(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1302. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1303. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1304. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1305. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

Subtitle B—Civil Rights Offenses

SEC. 1311. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1321. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

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

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1322. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

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

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1323. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

SEC. 1324. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 1325. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 1326. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

SEC. 1327. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 1328. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1329. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1330. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1331. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity

that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1332. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services).".

SEC. 1333. COMPUTER ABUSE AMENDMENTS ACT OF 1993.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1993".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 1334. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Other Provisions

SEC. 1361. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1362. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations

as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1363. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1364. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1388(b) of the Crime Control Act of 1993;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1388(b) of the Crime Control Act of 1993.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1994, 1995, and 1996 there are authorized to be appropriated such sums as are necessary for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1364(b) of the Crime Control Act of 1993;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1364(b) of the Crime Control Act of 1993; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1365. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1062(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as section 2001; and

(3) by inserting after part R the following new part:

"PART S—SAFE SCHOOLS ASSISTANCE

"SEC. 1901. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies in urban, suburban, and rural areas for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 1902. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 1903. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1902;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 1904. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1903(c).

"(c) RURAL AREAS.—The Director shall use not less than 15 percent of the funds available under this part for grants to local educational agencies in rural areas.

"SEC. 1905. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1903(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 1903(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall achieve an equitable geographic distribution of grant awards.

"SEC. 1906. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1803(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1903(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 1907. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1062(b), is amended by striking the matter relating to part V and inserting the following:

"PART S—SAFE SCHOOLS ASSISTANCE

"Sec. 1901. Grant authorization.
"Sec. 1902. Use of funds.
"Sec. 1903. Applications.
"Sec. 1904. Allocation of funds; limitations on grants.
"Sec. 1905. Award of grants.
"Sec. 1906. Reports.
"Sec. 1907. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1062(c), is amended—

(1) in paragraph (3) by striking "and R" and inserting "R, and S"; and

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

"(13) There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out projects under part S.".

TITLE XIV—TECHNICAL CORRECTIONS

SEC. 1401. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime

Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 1002, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (3) by striking "and N" and inserting "N, and O";

(2) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(3) by redesignating paragraph (7), relating to part O of that title, as paragraph (9).

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1402. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101–123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1403. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) SENTENCING COMMISSION.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1404. OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 1405. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1406. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1407. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1501. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1993".

SEC. 1502. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $333,500,000 for fiscal year 1994 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas; and

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel, which shall include not more than $35,000,000 for the purpose of hiring, equipping, and training not less than 250 agents and necessary support personnel to expand investigations and operations by the Federal Bureau of Investigation in rural areas.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

TITLE XVI—FEDERAL PRISONS

SEC. 1601. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

TITLE XVII—PRE-TRIAL INTERROGATION

SEC. 1701.

It is the sense of the Congress that the Attorney General shall instruct all U.S. Attorneys, and implement policies consistent therewith, that confessions obtained in conformity with 18 U.S.C. Section 3501 will be offered into evidence.

SECTION-BY-SECTION ANALYSIS

TITLE I—FEDERAL DEATH PENALTY

This title provides necessary procedural provisions and conforming amendments to enable law enforcement authorities to seek the death penalty for the most heinous federal crimes (47 separate federal offenses) and it authorizes the death penalty for the District of Columbia. It is identical in most respects to the federal death penalty proposal which passed the House in 1991 and in 1990.

In all, the bill provides the death penalty for the following 47 federal offenses:

Existing Capital Crimes

1. espionage[1]
2. treason[1]
3. aircraft destruction where death results
4. motor vehicle destruction where death results
5. retaliatory murder against official's family
6. murder of members of Congress or Cabinet
7., 8., 9. three explosives offenses where death results
10. murder in special territorial jurisdiction
11. murder of federal judges and court officers
12. witness tampering where death results
13. mailing dangerous articles where death results
14. Assassination of President, V.P. or staff
15. wrecking trains where death results
16. bank robbery where death results
17. certain drug related killings
18. air piracy where death results

New Death Penalty Authorizations

19. violence at international airports where death results
20. federal child abuse resulting in death
21. conspiracy against civil rights where death results
22. deprivation of civil rights where death results
23. violence against exercising of federal rights w/ death
24. firearms murders during federal crimes of violence
25. fatal firearms attacks at federal facilities
26. drive by shootings where death results
27. murder in furtherance of genocide
28. murder of local law enforcement assisting feds.
29. murder of certain foreign officials
30. murder by prisoner serving life term
31. murder by escaped federal prisoner
32. kidnapping where death results
33. hostage taking where death results
34. murder of jurors and court officers
35. retaliatory murder of witnesses
36. attempted assassination of the President[1]
37. murder for hire
38. murder in aid of racketeering
39. sexual exploitation resulting in death
40. violence against maritime navigation w/ death
41. violence against maritime platforms w/ death
42. terrorist murders of Americans abroad
43. use of weapons of mass destruction w/ death
44. torture where death results
45. drug kingpins currently subject to mandatory life[1]
46. d.k. who attempt to kill to obstruct justice[1]
47. murder in the course of drug felonies

The bill also amends title 18 of the U.S. Code to authorize capital punishment for murders in the District of Columbia. It proposes a separate set of procedures applicable to cases brought in the District in order to address D.C.'s particular problems as well as the unique federal-district relationship.

TITLE II—HABEAS CORPUS REFORM

This title curbs the abuse of habeas corpus by state and federal prisoners and is identical to the habeas corpus amendment to the crime bill which passed by the Senate by a vote of 58 to 40 in 1991. Subtitle A proposes general habeas corpus reform.

Subtitle B contains reforms aimed at addressing the unique problems of abuse and delay in capital cases. It is modeled after the "Powell Committee" proposal for death penalty litigation (the States may opt in, if a State opts in it must provide counsel in state collateral review, and it limits the petitioner to a single habeas petition). It improves upon Powell by including the "full and fair" rule of deference for state court adjudications and placing time limits upon the federal courts.

Subtitle C insures that, each year, State Attorneys General shall receive habeas corpus litigation support grants equal in amount to the grants given to capital resource centers.

TITLE III—EXCLUSIONARY RULE REFORM

This title is identical to the exclusionary rule reform proposal which passed the House

[1]No resulting death is required for the death penalty to be considered.

of Representatives as an amendment to H.R. 3371 IN 1991. This legislation would add a new section 3509 to the federal criminal code.

Sec. 301. Creates new section 3509 to title 18. Subsection 3509(a) would provide that evidence shall not be excluded in any federal proceeding on the ground that the search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. A police officer's mere subjective belief in the legality of his or her own search is insufficient to support admissibility. This would extend the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in cases involving warrantless searches, as well as in cases involving searches made pursuant to a warrant.

The subsection also provides specifically that the fact that evidence was obtained pursuant to a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search was in conformity with the Fourth Amendment.

Subsection 3509(b) would bar the exclusion of evidence in federal proceedings on the basis of non-constitutional violations except as expressly authorized by statute or rule promulgated by the Supreme Court. Subsection 3509(c) makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances.

TITLE IV—RURAL CRIME AND DRUG CONTROL

This legislation improves the fight against drug traffickers and violent criminals in rural America.

Subtitle A—Drug Trafficking in Rural Areas

Sec. 401. Amends current state and local law enforcement grants program to authorize an additional $50 million in grants for rural States.

Sec. 402. Directs the Attorney General to establish Rural Crime and Drug Enforcement Task Forces in every federal judicial district that includes significant rural areas. Headed by the local U.S. Attorneys, the Task Forces would include personnel from DEA, FBI, Customs, U.S. Park Police, U.S. Marshals, and state and local law enforcement. These Task Forces would be required to coordinate activities to ensure that resources are used as effectively as possible.

Sec. 403. Permits the A.G. to cross-designate up to 100 law enforcement officers from the U.S. Park Police, U.S. Forest Service, BLM, and other law enforcement agencies to enforce federal drug and criminal law in rural areas. As well, the section requires the A.G. to ensure that the Task Forces are adequately staffed with investigators.

Sec. 404. Establishes a specialized training program at the Federal Law Enforcement Training Center in Glynco, Georgia to teach police officers and sheriffs from rural agencies the most effective methods of conducting drug trafficking investigations.

Subtitle B—Rural Drug Prevention and Treatment

Sec. 411. Proposes a $25 million HHS drug prevention and treatment program for rural areas. Grants will go to hospitals, community health centers, and State agencies responsible for treatment. Requires that, to the extent practicable, one grant shall go to each state.

Subtitle C—Rural Areas Enhancement

Sec. 421. Requires that the assets forfeited by Rural Task Forces be used to enhance the operations of the Task Force and participating state and local law enforcement agencies.

Sec. 422. Requires federal prosecutors bringing charges against "ice" manufacturers to seek environmental related indictments as well as civil suits where environmental damage has occurred or hazardous waste has been illegally dumped.

TITLE V—FIREARMS AND RELATED AMENDMENTS

Sec. 501. Enhances penalties for smuggling firearms in furtherance of drug trafficking.

Sec. 502. Ten year maximum penalty for theft of firearms.

Sec. 503. Increase maximum penalty for making a knowingly false, material statement in connection with the purchase of a firearm.

Sec. 504. Summary destruction of explosives subject to forfeiture.

Sec. 505. Elimination of outmoded parole language.

Sec. 506. Illegal to transfer firearms to a non-resident unless for lawful sporting purpose.

Sec. 507. Prohibition against theft of firearms or explosives from a licensee.

Sec. 508. Ten year maximum penalty for interstate gun trafficking.

Sec. 509. Prohibition against transactions involving stolen firearms.

Sec. 510. Technical amendment making possession of explosives by felons equivalent to receipt of explosives.

Sec. 511. Facilitates the disposition of firearms forfeited to the federal government. Government may use forfeited weapons or sell firearms which are historic or antiques.

Sec. 512. Defines burglary under the armed career criminal statute.

TITLE VI—JUVENILES AND GANGS

Sec. 611. Enhancement of maximum penalties for using minors in drug trafficking in drug free zones.

Sec. 621. Establishes $100 million grant program for efforts at the State and local level, and by private not-for profit anti-crime organizations, to assist in prevention and enforcement programs aimed at fighting juvenile gangs.

Sec. 622. Creates a new federal offense which adds an additional period of incarceration of up to 10 years for violent crimes or drug offense committed by criminal street gangs.

Sec. 623. Creates a presumption in favor of adult prosecution of leaders of juvenile gangs or juveniles with history of violent crime or drug activity.

Sec. 631. Treats certain serious drug crimes by juveniles as armed career criminal predicate offenses.

Sec. 632. Creates a new $200 million dollar grant program to the State and local government for the purpose of developing alternative methods of punishment for young offenders.

Sec. 641. Adds another objective to State and local law enforcement block grants to support programs addressing the need for effective bindover systems for adult prosecution of juveniles who commit serious violent crimes.

Sec. 642. Requires that the Attorney General develop a national strategy aimed at coordinating federal gang-related investigations.

Sec. 643. Clarification that juveniles records be produced before the commencement of any proceedings against him or her.

TITLE VII—TERRORISM AND INTERNATIONAL MATTERS

Sec. 701. Terrorism Civil Remedy—Provides U.S. victims of terrorism with a federal civil cause of action.

Sec. 702. Criminalizes the providing of material support to terrorists.

Sec. 703. Authorizes criminal forfeiture of property used in or derived from terrorist crimes.

Sec. 704. Alien Witness Cooperation Act—authorizes admission into the U.S. of up to 200 aliens annually who cooperate in terrorism or other investigations.

Sec. 705–706. Extends territorial sea included in the special maritime and territorial jurisdiction of the U.S. to 12 miles. Assimilates crimes which occur in this extended area.

Sec. 707. Ensures jurisdiction over crimes by or against U.S. nationals on foreign ships having a scheduled departure from or arrival in the U.S.

Sec. 708. Increases the maximum penalty for crimes of manslaughter and aggravated assault committed abroad by terrorists against U.S. nationals.

Sec. 709. Authorizes additional $67.5 million in appropriations for federal (and state) anti-terrorism efforts.

