)(1) The Secretary shall ensure, to the maximum extent practicable, that activities relating to post-traumatic stress disorder shall be carried out at the facility as follows:

"(A) The provision of inpatient care services and comprehensive outpatient care services relating to the disorder to the following individuals suffering from post-traumatic stress disorder who live in the Pacific jurisdiction of the Department:

"(i) Veterans.

"(ii) Members of the Armed Forces on active duty, pursuant to a memorandum of understanding which the Secretary shall enter into with the Secretary of Defense.

"(B) The provision of education and training programs relating to the disorder for health care and human service professionals located in Hawaii and the Pacific basin, with an emphasis in the coverage of such programs on the manifestations of the disorder among individuals who are members of ethnic minorities.

"(C) The conduct of scientific research relating to the disorder and other war-related mental health disorders, including research

relating to (i) the access of individuals who are members of ethnic minorities to diagnosis and treatment of such disorders in facilities of the Department, and (ii) the effectiveness of such diagnosis and treatment for such individuals.

"(D) The coordination of activities in Hawaii relating to research and treatment of the disorder that are conducted pursuant to programs affiliated with the Department of Defense, the Department of Veterans Affairs, institutions of higher education, State or local entities, or community entities and organizations.

"(E) The collection and dissemination of information relating to the diagnosis and treatment of (i) post-traumatic stress disorder, (ii) war-related mental health disorders, and (iii) mental health problems related to natural or man-made disasters.

"(2) The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost of providing care services to the members referred to in paragraph 1)(A)(1).

"(3) For the purposes of this subsection, the term 'facility of the Department' has the meaning given such term in section 601(4) of this title.

"(c) In providing for the conduct of the activities of the facility under subsection (b), the Secretary shall ensure that special emphasis is given to investigating the relationship between post-traumatic stress disorder and the various cultural, ethnic, gender, and other psychological and social characteristics of persons who suffer from the disorder."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7368 the following new items:

"Subchapter V—Miscellaneous Programs  
"7381. Post-traumatic stress disorder treatment facility in Hawaii."

H.R. —

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

**SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.**

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

**SEC. 2. CERTIFICATE OF SERVICE.**

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

**SEC. 3. APPLICATIONS BY SURVIVORS.**

An application submitted by a surviving spouse, child, or parent of a deceased person

described in section 1(a) shall be treated as an application submitted by such person.

**SEC. 4. LIMITATION PERIOD.**

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

**SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.**

No benefits shall accrue to any person for any period prior to the date of the enactment of this Act as a result of the enactment of this Act.

**SEC. 6. REGULATIONS.**

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

**SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.**

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations issued by the Secretary of Veterans Affairs.

**SEC. 8. DEFINITIONS.**

As used in this Act:

(1) The term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

(2) The term "Secretary" means the Secretary of the Army.

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

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1066. Disabled former prisoners of war."

**50TH ANNIVERSARY OF EXECUTIVE ORDER 8802**

**HON. WILLIAM (BILL) CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to note that June 25, 1991, marked the 50th anniversary of the signing of Executive Order 8802 by President Franklin Delano Roosevelt that banned employment discrimination by the Federal Government or defense industries.

To enforce the Order, Roosevelt also set up a Fair Employment Practices Committee to "receive and investigate complaints of discrimination" and to take "appropriate steps to redress grievances."

The Order was the first significant breakthrough against legalized Jim Crow segregation since the days of Reconstruction. It laid the groundwork for the creation of a black middle class by opening up public sector and industrial employment to blacks.

Black union leader A. Philip Randolph played an instrumental role in securing the signing of the Order. Randolph had threatened a march of 100,000 blacks down Pennsylvania Avenue. The march was called off in exchange for FDR's signature of the Order.

Commemorating the 50th anniversary of the Order's signing at this time has added meaning as we struggle to pass into law civil rights protections that will restore and strengthen fairness and equity in employment opportunities for women and minorities.

Randolph's civil rights strategies remind us that we must continue to organize and agitate because the struggle cannot stop until full racial equality and economic justice have been achieved.

**TRIBUTE TO REV. MSGR. A.H. VAN NEVEL**

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. VISCLOSKY. Mr. Speaker, it is with great honor that I rise today along with the parish of Our Lady of Grace Church in Highland, IN, to acknowledge the achievements of Rev. Msgr. A.H. Van Nevel, who is retiring after 49 years of great servitude and dedication to the priesthood. "Father Van", which he is referred to out of love and affection, has truly been an inspiration and guiding light for the many lives that his spiritual leadership has touched and changed.