Sec. 710. Enhanced maximum penalties for certain offense likely to be terrorist offenses.

Sec. 711. Instructs the Sentencing Commission to review guidelines for terrorist offense, and if warranted, increase the guidelines.

Sec. 712. Extends the statute of limitations for certain terrorism offenses.

Sec. 713. Criminalizes international parental child kidnapping where the intent is to obstruct the lawful enforcement of parental rights.

Sec. 714. Criminalizes the foreign murder of U.S. nationals.

Sec. 715. Facilitation of the extradition of murderers of U.S. citizens abroad.

Sec. 716. Improves FBI access to telephone subscriber information in connection with counterintelligence and anti-terrorism investigations.

TITLE VIII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS.

TITLE IX—EQUAL JUSTICE ACT

The Equal Justice Act establishes additional safeguards against racial bias in the administration of capital punishment and other penalties. It codifies certain Supreme Court decisions addressing racial discriminatory practices in the imposition of the death penalty. It permits a motion by the defense attorney to examine jurors on the risk of racial prejudice during voir dire (*Turner* v. *Murray* (1986)); permits a change of venue where an impartial jury cannot be obtained (*Irvin* v. *Dowd* (1967)), and prohibits all appeals to racial prejudice or bias by defense counsel or the prosecutor before the jury.

TITLE X—FUNDING, GRANT PROGRAM, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 1001–1004. These provisions incorporate the Republican alternative to Police Corps. It increases the current DOJ formula law enforcement grant program from $900 million to $1 billion. It requires that all additional appropriations under this program (current funding is at approximately $500 million) be used to hire additional law enforcement officers. The bill also adjusts the DOJ formula to treat rural states more fairly.

Subtitle B—Retired Public Safety Officer Death Benefits

Sec. 1011. Extends existing death benefits to cover retired officers killed or injured while responding to an emergency.

Subtitle C—Study of Police Officer's Bill of Rights

Sec. 1021. The Attorney General, through the NIJ shall study the fairness and effec-

tiveness of police disciplinary investigations and adjudications.

Subtitle D—Cop-on-the-Beat Grants

Sec. 1031–1032. Creates a new $150 million DOJ grant program for the State and local governments to establish community policing.

Subtitle E—National Commission to Support Law Enforcement

Sec. 1041–1050. Create a National Commission to Support Law Enforcement (18 month period) which will study and recommend changes regarding law enforcement agencies and issues at the federal, state, and local level.

Subtitle F—Other Provisions

Sec. 1062. $5 million grant program to provide family support services to law enforcement personnel.

Sec. 1063. Requires the Bureau of Prisons to notify local police of the release from custody of any prisoner convicted of a crime of violence or drug trafficking offense.

TITLE XI—ILLEGAL DRUGS

Sec. 1101. General requirement that federal offenders be tested for drugs on post-conviction release.

Sec. 1121–1133. Precursor chemicals provision which the DEA has worked out with chemical manufacturers. It has passed the Senate on three separate occasions.

Sec. 1141. Prohibits the advertising of illegal transactions involving controlled substances.

Sec. 1142. Closes loophole for the illegal importation of small amounts of marijuana.

Sec. 1143. Authorizes civil penalties and injunctions against drug paraphernalia violations.

Sec. 1144–47. Various conforming amendments: adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles; definition of a narcotic or other dangerous drugs under RICO; elimination of outmode language relating to parole.

Sec. 1148. Enhanced penalties for federal drugged or drunk driving that endangers or kills minors.

Sec. 1149. Authorizes the Attorney General to bring civil actions seeking injunctions, evictions, and civil penalties in relation to premises used in drug activities.

Sec. 1150. Criminal offenses for coaches, trainers, etc, who promote the use of steroids by persons in their charge.

Sec. 1151. Public awareness program of existing federal law relating to loss of highway funding for States which fail to revoke driver's licenses of convicted drug abusers.

Sec. 1152. Allows local governments to participate in DARE with the approval of local educational agency.

Sec. 1153. Prohibits the unauthorized use of the words Drug Enforcement Administration or DEA in a manner calculated to convey the impression that DEA endorses the labeled item.

TITLE XII—PUBLIC CORRUPTION

Sec. 1201–1204. Strengthen federal laws against public corruption, including increased penalties, more adequate basis of federal jurisdiction to prosecute corruption offenses, prohibition of retaliation against whistleblowers who expose public corruption, and specific provisions relating to election fraud and drug-related corruption.

TITLE XIII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1301–1305. Addition of the attempt liability for robbery, kidnapping, smuggling, and property damage offenses. Increase the maximum penalty for assault, manslaughter, travel act violations, and conspiracy to commit murder for hire.

Subtitle B—Civil Rights

Sec. 1311. Increase the maximum penalties for serious violent acts in violation of criminal civil rights statutes.

Subtitle White Collar and Property Crime

Sec. 1321–1326. Technical and conforming amendments to cover receipt of proceeds of robbery, extortion and kidnapping; and other changes. Defines savings and loan for purposes of bank robbery statute.

Sec. 1327. Federal Deposit Insurance Act prohibitions relating to convicted criminals involvement with financial institutions is extended to cover federal credit unions.

Sec. 1328. Prohibits the disclosure of wiretap information with the intent to obstruct, impede, or interfere with criminal investigations.

Sec. 1329. The state of mind requirement for offenses concerning stolen or counterfeit property is satisfied if the defendant believed, on the basis of representations by law enforcement, that property was stolen or counterfeit. The measure clears, facilitates undercover investigations of fencing operations.

Sec. 1330. Extension of mail fraud statute to cover mail delivered by private interstate carriers.

Sec. 1331. Makes minor amendments to existing "access device" fraud statute to cover illegal use of a credit card number.

Sec. 1332. Increase in the fines and maximum penalties for trafficking in counterfeit goods and services.

Sec. 1333. Criminalizes the knowing or reckless distribution of a computer virus.

Sec. 1334. Requires the notification of law enforcement officers concerning drugs and large amounts of cash discovered in airport weapons screenings.

Subtitle D—Other Provisions

Sec. 1361–63. Misc. enhancements to venue, and administrative aspects of criminal justice system.

Sec. 1364. Establishes a system of funding, quality control, and information relating to DNA identification process. Legislation was the product of negotiations with FBI and Congress.

Sec. 1365. Safe schools $100 million grant program for the purpose of anti-crime and safety measures in urban, suburban, and rural schools. Formula insures that money is distributed fairly amongst the states.

TITLE XIV—TECHNICAL CORRECTIONS

Sec. 1401–7. Minor and technical corrections.

TITLE XV—FEDERAL LAW ENFORCEMENT

Authorizes an additional $333.5 million for federal law enforcement personnel to be divided as such: $100.5 DEA (of which $45 goes to rural areas), $98 FBI (of which $35 goes to rural areas), $45 INS, $45 U.S. Attys., $10 U.S. Marshals, $15 BATF, and $20 the Courts.

TITLE XVI—FEDERAL PRISONS

Authorizes an additional $500 million for the construction of new federal prisons for the increased number of inmates entering the federal system.

TITLE XVII—PRE-TRIAL INTERROGATION

Establishes that the Attorney General shall implement 18 U.S.C. §3501 relating to the admissibility of confessions. Section 3501 directs the courts to admit confessions under the pre-Miranda voluntariness standard but has not been implemented by the Department of Justice.

• Mr. SPECTER. Mr. President, I am pleased to join many of my colleagues, including the distinguished minority leader and the new ranking member of the Judiciary Committee, Senator HATCH, and our former ranking member, Senator THURMOND, to cosponsor the Crime Control Act of 1993. Passage of a strong, effective, and comprehensive crime control bill must be a priority for Congress this year.

Everyone recognizes that crime is one of the most serious problems confronting our Nation. Criminals hold many neighborhoods in our inner cities in their grasp. The law-abiding majority in these communities have become prisoners of these vicious criminals. People fear to leave their homes after dark. Some corners are off-limits to anyone not a member of some gang at all hours of the day. Weapons have become commonplace, and the handgun has become the preferred method for settling disputes. Fear reigns in many of our inner-city neighborhoods. At the same time, violent crime, formerly a stranger to many of our mid-size cities and smaller communities and rural areas, has spread into these locales. Local police in small towns can be overwhelmed as national gangs move into the community to use as a drug distribution center or to set up a methamphetamine laboratory.

We are unanimous in Congress in saying every year that the plague of violent crime must stop. But we appear unwilling to confront the real issues and pass tough legislation that will assist police officers and benefit our people who are held in terror at the seeming power of criminals to control their communities. In the 102d Congress, the Senate passed a tough anticrime bill, only to see its toughest provisions eviscerated in conference. With the start of the 103d Congress, the time comes to try again to develop and enact tough anticrime legislation.

The Crime Control Act of 1993 is such a tough, comprehensive bill. It addresses many of the most important issues confronting our Nation. It provides for a constitutional Federal death penalty for a wide range of murders. Adoption of such a law, strongly supported by a large majority of the American people, is long overdue.

The bill also provides tough, increased penalties for those who use firearms in the commission of crimes. Since the adoption of my Armed Career Criminal Act in 1984 and its expansion in 1986 to cover additional crimes, the Federal Government has turned its resources against violent criminals. The Armed Career Criminal Act has proved to be extremely successful in ridding our streets of thousands of our most violent criminals by putting them in jail for lengthy mandatory sentences. Increasing penalties for using firearms in the commission of crimes will have a similar salutary effect. We will not

curb the plague of gun violence until we get serious about punishing those who use firearms illegally.

This bill also adopts many of the provisions included in the antigang legislation I introduced in the 102d Congress, S.1337. Gangs have become a serious national problem, and we must fight them at the Federal level. Small communities throughout our Nation which never had serious crime problems have recently been turned into local headquarters for national gangs like the Crips and the Bloods, both founded in Los Angeles but now involved in a crime-spree across the Nation. The antigang proposals in this bill will put effective tools into the hands of Federal law enforcement agencies to fight gang crime and violence.

I am also pleased to see the increased authorization for block grants to State and local police to assist them to hire additional officers. Law enforcement remains primarily a local responsibility. Local police know their communities best and are closest to their neighbors and friends. The Federal Government does have responsibilities in law enforcement, and I have worked for years to expand these responsibilities. But in the end, we must rely on our local police to keep our neighborhoods safe. That is why the Federal Government must assist in making some of its resources available to State and local governments to hire more police. This bill will increase the authorization levels to do just that. Once enacted, we can work to secure increases in appropriations to make the promise of this bill a reality.

In this connection, I want to note briefly the absence from this legislation of my Police Corps proposal. The fact that the Police Corps is not included in this bill, despite its inclusion in the Republican alternative anticrime bill of last year, does not indicate any lack of support for the program. Indeed, it indicates just the opposite. The Police Corps won approval in both the Senate and the House in the 102d Congress, and it was endorsed by both President Bush and President Clinton during the campaign. It is not included in this package only because we want to work closely with the incoming administration in drafting a Police Corps bill that will be enacted speedily on its own.

I want to point out that I do not support all the elements of this package. Habeas corpus reform has been a top priority of mine for several years now. I am troubled by the provisions of this bill that might be read to restrict Federal habeas corpus review to cases that have been fully and fairly adjudicated in State courts. I believe that finality in these cases is necessary, but Federal courts must be free to determine Federal rights. I will work closely with my colleagues to fashion comprehensive habeas corpus reform that will result in finality without sacrificing the traditional role of the Federal courts.

I am also very troubled by the provision of the bill cutting back on the exclusionary rule. This court-fashioned rule excludes illegally seized evidence from use at trial. As far as I can tell, police and courts manage quite well under the strictures of the rule, and very few cases are thrown out because of the effects of the exclusionary rule. The Supreme Court has created a good faith exception to the rule, under which evidence seized illegally by police officers otherwise acting in good faith under a defective warrant can tbe relied on in a prosecution. Some courts, like the U.S. Court of Appeals for the Fifth Circuit, have extended the good faith exception further and the law continues to develop in the courts to meet the particulars of each specific case. I believe that continued judicial development of the exclusionary rule is the wisest course. Thus, I opposed the provision of this bill on the exclusionary rule in the 102d Congress, as I opposed the attempted codification contained in the conference report on the anticrime bill last year. This is an issue that should be left to the courts.