Education and dedication to young people have always been Monsignor Van Nevel's top priorities. His first appointment was at Holy Angels Church in Gary, IN, where he immediately identified himself with the youth, and organized several sports leagues and served as moderator of the Catholic Youth Organization and the Diocesan Catholic Youth Association.

After 15 years at Holy Angels Church, Father Van became the pastor of his first parish at Notre Dame Church in Michigan City, IN. Here he organized their First Family Bar-B-Q festival and became the moderator of the National Council of Catholic Men, the Sierra Club, and Fourth Degree Knights.

In 1963, after 5 successful years at Notre Dame Church, Father Van was appointed pastor of Our Lady of Grace Church in Highland, IN. In 1967, the steadily increasing congregation of Our Lady of Grace moved into a beautiful new church. The old church was turned into classrooms and a library in an effort to emphasize the importance of education. Also under the guidance of Father Van, Our Lady of Grace expanded to include a home for the Sisters and a new rectory. Twenty-eight years later, it is evident that his support and assistance have been eminently instrumental in making Our Lady of Grace the successful parish that it is today.

Since his ordination in 1942, Father Van has consistently exemplified the moral, spiritual and educational eminence that is associated with the priesthood. Therefore, 49 years later, it is with great pleasure that I stand today and ask my colleagues to join me in paying tribute to Rev. Msgr. A.H. Van Nevel for his outstanding dedication and service to the community.

NATIONAL ASSOCIATION OF  
HEALTH UNIT COORDINATORS

HON. BENJAMIN A. GILMAN  
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. GILMAN. Mr. Speaker, it is a distinct pleasure for me to once again commend and congratulate Ms. Dorothy Barnum for her dedication and diligent work in promoting the ideals and goals of the Mid-Hudson Valley Chapter of National Association of Health Unit Coordinators in the 22d Congressional District of New York.

The National Association of Health Unit Coordinators, which will be celebrating their 11th anniversary in August of this year, continues to strive for excellence by continuing education programs that assist health unit coordinators in keeping abreast with the ever advancing technology in the health care field.

In the past 10 years, the association had developed a number of national certification programs as well as instituting standards of practice and accreditation. Mr. Speaker, it is important for the public to know of the commitment to excellence and professionalism that the National Association of Health Unit Coordinators are striving to achieve.

Accordingly, I invite my colleagues to join today in congratulating Ms. Barnum and the Mid-Hudson Valley Chapter on their second anniversary as well as the National Association of Health Unit Coordinators as they celebrate their founding on August 23, 1991.

COMMEMORATING THE 25TH  
ANNIVERSARY OF MEDICARE

HON. CLARENCE E. MILLER  
OF OHIO

IN THE HOUSE OF REPRESENTATIVES  
Wednesday, July 10, 1991

Mr. MILLER of Ohio. Mr. Speaker, in July 1966, through legislative action by Congress, the Health Care Financing Administration implemented the Medicare Program throughout the United States. Medicare now provides health insurance protection for over 33 million aged and disabled individuals. The program covers hospital services, physician services, and other medical services for those eligible, regardless of income. Medicare includes two parts: Hospital Insurance—part A—and Supplemental Medical Insurance—part B.

In the State of Ohio, Medicare Part B, the physician billing part of the Medicare system, is handled by Nationwide Mutual Insurance Co., located in Columbus, OH. Since Medicare began over 25 years ago, Nationwide has provided a wide range of administrative services to Medicare's beneficiaries and their health care providers. This arrangement works well and is extremely efficient.

I believe that ensuring the availability of quality health care should be a prime objective of Congress. Health care provided through Medicare is an extremely important component of our country's overall medical coverage. Given the current health care revolution and its spiraling costs, a comprehensive Medicare

## EXTENSIONS OF REMARKS

17933

Program for our senior citizens becomes all the more essential.

New forms of treatment and new drugs have arrived to prolong and maintain healthy lives for our citizens. However, these benefits have been coupled with exorbitant health care inflation. In an attempt to hold down costs and plan for future public health benefits, Medicare has been changed and will continue to be changed to meet the challenges that arise.

The health care needs of America's senior citizens are a critical concern of the Congress and we need to continue to do all that we can to ensure that our Government gives them their proper priority. We must adapt Medicare to meet present and future challenges so that we can continue to provide these health care services.