Despite my reservations over two of this bill's key provisions, I view this legislation on the whole as a positive development. I will support this bill, even as I work to ameliorate some of its provisions. I am pleased to join in cosponsoring this measure, and I look forward to working with my colleagues to fashion necessary anticrime legislation this year.●

By Mr. COATS (for Mr. MCCAIN (for himself, Mr. COATS, Mr. THURMOND, Mr. BROWN, Mr. GRAMM, Mr. SIMPSON, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. BOND, Mr. MACK, Mr. SMITH, Mrs. KASSEBAUM, Mr. HELMS, Mr. BURNS, Mr. KEMPTHORNE, Mr. LOTT, Mr. CHAFEE, Mr. LUGAR, Mr. WARNER, Mr. DANFORTH, Mr. COVERDELL, Mr. PRESSLER, and Mr. BOREN)):

S. 9. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be charged.

BUDGET REDUCTION AUTHORITY

Mr. MCCAIN. Mr. President, yesterday President Clinton gave our Nation a call to arms. He called for an American renewal. I pledge to work with our newly elected President to renew our country and refurbish our Nation's vitality.

Now, Mr. President, is the time to move quickly and decisively. Now is the time to give the President what he has asked for. Now is the time to pass the line-item veto.

Today I am joining Senators COATS, THURMOND, BROWN, GRAMM, SIMPSON, MCCONNELL, WALLOP, NICKLES, BOND, MACK, SMITH, KASSEBAUM, HELMS, BURNS, KEMPTHORNE, LOTT, CHAFEE, LUGAR, WARNER, and DANFORTH in reintroducing as one of the Republican priority bills the legislative line-item veto.

This bill is very simple. It enables the President, 20 days after the enactment of an appropriations bill, to identify items of spending within that bill which the President believes are wasteful, and to notify the Congress that the President is eliminating or reducing the funds for those items.

The President may veto part or all of the funds for programs deemed wasteful. It also allows the President to submit such enhanced rescissions with the budget submission at the beginning of the year. This second opportunity to propose rescissions ensures that the President has the opportunity to strike at wasteful pork barrel spending that may not be obvious during the first rescission period.

The Congress is required to overturn these line-item vetoes with majority votes in the House and Senate within 20 days or they become effective. The President may veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate. Last, this bill would not allow the President to rescind appropriations for entitlements such as Social Security, Medicaid, or food stamps.

More specifically, the Line-Item Veto Act of 1993 amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974.

Mr. President, to those who charge that the line-item veto is a partisan game or a unneeded shift in power, I resoundingly state, you are wrong. The line-item veto is a necessity. Our Nation's fiscal house is in disarray. We are mortgaging our children's future. We must pay heed to President Clinton and listen to the trumpets that are heralding change throughout our country.

We must give the President the line-item veto.

On page 17 of then-Governor Clinton's "Putting People First, A National Economic Strategy for America," the President specifically states the following:

Line-Item Veto. To eliminate pork-barrel projects and cut government waste, I will ask Congress to give me the line-item veto.

During the President's stirring Inauguration Address, he boldly and most correctly declared:

Americans deserve better . . . so that power and privilege no longer shout down the voice of the people. Let us put aside personal ad-

vantage so that we can feel the pain and see the promise of America. . . . Let us give this capital back to the people to whom it belongs.

It is time to give the President the power that 43 governors possess. It is time to give the President the line-item veto. It is time to do the people's bidding. The people who send us here want the line-item veto. We must now put aside partisan and institutional pride and do what the people demand: we must give the President the line-item veto.

While as some will wax eloquently on the floor, giving us history lessons, explaining theoretical concepts that baffle the working men and women on America's streets, the public is demanding more. They want change. They want a renewed America.

The public has grown full of "pork books" and "pork kings." As the Washington Times stated on January 20, 1993:

The economy is down. Unemployment is up. The deficit is rising. Respect for government officialdom is failing. Yet the Congress of the United States can still spend billions on projects of absolutely no use to the taxpayers. Appropriately, our elected leaders have also allocated $140,000 for swine research.

A line-item veto will allow President Clinton an opportunity to do what we have shown ourselves incapable of doing—exercising fiscal restraint and eliminating funding for things like swine research.

Mr. President, I state again, we must give the President the line-item veto. I hope the Congress will act quickly on this issue.

I ask unanimous consent that the full text of the Legislative Line-Item Veto Act of 1993 appear in the RECORD following my remarks.

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

S. 9

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act of 1993."

SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.

The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority, or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RECISSION EFFECTIVE UNLESS DISAPPROVED.— (1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extend practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extend practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) it shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifth of the members duly chosen and sworn.".

• Mr. CHAFEE. Mr. President, I am happy to join Senators MCCAIN and COATS in introducing the legislative Line-Item Veto Act. This legislation gives the President the authority to strike specific provisions from spending bills without having to veto the entire bill.

It is clear to most of us here in the Senate that we must begin to take the necessary steps to reduce the deficit. The national debt—now exceeding $4 trillion—is choking the Federal Government, and threatens our ability, as elected representatives, from effectively addressing the problems facing this country. Most economists agree that the Federal Government's huge Federal deficits were a factor in the recent recession, and hinder the recovery that is underway.

Last year the Federal Government paid almost as much in interest as it spent on all domestic discretionary programs combined. Interest expense is the third largest single expenditure in the Federal budget, behind Social Security and defense. If we continue our present course, interest will soon surpass defense as the second largest spending item in our budget.

We must remember that paying interest on the debt does nothing to address this country's most pressing needs. Interest does not assist in providing pregnant women and newborns with the medical and nutritional help they need. It does nothing in support of enhancing research and development to make our country more competitive. Interest provides no funds for expanding the Head Start Program so that all eligible children can receive the educational assistance they need. In short, the interest we now pay to support our past excesses robs us of the ability to meet today's pressing needs.

The line-item veto authority is one tool that we can give to the President to combat the deficit. It alone cannot balance the budget. Entitlement programs comprise almost half of all Federal outlays, yet they are not subject to the annual appropriations process. We must also find a way to control these programs. And, finally, it may be necessary to look at additional revenue sources to help balance the budget, but it is my hope that we will look long and hard at the spending side of the budget before we take that step.

Mr. President, I commend the Senator from Arizona, Mr. MCCAIN and the Senator from Indiana, Mr. COATS for reintroducing this legislation. I urge my colleagues to support this effort so that the new President has the tools he needs to fulfill his campaign pledge to reduce the deficit.•

Mr. COVERDELL. Mr. President, during this past year the citizens of my State and the country have demonstrated grave concerns with regard to the fiscal crisis and dilemma being experienced by our country.

In the Presidential campaign, all candidates spoke eloquently and often to issues of debt and deficit. In his inaugural speech, President Clinton addressed the issue of debt in our Nation.

In record numbers, Georgians and Americans turned out to express their frustration and concern in this past election. It is clear to me that much of this concern is rooted in the issue of the financial crisis faced by our country as shown by this debt and deficit.

Mr. President, 49 Governors of the United States, including the former Governor of Arkansas and now the President of the United States, had as a fiscal tool to utilize in financial discipline, the line-item veto.

Mr. President, as a member of the Georgia Senate for many years, I had the opportunity to witness first hand the value of the chief executive of our State having as a financial discipline the tool of the line-item veto.

I believe it is exceedingly important that the 103d Congress be responsive to the call of our new President. I believe it is responsible for us to react to the electorate of this country when it calls for enormous proportions the institution of new disciplines and rules that relate to the manner in which we manage our financial affairs.

Therefore, I join with the President of the United States, Senator MCCAIN, and others, and the people of this country, in their call for the institution of a line-item veto.

Mr. President, thank you.

I yield the floor.

By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. GRASSLEY, Mr. BURNS, Mr. SIMPSON, Mr. KEMPTHORNE, and Mr. HATFIELD):

S. 10. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

FLEXIBLE FAMILY LEAVE TAX CREDIT ACT

Mr. CRAIG. Mr. President, I rise to urge my colleagues to support and cosponsor legislation I am introducing today with our distinguished Republican, the Senator from Kansas [Mr. DOLE], and several other colleagues. This bill, numbered S. 10, is the Flexible Family Leave Tax Credit Act of 1993.

I want to remind my colleagues of a little of the history behind this bill. Back in the middle of the last decade, some concerns began to arise because demographic shifts and changes in the economy and the work force were forcing some working parents to make difficult decisions between work and family, when critical family events occur.

The not-surprising response of some, those who see Government control as the answer to every challenge, was to propose that the Federal Government impose a one-size-fits-all, inflexible mandate that employers provide the Government's idea of an appropriate personnel policy change.

And there were those of us who care deeply about families and who also realize that business owners are laborers too, who have families of their own, and who value every dimension of their employees' well-being. Small businesses, especially, often operate at the margin, and generally provide what they can—based also on what their employees want—in the way of compensation and benefits.

Congresses and Presidents and Federal public policy has long recognized the constraints that a dynamic economy places on both employers and employees, and—until very recently—understood that incentives are the best Government tool for introducing changes in the employment relationship.

In that spirit, some 4 years ago, as a Member of the other body, I cosponsored legislation to create a tax incentive for employers to provide family and medical leave. Because of the restrictive rules of that body, we were never given a fair hearing and we were never allowed to offer a floor amendment along those lines.

Two years ago, as a Member of this body, I introduced similar legislation. I discussed my bill back then with colleagues, the business community, family advocates, and the administration. I did not offer my bills as an amendment when the Senate took up S. 5 in the 102d Congress, because it was obvious then that no alternative was going to be given serious consideration until after a veto was sustained.

The proof of that fact came in the treatment accorded the one major substitute that was offered during the 1991 floor debate. Those of us who had a variety of ideas on alternatives to mandated benefits decided to support one of them and deferred to the distinguished ranking minority member of the Labor and Human Resources Committee at the time, Senator HATCH. The gentleman from Utah had put much thought and effort into his bill, the preferred rehire alternative. I know he and his staff were working on it well before the beginning of the 102d Congress and that it was a very serious undertaking. But, when it came to the floor, arms were twisted, the special interest groups howled, and Senator HATCH'S very good proposal was not given the consideration it deserved. It was obvious that the same fate would befall any other serious alternative, as well.

Before S. 5 was vetoed, several of us in this body and the last administration worked on a new family leave tax credit that improved on our previous proposals. We were ready then to go to the table to work out a bill—a nonmandate bill, an incentive bill—that could have become law last year. But again, we were not really given that chance.

Now, once again, we have the opportunity to really consider all sides of this issue fully and seriously. We, who support family leave but oppose writing private sector employers' personnel policies for them, offer a positive alternative. We want to see a family leave bill become law, if it provides an incentive, if it applies broadly, and if it increases the family-friendly benefits employers offer voluntarily because they are now able to do so.

I understand that the family leave mandate bill that will be introduced today will be the same as last year's vetoed version. I would like to add to the RECORD a brief side-by-side analysis comparing these two approaches. I ask unanimous consent to print that in the RECORD.

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

S. 10

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flexible Family Leave Tax Credit Act of 1993".

TITLE I—FAMILY LEAVE CREDIT

SEC. 101. CREDIT CREATED.

Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability, or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subsection (b)(2)(A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under section 103 of the Flexible Family Leave Tax Credit Act of 1993.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a)(1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subsection (e)(1)(C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subsection (e)(1)(D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an employer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

"(i) the accrual of any seniority or employment benefits during any period of leave; or

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

SEC. 102. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

SEC. 103. CONFORMING AMENDMENTS.

(a) Section 38 is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(b) The table of sections for subpart D of part IV of subchapter A of chapter 1 is

amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

SEC. 104. EFFECTIVE DATE.

The amendments made by this title shall apply to family leave that commences 90 days after the date of the enactment of this Act.

TITLE II—DEFICIT NEUTRAL REVENUE OFFSET

SEC. 201. CORPORATE ESTIMATED TAX PROVISIONS.

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 of the Internal Revenue Code of 1986 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100."

(B) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any installment due date occurring more than 90 days after the date of enactment of this act.

COMPARISON OF DIFFERENT FAMILY LEAVE APPROACHES

	Federally mandated Family Leave Act—S./H.R. 1 (Dodd-Ford)	Flexible Family Leave Tax Credit Act—S. 10/H.R. (Craig-Goodling)
Business workplaces covered	Those with 50 or more employees (about 5 percent).[1]	Those with 500 or fewer employees (99.8 percent).[2]
Employees in covered workplaces	40–50 percent[1]	80.5 percent.[2]
Type of legislation	Federally mandated fringe benefit	20 percent refundable tax credit incentive.
Budget revenue impact	NA[3]	Cost: $4.8 billion/5 yr. Offset: $5.7 billion/5 yr.—deficit-neutral.
Cost imposed on employers	$2.4 billion minimum[5]	NA—leave is based on employee-employer negotiation and encouraged by tax incentive.
Type of leave	Unpaid	Unpaid or paid.
	Birth, adoption, serious health condition of child, parent, or employee.	Same.
Health coverage continued	Yes	Yes.
Job and benefits protected/reinstated:	Yes	Yes.
Enforcement	Secretary of Labor issues regulations; aggrieved employee obtains complaint and enforcement from Secretary or files civil action.	Secretary of Treasury issues regulations; credit is conditional on leave granted.

[1] Source: Committee reports on S. 5/H.R. 2.

[2] Source: Office of Management and Budget.

[3] In the committee reports on S. 5/H.R. 2, the Congressional Budget Office estimated no revenue impact. Since the additional costs mandated will likely cause the loss of thousands of jobs and much taxable income, this conclusion in arguable.

[4] Based on Joint Tax Committee estimates of S. 3265 and H.R. 11, 102d Congress.

[5] Based on a combination of General Accounting Office and Small Business Administration methodologies. In 1991, SBA estimated that 12 weeks of mandated maternity leave alone would cost employers $1.2 to $7.9 billion a year. GAO's earlier report estimated this type leave would account for about half of the leave taken under the mandate bill.

Mr. CRAIG. Mr. President, our bill, S. 10, offers the compromise approach of creating a new, refundable, 20-percent tax credit that would be a powerful incentive for employers to offer family and medical leave benefits.

I ask unanimous consent to print in the RECORD a description and fact-sheet on this legislation.

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

REINTRODUCTION OF FLEXIBLE FAMILY LEAVE TAX CREDIT

Senators LARRY CRAIG (ID), BOB DOLE (KS), ORRIN HATCH (UT), ALAN SIMPSON (WY), CHUCK GRASSLEY (IA), CONRAD BURNS (MT), and DICK KEMPTHORNE (ID) today introduced S. 10, the Flexible Family Leave Tax Credit Act of 1993.

The bill would make available a refundable tax credit, based on 20% of an employee's usual compensation, when the employee's employer gives him or her up to 12 weeks of family leave—paid or unpaid—due to the birth or adoption of a child, the serious health condition of an immediate family member, or the employee's own serious health condition.

S. 10 is similar to S. 3265 in the 102nd Congress, which built on earlier family leave tax incentive proposals introduced in the 102nd and 101st Congress. Summary information about S. 3265 is attached. Besides technical changes, the new bill would allow intermittent leave to qualify for the tax credit, and include clearer language on the tax credit being conditional on the protection of reinstatement and benefits.

The Joint Tax Committee (JTC) has just estimated the cost of the S. 3265 tax credit at $4.8 billion through FY 1998. To offset this revenue loss, S. 10 includes a 100% estimated tax payment rule for large corporations (see attached), would yield almost $5.7 billion over 5 years. This provision was included in last year's HR 11 and was not controversial. This provision simply would require large corporations (i.e., with taxable income of $1 million or more) to base their quarterly estimated tax payments on 100% of their current year tax liability (rather than the current law 97% through 1996 and 91% thereafter). Most corporations already overpay as a precaution.

Staff Contact: Damon Tobias, 4–2752.

FLEXIBLE PARENTAL LEAVE POLICY (102D CONGRESS)

President Bush has consistently supported employer policies to provide parental leave. But he has opposed mandates that require businesses to provide leave to employees. These mandates are a hidden tax on employers and employees that will cost the economy thousands of jobs.

However, the President supports tax credits for employers that will encourage flexible parental leave policies without stifling economic growth.

PARENTAL LEAVE TAX CREDIT

The Administration supports refundable tax credits for businesses that establish nondiscriminatory parental leave policies. The credit would be available for:

All businesses with under 500 employees, so long as the benefit is provided to all employees on a nondiscriminatory basis;

For 20% of total employee benefits and compensation of up to $2,000 per month, for a period of up to 12 weeks;

For birth or adoption leave, or for the care of a seriously ill child, parent or spouse; and

The cost of the credit would be less than $500 million per year.

The advantages of this approach over parental leave mandates are:

It gives employers the *flexibility* to design a leave package that best fits their employees' needs. The $400/month or $100/week credit is designed to allow the employer to cover the benefits of an absent employee—whether those costs are for continued health coverage, pension or 401k contributions, partial pay, or any other component of a flexible benefits package that an employer may offer. It may also partially defray the cost of temporary replacement employees.

It provides incentives for most small and mid-sized employers, where the need is greatest and the costs are more burdensome, to develop responsible parental leave policies. The Democratic plan excludes companies with under 50 employees in a weak attempt to limit the economic damage to small and mid-sized businesses. The Republican plan would offer positive incentives to all employers—of any size—to provide parental leave.

Instead of mandating hidden payroll taxes on small and mid-sized businesses, it would provide direct economic incentives to encourage the adoption of the responsible parental leave policies that President Bush has long supported.

FACT SHEET

CURRENT LAW

No deduction or credit is available to an employer who provides employees with unpaid leave for childbirth, medical care of children or parents or other serious medical needs. Compensation paid to employees during leave for these purposes is deductible under general tax principles.

REASONS FOR CHANGE

Care for family members with serious mental or physical health problems, including injuries and sickness necessitating hospital, hospice or substantial and continuous medical treatment, present substantial hardships on families. Families are further burdened by the requirements of childbirth and childcare. The increase in the number of two wage-earner families, as well as single parent families, has resulted in pressures to balance these family needs with employment requirements. This balancing has resulted in difficult decisions for both employers and employees.

Employers face significant costs related to extended employee absences. Extended absences could result in substantial lost production and lost business opportunities if the employee is not replaced. These costs are particularly high for small and medium-sized businesses. Economies of scale permit large firms to reduce these costs. Large businesses can train and maintain floating employees, temporarily shift employees to replace absentees or enter into regular arrangements with third parties for trained temporary employees. The costs of extended absences on small and medium size businesses may not be as readily reduced. For small and medium-sized businesses, it is often not economically reasonable to maintain floating employees, to shift employees from other duties or to retrain workers for only a temporary need. Accordingly, small and medium size businesses are more likely to experience severe economic consequences if they do not quickly replace absent workers.

Regardless of a business' ability to mitigate costs, all businesses must balance the legitimate family needs of their employees with the costs of extended absences. Since most businesses cannot economically tolerate unlimited employee absences, employers frequently must place limits on such absences. As a result of these limitations, employees can be placed in the situation of choosing between their employment and the serious medical or health needs of their families.

The proposal's tax incentives encourage small and medium-sized businesses to adopt flexible leave policies related to childbirth, adoption or serious family health problems. The tax incentives do not require that any particular form of flexible leave be adopted. Instead, the proposal allows employers and employees to arrive at a program based on their specific needs, while also providing an offset to the cost of extended employee absences.

EXPLANATION OF PROVISION

The provision provides a 20% refundable tax credit to small or medium-sized employers that provide family leave to their employees. "Family leave" is leave in connection with the birth of a child; the placement of a child with the employee for adoption or foster care; caring for a child, parent or spouse with a serious physical or mental health condition; or a serious physical or mental health condition that prevents the employee from performing his or her job. All employers with fewer than 500 employees are eligible for the family leave tax credit.

The amount of the credit is 20% of the cash wages that the employer provided to the employee during the period of family leave, or would have been provided to the employee during that period had he or she not taken the leave. The cash wages that would have been provided is based on the average wages for the preceding calendar year (or absent a sufficient period of employment, the preceding four calendar quarters). The maximum amount of wages taken into account for this purpose is $100 for each business day. The maximum period of family leave for which the credit is available shall not exceed 60 business days (12 calendar weeks) in any 12-month period. This results in a maximum available family leave credit of $1,200 per employee per year.

The proceeds of the family leave credit may be used by an employer for any purpose. For example, the proceeds may be contributed to a pool of funds provided by the employer and other employees to defray employee leave costs, paid as partial wage supplements to employees on leave or used to purchase wage continuation insurance or other insurance to cover leave related costs or to provide leave related benefits.

The credit is only available with respect to employees (whether part-time or full-time) who satisfy certain length of service requirements. Under these requirements, the employees must have been employed by the employer for at least 12 months before beginning the family leave and must have performed at least 1,000 hours of service for the employer in the preceding 12 months. Moreover, the credit applies only for the portion of family leave during which the employer reasonably expects that the employee will return to work for the employer.

In order to qualify for the credit, employers must provide employment and benefits protection to employees on family leave. Health benefits must continue during the leave under the terms and conditions that would have applied had the employees remained at work. In addition, all family leave must be provided on a nondiscriminatory basis.

REVENUE OFFSET

Modify estimated tax payment rules for large corporations.

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present-law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

REASONS FOR CHANGE

The committee believes that corporate estimated tax requirements should be increased to require corporations to more timely remit their current year tax liabilities. In addition, the committee believes that in order to simplify and rationalize the calculation of annualized income for corporate estimated tax purposes, an additional set of annualization periods should be provided and applied consistency.

EXPLANATION OF PROVISION

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 100 percent (rather than 97 percent or 91 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable

year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year (in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Mr. CRAIG. Mr. President, a tax credit incentive to provide family and medical leave—as opposed to mandating fringe benefits in Federal law—is the approach that is consistent with how we always have approached both employee benefits and tax policy.

Generally speaking, we pass laws that punish to deter bad behavior and enact incentives to encourage good behavior. That is the approach we are taking in introducing the Family Leave Tax Credit Act.

Sixty years ago, there were virtually no employer-provided employee benefits. Congress enacted tax incentives. Today, more than 85 percent of employers provide health insurance. Some 90 percent of employees in medium and large firms have disability leave with at least some income replacement. According to surveys of employee benefits by the U.S. Chamber of Commerce in recent years, 97–99 percent of employers voluntarily provide some type of paid benefits.

It is not a fair or an accurate assessment of need, merely to identify how many employers provide the precise benefits provided for in S. 5. To a significant extent, when such benefits are not offered it is because other benefits were negotiated, instead. A Gallup Poll from a couple of years ago found that parental leave was the most important benefit to only 1 percent of respondents.

Because employee benefits must be carved from a finite pie of resources the employer has available for compensation, mandating one set of benefits means that employee choice will be overridden and, in some cases, employees will wind up losing other benefits they would have preferred.

The mandate bill represents one of the noble, but most misguided, impulses of legislators: The tendency to legislate by anecdote, to govern according to relatively isolated horror stories, and to ignore the possibility that, in doing so, the baby can be thrown out with the bath water.

In saying this, I do not argue that we should ignore each and every workplace that is without family leave benefits. The question is how best to expand the availability of such benefits. Experience shows us that tax incentives obviously have worked when Congress has wanted to expand the universe of available benefits.

The answer also turns on how we judge human nature. A balanced view is that the laws of human nature apply equally to employers and employees. Those of us who believe that individuals will be as good to others as they can be, believe in using the carrot rather than the club to foster good behavior.

I urge my colleagues, if you want to enact the fairest and most balanced bill, if you want a true compromise, if you want a family leave law this year, let us start by looking at our Flexible Family Leave Tax Credit Act. It's a new Congress. Let us sit down with the leadership from both sides of the aisle and the administration, and work out an effective, nonmandated, compromise.