In this 25th anniversary celebration of the Medicare Program, I would like to take this opportunity to commend Nationwide Mutual Insurance Co. for their contribution in striving to provide the best services possible to the Medicare beneficiaries in the State of Ohio.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 11, 1991, may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

## JULY 16

9:30 a.m.

Commerce, Science, and Transportation  
Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

Foreign Relations

To resume hearings on the proposed Conventional Forces in Europe (CFE) Treaty.

SD-419

Governmental Affairs

Oversight of Government Management  
Subcommittee

To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.

SD-342

Labor and Human Resources

To hold hearings on access to higher education, focusing on increasing Pell

grants and widening opportunities for access.

SD-430

Small Business

To hold hearings on the independent contractors' review (The Holloway Report) of the Small Business Administration's small business investment companies program.

SR-428A

Special on Aging

To hold hearings to examine the treatment of low-income medicare beneficiaries.

SD-562

10:00 a.m.

Budget

To hold hearings to examine the future of the budget summit.

SD-603

Finance

Energy and Agricultural Taxation  
Subcommittee

To hold hearings on S. 1393, to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenter's rights.

SD-215

Veterans' Affairs

To hold hearings to examine psychological and readjustment problems of Persian Gulf War veterans and their families.

SD-G50

11:00 a.m.

Governmental Affairs

Government Information and Regulation  
Subcommittee

To hold hearings to review the census adjustment decision by the Department of Commerce.

SD-366

2:30 p.m.

Environment and Public Works

Toxic Substances, Environmental Oversight, Research and Development  
Subcommittee

To hold hearings on proposed legislation authorizing funds for the Environmental Protection Agency's research and development program.

SD-406

## JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on non-point sources of pollution.

SD-406

10:00 a.m.

## Budget

To hold hearings on the Office of Management and Budget's mid-session review.

SD-608

JULY 18

9:30 a.m.

## Environment and Public Works

## Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on coastal protection, clean lakes, and the Great Lakes and Mexico border areas.

SD-406

## Governmental Affairs

## Government Information and Regulation Subcommittee

To hold hearings on government-sponsored enterprises.

SD-342

10:00 a.m.

## Select on Indian Affairs

Business meeting, to mark up S. 291, San Carlos Apache Water Rights Act, S. 668, Consolidated Environmental Grants, S. 362, Mowa Band of Choctaw Indians Recognition Act, S. 45, Jena Band of Choctaw Indians Recognition Act, and S. 374, Arrostook Band of Micmacs Settlement Act; to be followed a hearings on S. 1287, Tribal Self-Governance Demonstration Project Act.

SR-485

2:00 p.m.

## Environment and Public Works

## Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on compliance and enforcement, and State certification of Federal projects.

SD-406

## Foreign Relations

To hold hearings on the Protocol amending the Extradition Treaty between the U.S. and Canada (Treaty Doc. 101-17), Amendments to the 1928 Convention concerning International Expositions (Treaty Doc. 101-15), the Protocol amending the Convention on International Civil Aviation (Treaty Doc. 101-14), and the Convention providing a Uniform Law on the Form of an International Will (Treaty Doc. 99-29).

SD-419

3:00 p.m.

## Energy and Natural Resources

To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.

SD-366

JULY 19

9:30 a.m.

## Governmental Affairs

## Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

JULY 23

9:30 a.m.

## Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

2:00 p.m.

## Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 23 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

JULY 24

9:30 a.m.

## Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

10:00 a.m.

## Foreign Relations

To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), and the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Doc. 102-7).

SD-419

JULY 25

9:30 a.m.

## Rules and Administration

To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.

SR-301

10:30 a.m.

## Rules and Administration

To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.

SR-301

2:00 p.m.

## Labor and Human Resources

## Employment and Productivity Subcommittee

To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.

SR-485

## Select on Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.

SR-485

JULY 29

10:00 a.m.

## Environment and Public Works

## Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on oversight of the Government Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.

SD-406

JULY 30

9:30 a.m.

## Energy and Natural Resources

To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.

SD-366

## CANCELLATIONS

JULY 11

2:00 p.m.

## Foreign Relations

## European Affairs Subcommittee

Closed briefing to receive an update on the Cyprus negotiations.

S-116, Capitol

JULY 15

2:00 p.m.

## Energy and Natural Resources

## Energy Research and Development Subcommittee

To hold hearings to review the Department of Energy's role in math and science education.

SD-366