Mr. President, let me discuss in this time that I have remaining the legislation that my leader, BOB DOLE, and I have introduced today, Senate S. 10, Flexible Family Leave Tax Credit Act of 1993. This issue has been debated on the floor before. Obviously by the introduction of both Republican leadership and Democratic leadership of this issue this year, it will be front and center and it probably deserves that kind of treatment.

I introduced this legislation a year ago, but it was obvious that it was not going to get the kind of treatment that it deserved because, frankly enough, this important issue became a political issue in the final days of the session and Members on the other side wished to use it for scoring purposes in the election process. That is unfair. It is unfortunate. Those kinds of things happen. I understand it.

Hopefully, with my introduction of opposing or differing approaches to the same problem this year early on in the session of the 103d, we will be able to deal with it in a fair and justifiable way. It is very important that that happen.

Mr. President, let me, therefore, in a brief way look at the two bills that have been offered because it is important that early on we begin to understand where all of us are coming from. We are talking about working people, people out there who, by necessity the commitment for the family, for their own personal reasons, need to leave the workplace for a period of time and in that, let me give that kind of an analogy.

That legislation introduced today by the Democratic majority leader covers a certain percentage of people working out there today estimated to be between 40 and 50 percent of those working. What about the rest of them? It is important that they be covered. The legislation we are looking at would address nearly 99 percent of the working people of this country in groups of 500 or fewer employees. We understand that the large companies already have oftentimes leave requirements.

So we would strive to cover a great many more of the citizens of this country, and we would not mandate. It is not going to be the heavy hand of the Federal Government reaching down and saying, "You will." It is going to be, as it should be in the workplace, management and labor coming together and saying here it what we have agreed is best for our work environment. We would create the incentive for that kind of chemistry to exist, and that would be created in the form of a tax credit. That is the way it ought to be.

As it relates to the budget impact of this kind of thing, when you mandate it, the private sector picks it up, obviously. You say to the private sector, you are going to do it; it is going to come out of your back pockets; we are not worried about competition; in an international economy, you do it. That is what was just spoken to by the other side.

What we are suggesting is that that relationship is going to cost some money, and if we give tax credits, it will cost. We have some offsets. And in doing those effective offsets we create a revenue neutral situation that I think is important as we struggle with the deficit in the coming year. Cost imposed on employers, well, in a general sense, the mandatory one as argued would be about $2.4 billion and we give the kind of encouragements through incentive that it ought to be.

As it relates to the type of leave, we are both suggesting unpaid although ours could be a paid environment, depending again upon the incentives, for all of the reasons I have given: birth, adoption, serious health conditions of the child, the parent, and the employee. And it is broken out in the text I have submitted to the RECORD. It is an important issue. We will move aggressively on it this year and I hope effectively address it for the working men and women of this country.

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of the Flexible Family Leave Tax Credit Act of 1993, which provides for refundable tax credits for businesses that establish nondiscriminatory parental leave policies.

FLEXIBLE FAMILY LEAVE TAX CREDIT ACT OF 1993

This credit would be available for all businesses with under 500 employees—covering 6 million businesses and almost 50 million workers.

The amount of the credit would be for 20 percent of total employee compensation of up to $2,000 per month for a period of up to 12 weeks. In other words, the credit would amount to $100/week or a maximum of $1,200 per employee to cover agreed-upon benefits during the period of absence.

An employee would be eligible to take leave in the event of the birth of a child, the placement of a child with the employee for adoption or foster care, or for a child, parent, or spouse with a serious health condition, or a serious health condition that prevents the employee from performing his or her job.

ADVANTAGES OF LEGISLATION

Mr. President, the need to enact family leave legislation is greater than ever. We have more and more households where both parents are in the workplace and more and more households run by single parents. We are told that these trends are here to stay.

The key for me is to find a legislative solution to this issue that is both pro-family and pro-business. I believe that the legislation introduced by the distinguished Senator from Idaho meets these two important objectives.

PRO-FAMILY

It is pro-family because it provides for a flexible leave program that allows the employer and employee—and not the Federal Government—to freely determine the terms of leave that works best for them.

It provides for the same types of leave and the same types of protections as legislation supported by my colleagues on the other side of the aisle. And this it accomplishes without all of the harmful effects that mandates cause to the economy and to efforts to create new jobs.

Finally, it is worth noting that the legislation offered by my distinguished colleague helps 15 million more families than legislation promoted by the other side of the aisle which excludes businesses with under 50 employees in a weak attempt to limit the acknowledged economic damage such legislation would do to smaller businesses.

PRO-BUSINESS

The legislation introduced by my distinguished colleague from Idaho is also a pro-business package and stands in sharp contrast to legislation supported by my colleagues on the other side of the aisle.

The Flexible Family Leave Tax Credit Act provides an incentive for businesses to establish family and medical leave programs.

Democrat alternatives, on the other hand, are mandates; hidden taxes; Washington, DC reaching out into every community, every office, and every factory telling the American people what is best for them.

It is an approach that for all its good intentions to help families—will ultimately cause more harm than good.

PRO-JOBS

Indeed, legislation mandating benefits demands an offset and will force employers to cut jobs or other more desirable employee benefits to pay for the hidden tax.

Some cost estimates run as high as $7 billion for such legislation.

To say the least, that's a lot of jobs—particularly at a time when we have an unemployment rate that is unacceptably high.

The legislation offered by the distinguished Senator from Idaho is a pro-jobs bill. Not only does it not tax employers to pay for a congressionally mandated benefit, but the credit provides an incentive to create new jobs to temporarily fill the places of those workers on leave.

You hear a lot of speeches around this place and in the media about creating jobs—preserving jobs.

And yet, anyone who supports legislation mandating that employers provide this benefit are doing the exact opposite. Simply put, mandating family leave will force employers to mandate a permanent leave program for some of their other workers.

DEFICIT NEUTRAL

The legislation introduced by the distinguished Senator from Idaho is also deficit neutral. It contains a pay-for previously contained in H.R. 11 from the 102d Congress which increases the corporate estimated tax to 100 percent.

I think everyone will agree that it is not easy to pay for legislation. Indeed, rather than do so, my colleagues on the other side of the aisle prefer to impose mandates on business so that they have to pay for it.

In this Senator's opinion, that is not the direction we should be moving in.

It hurts the economy and it hurts jobs. It is the easy way out—an out of sight-out of mind approach that shirks the responsibility we have to pay for the programs we make into laws.

JUDGE LEGISLATION BY MERIT—NOT BY POLITICS

Mr. President, we all support family and medical leave. There has never been a debate on the need and value of such programs. Rather, the debate has always been how you go about doing it, and it is there that the difference of opinion could not be greater.

I urge my colleagues to carefully review this legislation based on its merits—not on the politics that has governed this issue for the last 7 years.

My colleagues on the other side of the aisle support a bill that is an in kind tax on business—a clumsy, harmful one-size-fits-all mandate.

I think we can do better and the distinguished Senator from Idaho has done just that in the legislation he has introduced today.

By Mr. BIDEN (for himself, Mrs. BOXER, Mr. COHEN, Mr. KENNEDY, Mr. KOHL, Mr. BOREN, Mr. AKAKA, Mr. GLENN, Mr. GRAHAM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LIEBERMAN, Mr. SARBANES, Mr. SHELBY, Mr. ROCKEFELLER, Mr. ROBB, Mr. WARNER, Mr. PELL, Mr. SIMON, Mr. MOYNIHAN, Mr. BRADLEY, Mr. WELLSTONE, Mr. BREAUX, Mr. HARKIN, Mr. LEVIN, Mr. HATFIELD, Mr. DECONCINI, Mr. REID, Mr. CAMPBELL, Mr. RIEGLE, Mr. BRYAN, Mr. KERRY, Mr. DODD, Mr. CONRAD, Mr. BAUCUS, Mr. D'AMATO, Mr. DURENBERGER, Mr. KERREY, Mr. INOUYE, Mr. LAUTENBERG, Ms. MURRAY, Ms. MOSELEY-BRAUN, Mr. LEAHY, and Mr. SPECTER):

S. 11. A bill to combat violence and crimes against women on the streets and in homes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT

Mr. BIDEN. Mr. President, I rise today to introduce Senate bill number 11, the Violence Against Women Act of 1993—the first comprehensive legislation to address the growing problem of violent crime confronting American women.

Since I first introduced this legislation in 1990, the Judiciary Committee has held a series of four hearings; we have refined the legislation and issued reports; we have garnered the support of prominent groups and individuals with widely differing interests—from law enforcement, women's groups, and victims' advocates. The bill has twice received the unanimous approval of the Judiciary Committee. Now, it is time to complete our efforts.

I am particularly heartened that my colleague, the gentlewoman from California [Mrs. BOXER], the author of this measure in the House of Representatives—can join me this year, here in the Senate, to help fight for this legislation. I know that she shares my conviction that we must do everything in our power to ensure that the Violence Against Women Act becomes law this year.

We have waited in my view too long, already, to recognize the horror and the sweep of this violence. For too many years, our idea of crime has left no room for violence against women. We now face a problem that has become doubly dangerous, as invisible to policymakers as it is terrifying to its victims.

Our blindness costs us dearly:

Every week, 21,000 women report to police that they been beaten in their own homes;

Every day, over 2,500 women visit an emergency room because of a violent act perpetrated against their persons;

Every hour, as many as 70 women across the Nation will be attacked by rapist—every hour.

Today, I believe more firmly than ever before, that this Nation will be powerless to change this course of violent crime against women unless the Congress takes a leadership role with the cooperation of the President of the United States. Only then can we as a Nation inscribe this violence with a name so that it will never be mistaken or dismissed as anything other than brutal, a brutal series of crimes and unconditionally, whether in the home or out of the home—wrong.

It bothers me when we talk about domestic violence, Mr. President. It implies somehow it is like a domesticated cat or a domesticated dog—that domestic violence is less violent than any other type.

The women who suffer the consequence of domestic violence are women who are shot, murdered, killed, beaten, deformed. This violence is of a most coarse nature. It is perpetrated and committed by someone who a person in that household trusts; had at one time, at least, loved; in fact lives with. It is the worst of all violence.

The bill I introduce today attacks violent crime against women at all levels—from our streets to our homes, from squad cars to courtrooms, from schoolrooms to hospitals. In large measure, it is the same bill that was introduced in the 102d Congress, with the addition of minor and technical amendments and a special new provision authored by Senator KENNEDY to provide Federal funds for a national domestic violence hotline.

Let me briefly review the principal parts of the legislation.

TITLE I—SAFE STREETS FOR WOMEN ACT

Title I focuses on making our streets safer by boosting funding for police, prosecutors, and victim advocates, promoting rape education, and changing evidentiary rules to make our justice system fairer for the victims of this violence—to make our courts more user-friendly.

TITLE II—SAFE HOMES FOR WOMEN

Title II—The Safe Homes for Women Act—acknowledges, for the first time, the role of the Federal Government in fighting spouse abuse. It creates the first Federal laws against battering, provides nationwide coverage for stay-away orders, encourages arrest of spouse abusers, and boosts funding for battered women's shelters.

TITLE III—CIVIL RIGHTS FOR WOMEN

Title III—the most innovative provision of this bill—recognizes that violence against women presents questions not only of criminal justice, but also of equal justice. It takes a dramatic step forward by defining gender-motivated crime as bias crime and declaring, for the first time, that civil rights remedies should be available to victims of such crimes.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Title IV, much of which passed in the higher education amendments of 1992, now authorizes increased funding for campus rape education efforts.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

Finally, Title V of the bill recognizes the crucial role played by the judicial branch in forming an effective response to violence against women, authorizing comprehensive training programs for State and Federal judges.

Let me close by urging my colleagues to join me in supporting this desperately needed legislation. Already, 40 Senators have indicated their support as original cosponsors. I hope that a significant number of others will join us so that we can ensure swift consideration and debate in the full Senate. Let us not wait another year as millions more suffer the pain of violence against women.

I will not take any further time to describe the contents of the bill. I ask unanimous consent that a summary and the complete text of the legislation appear in the RECORD following my remarks.

S. 11

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

SEC. 2. TABLE OF CONTENTS.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1992, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to receive, compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single 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 for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1993 $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part P as part Q;

(2) redesignating section 1601 as section 1701; and

(3) adding after part O the following new part:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1601. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and pros-

ecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1611. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1612.

"SEC. 1612. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1601(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1621. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1601(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1601(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director

shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1622. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90–284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1631. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1632. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1612(g), 1621(f), and 1622(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1622 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this

chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violence Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violence Against Women (referred to as the "Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, licensed public utilities, and other public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) 3 of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select persons who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, include representatives from law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, victim advocacy, and survivors of violence.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chair-

man from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least 6 times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1993.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed 1 year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that

the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1993, 1994, and 1995.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 315. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1993, 1994, and 1995.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1), by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before "or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) the term 'victim' means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

"(B) 1 of more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANTS FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to 1 or more private, nonprofit entities to provide for the operation of a national, toll-free telephone hotline to provide

information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant, contract or cooperative agreement may not be made or entered into under this section unless an application for such grant, contract or cooperative agreement has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993, 1994, and 1995.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; if bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; if bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Interim protections

"(a) IN GENERAL.—In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final disposition of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"(b) LIMITATION ON JURISDICTION.—This section does not confer original jurisdiction in a Federal district court to issue any order of protection in a case of injury to a spouse or intimate partner unless the case—

"(1) has been brought by a Federal prosecutor pursuant to section 2261 or 2262; and

"(2) includes the interstate nexus required under section 2261 or 2262.

"(c) APPLICATION OF STATE LAW.—In issuing a temporary order of protection pursuant to subsection (a), the judge or magistrate shall look to the law of the State where the injury occurred to determine the types of relief that are appropriate.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to receive, compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lumpsum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ..... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—Funding for Shelters

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $125,000,000 for fiscal year 1995.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the "Secretary"). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year 1993.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;"

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court offi-

cials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 291. REPORT ON RECORDKEEPING.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress, a report on the progress of the Department of Justice in collecting statistics showing the relationship between an offender and victim for all reported Federal crimes, including the crimes of rape, kidnapping, assault, aggravated assault, and robbery.

(b) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the study required under subsection (a) shall be completed and a report describing the findings made submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the National Commission on Violence Against Women.

SEC. 292. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the National Commission on Violence Against Women.

SEC. 293. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 294. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1993.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the

crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(i) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1993. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year 1994;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated

by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

BIDEN VIOLENCE AGAINST WOMEN ACT OF 1993 (S. 11)

TITLE I—SAFE STREETS FOR WOMEN

Creates new penalties for sex crimes

Creates new penalties for sex offenders.

Increases restitution for the victims of sex crimes.

Encourages women to prosecute their attackers

Extends "rape shield law" protection to civil cases (e.g. sexual harassment cases) and all criminal cases (other than sexual assault cases where it already applies) to bar embarrassing and irrelevant inquiries into a victim's sexual history at trial.

Bars the use of a woman's clothing to show, at trial, that the victim incited or invited a sexual assault.

Requires States to pay to rape exams.

Targets places most dangerous for women, including public transit and parks

Authorizes $300 million for law enforcement efforts to combat violence against women, aiding police, prosecutors and victim advocates.

Funds increased lighting and camera surveillance at bus stops, bus stations, subways and parking lots and targets existing funds for increased lighting, emergency telephones and police in public parks.

Education and prevention

Authorizes $65 million for rape education, starting in junior high.

Establishes the "National Commission on Violent Crime Against Women"

Creates a commission to develop a national strategy for combating violence against women.

TITLE II—SAFE HOMES FOR WOMEN

Protects women from abusive spouses

Creates federal penalties for spouse abusers who cross state lines to continue their abuse.

Requires all states to enforce any "stay-away" order, regardless of which state issues it.

Promotes arrests of abusive spouses

Authorizes $25 million for states that promote the arrest of abusing spouses and experiment with new techniques to increase prosecution.

Provides more money for shelters

Boosts funding for battered women's shelters.

Establishes a national domestic violence hotline

Provides federal funding for a national domestic violence hotline (Senator Kennedy).

Increases research and data

Authorizes research and increases data collection on violence against women.

TITLE III—CIVIL RIGHTS FOR WOMEN

Extends "Civil Rights" protections to all gender-motivated crimes

Makes gender-based assaults a violation of federal civil rights laws.

Allows victims of all felonies "motivated by gender" to bring civil rights suits against their assailants.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Funds rape prevention programs

Boosts of $20 million funding for the neediest colleges to fund campus rape education and prevention programs.

TITLE V—EQUAL JUSTICE FOR WOMEN

Makes courts fairer by training judges

Creates training programs for State and Federal judges to raise awareness and increase sensitivity about crimes against women.

• Mr. KENNEDY. Mr. President, I am honored to join Senator BIDEN and many other colleagues today in introducing the Violence Against Women Act of 1993, a bill to combat violence and crimes against women on the streets and in their homes.

Domestic violence has reached epidemic proportions in this country. A Judiciary Committee staff report last October found that more than 1.1 million women every year are victims of reported domestic violence and as many as 3 million more domestic violence crimes go unreported each year.

Domestic violence occurs everywhere. It is not confined to any one class, race, or ethnic group. Women in all walks of life are the victims. They are beaten and maimed by husbands and boyfriends, stabbed in their homes, killed on the street. Sometimes they are battered while pregnant, or with their children looking on.

On December 31, the Boston Globe published a list of 26 women and 18 children and bystanders who lost their lives in Massachusetts in 1992 as a result of domestic violence. The articles described the horrible circumstances of each death. No one can read this grisly list without pledging to do something to combat such violence.

I commend Senator BIDEN for his leadership in holding a series of Judiciary Committee hearings on violence against women, and in drafting comprehensive legislation to address the problem in a variety of creative ways. The Violence Against Women Act will establish Federal penalties for such crimes where the perpetrator crosses State lines. It will authorize additional Federal funds for training and information sharing by State and local law enforcement authorities, and new funds for shelters for battered women.

These measures are urgently needed. Better training of police and prosecutors will help to ensure that abuse of women in their own homes is treated like the crime that it is. Establishment of more battered women's shelters will help to ensure that women who decide to leave home have a safe place to go. All too often, women in abusive situations are trapped between fear of staying where they are and fear of leaving, because they simply have no place to go.

One resource that has proved to be of great assistance to women in abusive situations is the 24-hour telephone hotline—a link to information and counseling that can help guide victims out of danger. Unfortunately, many communities do not have a local hotline. In the past, women in these areas could call a toll-free national line that would provide counseling and referrals to local agencies and shelters.

The national hotline, however, ran out of funds and went out of business last June. According to experts in this field, its restoration is urgently needed. It averaged 7.5 calls an hour, 180 calls a day, 65,520 calls a year. These numbers represent victims not being served—and violence not being prevented.

We have therefore included, in the Violence Against Women Act, a new provision authorizing Federal grants for the operation of a national toll-free domestic violence hotline. The national hotline must be revived, and soon. Women's lives are at stake.

All of us who support this legislation hope that it will be enacted this year. I look forward to working with other Senators on certain issues of concern, such as the mandatory sentencing provisions that affect the important role of the Sentencing Commission, and to enacting this important bill as soon as possible.•

• Mrs. BOXER. Mr. President, I am honored to join Senator BIDEN in reintroducing the Violence Against Women Act today.

For too long, society has chosen to ignore the growing epidemic of violence against women—so much so that even our statistics fail to adequately describe the full scope of the problem. In a groundbreaking report issued by the Senate Judiciary Committee last year, the committee documented that the 200 incidents of violence against women in their week long survey represented less than one-hundredth of the violent attacks against women reported to the police every week.

We live in a world where women are afraid to work late in offices, or to take public transit alone at night for fear of being sexually assaulted. They are afraid to walk the streets of their neighborhood and have become prisoners in their own homes. Tragically, for millions of women each year, even their own homes are unsafe. Domestic violence is now the leading cause of injury to women.

It is time to end the terror and the assault on women by passing the Violence Against Women Act. This far-reaching proposal focuses needed attention on this issue and provides for solutions which aid the survivors, increase the police and prosecutor re-

sponse, and work to break persistent stereotypes which cause both society and our judicial institutions to treat the crimes of rape and domestic violence as less serious and deserving of our resources than other violent crimes.

Like Senator BIDEN, I intend to make passage of the Violence Against Women Act one of my highest legislative priorities. I urge my colleagues to join us in supporting this bill.●

● Mr. DURENBERGER. Mr. President, I rise to express my support for the Violence Against Women Act, a bill that was introduced today. I am proud to be an original cosponsor of this important piece of legislation.

It is unconscionable that in a land that places so much emphasis on individual rights, one group is repeatedly denied their most basic rights by the crimes of rape and domestic violence. The No. 1 health risk to women today is violent attacks by men. Over the past decade, crimes against women have increased four times as much as other crimes. In fact, a woman is now 10 times more likely to be the victim of sexual assault than she is to die in a car accident.

The Violence Against Women Act significantly strengthens three areas essential to combating crimes against women: First, law enforcement, responsible for preventing these crimes and apprehending the suspects; second, the courts, responsible for protecting the rights of victims and punishing offenders; and third, the social service community, responsible for providing shelter, counseling, and other support services.

I encourage each of my colleagues to support this comprehensive bill, which simply promotes a basic right for women that all Americans should enjoy. Americans deserve the right to feel safe—in our homes, on the street, and in our courts. I hope that this Congress moves quickly to enact the Violence Against Women Act.●

● Mr. PACKWOOD. Mr. President, today I once again join as an original cosponsor of the Equal Remedies Act. This simple bill would expeditiously deal with an inequity in our civil rights laws.

Currently, unlimited monetary damages may be requested by a person who proves to a court that they suffered racial discrimination in employment. However, only limited damages are available to those who prove they were subjected to discrimination based on nonracial factors such as gender or handicap.

Like many flukes in our laws, this one has an interesting history. Briefly, in 1976 the Supreme Court decided that an old post-Civil War law making race discrimination in contracts illegal, applies to employment contracts. That law allows unlimited damages. However, title VII of the Civil Rights Act of 1964, which governs other types of employment discrimination, does not allow monetary damages. We partially addressed this unequal remedy scheme in the Civil Rights Act of 1991 by allowing limited damages for nonracial discrimination. Now we seek to lift these limits so that all employment discrimination, regardless of the group being protected, may receive the same remedy.

I know some employers fear an explosion of litigation if this legislation is passed. I am sensitive to those concerns. However, data provided by the National Women's Law Center suggests otherwise. Statistics are available on cases involving race discrimination in employment, in which unlimited damages are already available. From 1980 to 1991 a total of 594 such cases—less than 60 a year—were tried by Federal courts. In only 69 cases—11.6 percent of the total—were damages awarded. Only three awards were over $200,000 and one of those was reversed on appeal.

In addition to this information, which seems to indicate that uncapping damages will not encourage frivolous litigation, it is important to remember two things: One, that the Equal Remedies Act would allow uncapped damages only for intentional employment discrimination, not so-called "adverse impact" discrimination where an employer uses a practice which unintentionally results in discrimination. Second, to receive damages under the Equal Remedies Act, a plaintiff must prove to a court of law that the employer intentionally discriminated—not an easy burden of proof.

Mr. President, the Equal Remedies Act will bring parity to our scheme of civil rights laws and should be enacted. I urge my colleagues' support.●

By Mr. BIDEN:

S. 12. A bill to authorize the Secretary of Commerce to make grants to States and local governments for the construction of projects in areas of high unemployment, and for other purposes; to the Committee on Environment and Public Works.

INFRASTRUCTURE GROWTH AND EMPLOYMENT ACT

● Mr. BIDEN. Mr. President, our economy is balanced precariously between the grim reality of recent stagnation and the hope for revived growth in the future. I want to be optimistic about our economy. But more than once in the recent past, we have been told that full recovery was just around the corner, only to find ourselves still stuck in a rut of growth too slow to revive jobs and investment.

Today, I am introducing legislation that will provide a support for our fragile recovery, legislation that will create private sector jobs on State and local projects that need doing now. By rehabilitating the public foundations of our private enterprise economy, these projects will also help to sustain economic growth in the future.

Mr. President, I know there are many today who—based on mixed economic statistics—question the need for such a boost to our economy. Because this is such an important issue, I want to address those concerns.

Some point to encouraging statistics, claiming that the recovery we have been waiting for is here. But in fact, the prolonged economic stagnation that has marked so-called recovery from the last recession has driven home the lesson that our economy no longer operates the way it used to.

Global changes in important industries like autos, steel, electronics, and finance continue to force painful adjustments. Corporate restructuring continues to eliminate jobs and idle resources.

The current slump in the international economy and our prolonged hangover from the debt binge of the 1980's have slowed what used to be the normal process of creating new jobs and businesses. And continuing reductions in defense spending, a necessary adjustment to new circumstances, only add to these problems.

Because of these factors, this recovery is running far behind our modern experience in replacing lost jobs. High unemployment has persisted long after the last recession, and the best estimates are for a weak labor market for at least the next year, more likely for years to come.

In my own State of Delaware, the world's largest corporation, General Motors, has announced plans to close its Boxwood assembly plant. Last year, DuPont cut thousands of positions from its Delaware work force. Every day brings news of similar corporate restructuring—IBM may be the most striking recent example—from what used to be our economy's most stable employers.

These realities were undoubtedly behind the resounding support my plan received last year in my home State of Delaware. The State Chamber of Commerce and local public officials, building trades workers and building contractors—all agreed that quick investment in needed local infrastructure projects would give an important boost to Delaware's economy that the private sector alone could not provide.

Many in the business community agree with this analysis. Just last month, Business Week editorialized that "there is no clear-cut evidence that, unaided,"—and I emphasize "unaided"—"the U.S. economy can sustain the 3-percent growth needed for a significant long-term decline in unemployment.

Still, Mr. President, some observers point to discouraging projections for Federal budget deficits and argue that economic stimulus will come at the ex-

pense of long-term growth, as deficits threaten public and private investment.

This is a serious concern, Mr. President, but in fact quick, focused support for employment, incomes, and public confidence is essential to our goals of long-term growth and deficit reduction.

Stronger growth is a necessary step toward bringing the deficit under control. Of course, in addition to providing the additional stimulus needed now we must also address the long-term deficit problem with a comprehensive program that includes a review of entitlement programs and health care cost controls.

I have supported a line-item veto, sunset legislation, budget freeze, and other steps to restore balance to our Government's finances. But without economic growth, none of these steps could achieve its goal.

Recent experience shows that increasing deficits are due in large part to weak economic activity. Unless and until we revive economic growth, bringing down the deficit will not only force much more difficult political choices—which are therefore more likely to be deferred—but also threaten to cut off our fragile recovery.

Finally, even some who agree that economic stimulus is justified by continued weak economic performance are skeptical that we can design legislation that will achieve its goals.

The legislation I am introducing today answers that objection: It will provide jobs quickly for millions of Americans, rehabilitating our Nation's economic foundations—the roads, bridges, water systems, and other facilities that support our private enterprise system.

This legislation is limited to 1 year—or less if the national unemployment rate drops below 6 percent. The Secretary of Commerce will allocate funds to States and localities based on their histories of unemployment and approve projects based on their capacity to create jobs and support private sector growth in the future.

Local governments will provide 20 percent matching funds, to ensure their commitment to the projects they propose. Sixty-day approval of the projects by the Secretary of Commerce will speed the process of job creation and keep the focus on those projects, already locally approved, that have been put on hold due to strained State and local budgets.

In a hearing last year, a similar proposal of mine earned the support of respected economists Alan Blinder and David Alan Aschauer. It has the endorsement of the AFL-CIO, National League of Cities, the National Association of Towns and Townships, National Association of Counties, National Association of Development Organizations, American Consulting Engineers Council, and other groups.

I hope my colleagues will join with me in this proposal, a program to support economic recovery now and to rehabilitate the foundations of our economy for the future.

I ask unanimous-consent that the bill and a section-by-section analysis be printed in the RECORD.

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

S. 12

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Infrastructure Growth and Employment Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the national economy has failed for several years to maintain sufficient levels of economic growth;

(2) the current inadequate levels of economic activity and job creation are anticipated to persist into the foreseeable future;

(3) this prospect will mean continued high rates of business failures and unemployment, increased Federal spending and reduced revenues, thereby deepening the Federal deficit;

(4) recovery of the economy and reduction of the Federal deficit depend on the creation of higher levels of employment and economic activity;

(5) in recent years all levels of government have neglected to add to or maintain existing public infrastructure essential to economic efficiency and the future prosperity of the country; and

(6) economic growth rates and the future efficiency and competitiveness of the national economy will be substantially enhanced by a program of Federal Government assistance to State and local governments to construct and rehabilitate the Nation's economic infrastructure.

SEC. 3. DIRECT GRANTS.

(a) CONSTRUCTION.—The Secretary is authorized to make grants to any State or local government for the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act. To the extent appropriate, the Secretary may coordinate with other Federal agencies in assessing grant request and in providing appropriate levels of support.

(b) FEDERAL SHARE.—The Federal share of any project for which a grant is made under this section shall be no more than 80 percent of the cost of the project.

(c) TERMINATION OF GRANTS.—No new grants shall be made pursuant to this Act after the expiration of any 3-consecutive-month period during which the national unemployment rate remained below 6 percent for each such month, or after September 30, 1994, whichever first occurs.

SEC. 4. ALLOCATION OF FUNDS; PREFERENCES.

(a) ALLOCATION OF FUNDS.—The Secretary shall allocate funds appropriated pursuant to section 8 of this Act as follows:

(1) INDIAN TRIBES.—Three-quarters of one percent of such funds shall be set aside and shall be expended only for grants for public works projects under this Act to Indian tribes and Alaska Native villages. None of the remainder of such funds shall be expended for such grants to such tribes and villages.

(2) OTHERS.—After the set-aside required by paragraphs (1), (3) and (4) of this subsection, 60 percent of such funds shall be allocated among the States on the basis of the ratio that the number of unemployed persons in each State bears to the total number of unemployed persons in all the States and 40 percent of such funds shall be allocated among those States with an average unemployment rate for the preceding 6-month period in excess of 6 percent on the basis of the relative severity of unemployment in each such State, except that no State shall be allocated less than three-quarters of one percent or more than twelve and one-half percent of such funds for local public works projects within such State, except that in the case of Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, not less than one-half of one percent in the aggregate shall be granted for such projects in all 4 of such territories.

(3) SET-ASIDE.—Not less than 10 percent of each State's allocations shall be set aside and shall be expended only for grants for public work projects under this Act for local units of general government with populations under 10,000.

(4) DEVELOPMENT AND ADMINISTRATION.—Up to three-quarters of one percent of the total grant award will be available for project development and preparation, and for ongoing project administration. This allocation will be available for local units of government defined as nonentitlement under the Housing and Urban Development Community Development Block Grant Program. Such allocation shall not exceed $15,000 for any single grant award.

(b) PREFERENCES.—

(1) LOCAL GOVERNMENT PROJECTS.—In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments.

(2) LOCALLY ENDORSED PROJECTS.—In making grants under this Act, the Secretary shall also give priority and preference to any public works project requested by a State or by a special purpose unit of local government which is endorsed by a general purpose local government within such State.

(3) SCHOOL DISTRICT PROJECTS.—A project requested by a school district shall be accorded the full priority and preference to public works projects of local governments provided in this subsection.

(4) APPLIED INDUSTRIAL RESEARCH PROJECTS.—A project that creates or adds to an applied research facility at an institution of higher education, and that facility is intended to promote the development of new products and processes, or that the Secretary determines will improve the competitiveness of American industry shall be accorded full priority and preference. For projects under this section, matching funds requirements shall be waived if the company or companies and school involved commit, in the Secretary's determination, to undertake all future equipment and maintenance expenses.

(c) HIGH UNEMPLOYMENT RATES.—

(1) PRIORITY.—In making grants under this Act, if for the 12 most recent consecutive months, the average national unemployment rate is equal to or exceeds 6 percent, the Secretary shall (A) expedite and give priority to applications submitted by States or local governments having unemployment rates for

the 12 most recent consecutive months in excess of the national unemployment rate, and (B) shall give priority thereafter to applications submitted by States or local governments having average unemployment rates for the 12 most recent consecutive months in excess of 6 percent, but less than the national unemployment rate.

(2) INFORMATION REGARDING UNEMPLOYMENT RATES.—Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary (A) determines that the unemployment rates furnished by States or local governments are accurate, and (B) shall provide assistance to States or local governments in the calculation of such rates to ensure validity and standardization.

(3) LIMITATION OF APPLICABILITY.—Paragraph (1) of this subsection shall not apply to any States which receives a minimum allocation pursuant to paragraph (2) of subsection (a) of this section.

(d) STATE AND LOCAL PRIORITIZATION OF APPLICATIONS.—Whenever a State or local governments submits applications for grants under this Act for 2 or more projects, such State or local government shall submit as part of such applications its priority for each such project.

(e) LOCALIZATION OF UNEMPLOYMENT DETERMINATIONS.—The unemployment rate of a local government may, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government.

SEC. 5. RULES, REGULATIONS, AND PROCEDURES.

(a) IN GENERAL.—The Secretary shall, not later than 30 days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project areas, and (3) the extent to which proposed projects will contribute to the reduction of unemployment and future economic growth.

(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall make a final determination with respect to each application for a grant submitted to him under this Act not later than the 60th day after the date the Secretary receives such application.

(c) CONSIDERATION OF CONSTRUCTION INDUSTRY UNEMPLOYMENT.—For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

SEC. 6. GENERAL LIMITATIONS.

(a) ACQUISITION OF LAND.—No part of any grant made under section 3 of this Act shall be used for the acquisition of any interest in real property.

(b) MAINTENANCE COSTS.—Nothing in this Act shall be construed to authorize the payment of routine scheduled maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this Act.

(c) ON-SITE LABOR.—Grants made by the Secretary under this Act shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor work can begin within 90 days of project approval.

(d) CONTRACTING.—

(1) CONTRACTING OUT REQUIRED.—No part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under this Act shall be performed directly by any department, agency, or instrumentality of any State or local government.

(2) COMPETITIVE BIDDING.—Construction of each project for which a grant is made under this Act shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, an alternative method is in the public interest.

(3) LOWEST RESPONSIVE BID.—Contracts for the construction of each project for which a grant is made under this Act shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

(4) ADVERTISING.—No requirement or obligation shall be imposed as a condition precedent to the award of a contract to a bidder for a project for which a grant is made under this Act, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(e) ENVIRONMENTAL SAFEGUARDS.—All local public works projects carried out with Federal financial assistance under this Act shall comply with all relevant Federal, State, and local environmental laws and regulations.

(f) BUY AMERICAN.—If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this act and, under such other provisions of law, would be subject to title III of the Act of March 3, 1933, popularly known as the Buy American Act, or similar requirements, such project shall be subject to such title of such Act of March 3, 1933, or similar requirements under the Act in the same manner and to the same extent as such project would be subject to such title of such Act of March 3, 1933, or such similar requirements under such other provisions of law.

(g) MINORITY PARTICIPATION.—If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this Act and, under such other provisions of law, would be subject to any minority participation requirement, such project shall be subject to such requirement under this Act in the same manner and to the same extent as such project would be subject to such requirement under such other provisions of law.

(h) APPLICABILITY OF LAWS REGARDING INDIVIDUALS WITH DISABILITIES.—Section 504 and 505 of the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990 shall apply to local public works projects carried out under this Act.

SEC. 7. PREVAILING RATE OF WAGES.

If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this Act and, under such other provisions of law, would be subject to the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5), or similar requirements, such project shall be subject to such Act in the same manner and to the same extent as such project would be subject to such Act of March 3, 1931, or such similar requirements under such other provisions of law.

SEC. 8. FUNDING.

There is authorized to be appropriated $20,000,000,000 to carry out this Act. Moneys appropriated pursuant to this authorization shall remain available until expended. Any amounts made available under this Act for fiscal year 1992 shall be deemed to be emergency spending under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 9. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) LOCAL GOVERNMENT.—The term "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

(3) PUBLIC WORKS.—The term "public works" includes water and sewer lines, streets and roads, water and sewage treatment plants, port facilities, police and fire stations, detention centers, schools, health facilities, and industrial research or development parks, research facilities at institutions of higher education, and other projects the Secretary determines to be appropriate.

(4) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

INFRASTRUCTURE, GROWTH AND EMPLOYMENT ACT OF 1993

Section 1. Short Title:

Section 2. Findings:

Economic recovery, deficit reduction, and future competitiveness require funds for infrastructure and employment.

Section 3. Grants:

For public works.

20 percent matching funds required.

Funds available immediately.

Sunset at less than 6 percent national unemployment or one year after enactment, whichever comes first.

Section 4. Allocation of Funds:

To states based on severity of unemployment.

Minimum of ¾ of one percent per state.

10 percent set-aside for local governments under 10,000 population.

Priorities for schools, applied research facilities.

½ of one percent for Native Americans.

½ of one percent for U.S. possessions.

Section 5. Rules and Regulations:

Secretary of Commerce shall consider local construction unemployment in allocating grants. Decision rules made within 30 days of enactment. Grant decisions made within 60 days of application.

Section 6. Limitations:

No funds for land purchases, routine maintenance costs.

Competitive bids, private contractors.

Standard environmental, minority participation, and American content considerations.

Section 7. Wages:

Davis-Bacon requirements imposed.
Section 8. Funding:
$20 Billion Total.
Section 9. Definitions:
Public works means roads, schools, bridges, water, and sewer systems, health and public safety facilities, university research facilities.●

By Mr. HATCH:

S. 13. A bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY ACCOUNTABILITY ACT OF 1993

Mr. HATCH. Mr. President, today I am introducing the Regulatory Accountability Act of 1993. This legislation is designed to make the Federal regulatory process more accountable and to establish a program for the systematic selection of regulatory priorities.

Jean Baptiste Colbert once said:

The art of taxation consists in so plucking the goose as to obtain the largest amount of feathers with the least amount of hissing.

Well Mr. President, the Government has found a way to pluck the goose by increasing the burdens on its citizens without voting for tax increases: Federal regulation.

Federal regulation is a hidden tax. The costs of compliance and the costs of enforcement are necessarily passed on to American families. For example, if to comply with a new regulation a company has to purchase a new scrubber system for a smokestack at a cost of $2 million, the consumers of products produced by that factory will pay more.

If other regulations force that same company to spend another $4 or $5 million on special packaging and to hire extra staff to comply with the paperwork requirements that document compliance with those regulations, the prices of its goods will rise again to absorb these added costs. Since they do not contribute to the production or distribution of economic goods or services, this additional staff is nonproductive. Of course, if the market in which that company competes cannot bear these extra costs, then the company may even be forced to go out of business.

Not only that, these regulatory costs also steal valuable resources from other sectors of that firm: research and development, upgrading equipment and facilities, and hiring productive staff to produce goods and services.

Mr. President, these are not unrealistic examples. There are countless indicators of costly regulation adversely affecting business, both large and small throughout this Nation. In my home State of Utah, job growth relies heavily on a spirit of entrepreneurship that is reflected in the creation of small businesses statewide. Unfortunately, Federal regulation often hits these small businesses the hardest. Many of these small businesses, for the first few years of existence, operate on a shoestring and make just enough to continue paying their operating costs. Regulation steals these valuable funds for compliance, making business starts more difficult and threatening the ability of small business to succeed.

As I examined the costs and effects of regulation, I went to some people who actually have to live with rules created here in Washington—the people of Utah. I asked business people how regulation affected them, and I received some very clear responses. In addition, I have also been contacted by elected officials in Utah's small towns who are frustrated with a Federal Government that not only interferes in local decisionmaking, but also provides no means to pay for compliance with the regulations the Federal Government mandates.

For example, I received a letter from Mr. Don Gallent, the president and chief executive officer, and Mrs. Loretta Gallent, chairman, of Digitran Simulation Systems. Mrs. Gallent founded this company and, together with her husband, operates an international organization from Logan, UT, that successfully markets products around the world.

They have told me that the effects of Government regulation on American business are many. While some of these regulations may serve to help a few selected industries, by and large, the effect on most businesses is negative. When the hand of Government weighs heavily upon us, it stifles our ability to create, to grow, and, indeed, to even exist.

Mr. President, I believe that Mr. Frank Shaw, manufacturing services manager of National Semiconductor of West Jordan, UT, has hit the issue directly on target when he states:

National Semiconductor fully supports the intent of all health, safety, environment, and employment regulations. These requirements establish a sound foundation for good business policies. However, just as our manufacturing process must continually be improved for us to remain competitive in a world marketplace, the procedures and cost of regulation compliance must also be improved and simplified.

Mr. President, we continue to regulate new burdens on top of our businesses, regardless of the costs or number of jobs lost. Yet, ironically, we expect these same businesses to get back on their feet and produce a sustained economic recovery.

Mr. President, this is not only a small business problem, it is also affecting our local governments. Let me share a few of the experiences of Utah's small towns.

Stockton, UT, has a population of approximately 440. These Utahns work hard, and they don't have a lot of money to spare. This small town has been trying to come to grips with the Americans with Disabilities Act and the costs to comply with the regulations.

Mayor Elden Sandino writes:

We support these regulations in theory and are willing to do what we can to abide by them. Unfortunately, like most small towns in the State of Utah, we are very limited in our funds and feel if these regulations are to be imposed on us, some kind of federal or state funding or grants also need to be addressed.

Mr. President, regulations are a way of imposing the costs of Governments' priorities on others. Who is going to provide the funds for remodeling public buildings in Stockton and other small Utah towns? Additionally, how are very small businesses located in these areas going to find the funds to pay for compliance with regulations?

Two other small towns in Utah, Fountain Green and Enoch, are struggling to decide who is going to pay for provisions of the Clean Water Act that would require them to install expensive sewer systems. Fountain Green has discovered that, to satisfy the regulations implementing this statute, the town would have to borrow $2.1 million to install a new sewer system for 250 users. They have concluded that they would have to charge each resident $35 per month for 20 years just to pay back the loan. This does not include the cost of operating the facility and the residents' usual water bills. The town of Enoch would be forced to charge each resident $54.67 per month over a 20-year period on a $6.5 million loan for its new sewer system.

Mr. President, these amounts may not seem large to those who deal in billions of dollars every day, but to the residents of rural Utah, these costs are tremendous. New regulation on top of new regulation is burdening these Utahns beyond belief, and they want to know why. They, and others like them across the Nation, want to be sure the benefits of a new regulation will justify its cost.

Mr. President, I agree that there are benefits to certain regulations. I am not arguing that all regulations are bad or unnecessary. Regulation, used properly, is a positive tool that can provide the American people with some protection against the bad actors in our society.

But, there are some regulations that have not been reviewed in decades. Some regulations have become inflexible and inefficient given rapid changes in the American economy, the development of new technologies, and increased competition in the global marketplace. Instead of regulating more, instead of filling out additional forms and conducting more and more audits, it is time for us to regulate smarter.

THE HIDDEN TAX

Mr. President, how many of us truly realize the staggering burden the hidden tax of regulation is placing on each

and every American household? How many of us truly comprehend what the cost of Government regulation is and how these costs affect our economy?

In a recently published report entitled "The Costs of Federal Regulation," Professor Thomas Hopkins of the Rochester Institute of Technology provides some very startling information regarding the overall cost of Government regulation. He estimates that currently the United States spends over $400 billion each year on the entire spectrum of Government regulation and compliance with promulgated rules. Professor Hopkins concludes that, given the current rate of growth, regulatory costs could easily balloon to over $600 billion per year by the year 2000. These staggering amounts do not even include State and local regulation. The average American household picks up this tab through higher prices, decreased product selection, increased paperwork, lost time, job loss, and other costs of compliance.

Mr. President, this cost does not show up on any Government ledgers. It does not appear in any withholding category on a paycheck stub. But in all, according to Professor Hopkins, this hidden tax in 1988 accounted for over $4,100 per household and has been on the rise ever since. By comparison, the average Federal tax burden for an American family during that same time was under $4,000, according to the Bureau of Labor Statistics Consumer Expenditure Survey, 1988–89.

Mr. President, there are some on both sides of the aisle who are shaking their heads in disbelief. I did the same thing when I first saw these figures. But report after report supports the fact that regulatory costs are both substantial and increasing. Esteemed economists such as Prof. Murray Weidenbaum, of Washington University in St. Louis and former Chairman of the Council of Economic Advisers from 1981–82; Dr. Ronald Utt, vice president, of the National Chamber Foundation; Robert Hahn, adjunct professor, Carnegie Mellon University; and John A. Hird, assistant professor of political science and research associate, University of Massachusetts have all concluded studies that build on each others' work and support this startling picture. Imagine, over $400 billion spent in complying with Federal regulation.

The economic impact of most regulations is never studied because they are considered relatively minor. By minor, I mean that the agency estimates the cost of implementing the regulation to be under $100 million. However, the cumulative effect of these so-called minor regulations can be staggering. For example, in the October 1991 edition of the Unified Agenda of Federal Regulations only 102 of 4,863 regulatory entries had a regulatory impact analysis either finished or in the process of completion. How much do the other 4,761 regulations cost?

Mr. President, add up the cost of 10, 20, 50, or 100 of these regulations at just $100 million apiece, and you end up with a monstrous burden. For example, implementation of new regulations in just one area are expected to significantly increase compliance costs in 1992. Prof. Robert Hahn has estimated that, in 1992 alone, the compliance costs associated with environmental regulation will increase by $70.5 billion over 1991 costs.

Mr. President, in the Regulatory Program of the U.S. Government, April 1991 through March 1992, the Office of Management and Budget outlines general guidelines each agency should apply to pending regulations so that new rules will be the most beneficial and the most efficient. This report also stresses the need for accountability. While these guidelines are admirable and look good on paper, they are only guidelines and as such, difficult to enforce.

Government must take responsibility for this hidden tax of regulation. It is time to be honest with the American people. We simply cannot continue to turn our heads and pretend this burden does not exist. It does.

The level of public interest in regulatory policy was confirmed in a recent poll compiled by Penn & Schoen Associates, Inc., on March 30, 1992, just after President Bush's 90-day moratorium on new regulations was announced. When asked whether or not the country currently has a lot of unnecessary and costly regulation, 83 percent answered yes.

When asked if Congress and agencies adequately considered the impact of regulations on jobs, 71 percent said no.

Another question revealed very interesting results. When asked if Congress and Federal agencies currently adequately consider how much the regulations will cost consumers, 82 percent answered no.

Obviously, Mr. President, shifting the public policy agenda from direct spending—which we cannot afford—to regulatory requirements—so we can get business and individuals to pick up the tab—is not fooling anyone.

THE REGULATORY ACCOUNTABILITY ACT OF 1993

For these reasons, Mr. President, I am introducing the Regulatory Accountability Act of 1993.

It is time to take control of this skyrocketing burden. This is especially important during this period of economic recovery. It should be the task of this Congress, starting with this Senate, to take responsibility for setting guidelines. And, we must force each promulgating agency to account for the entire impact of a pending regulation. We must make certain that the American people receive the greatest benefit in the most cost-effective and efficient manner.

This legislation places a 3-year cap on the overall costs of regulation. Under this cap, in order for a new regulation to go into effect, the agency would be required to offset any new costs by equal regulatory savings achieved through revoking or revising existing regulations, trimming and streamlining the paperwork burden, or by any other regulatory offsets. After a regulation has undergone this offsetting process, it may then be promulgated. During this time, agencies promulgating new rules would be required to study the entire cost of compliance and outline effective alternative approaches.

Nothing in this legislation would prohibit an agency from issuing a new rule. If the overall cap has been reached, however, and unless the President declares that the rule is needed to address an emergency, before a new regulation could be issued the agency would have to offset the cost of the new rule by revoking or reversing already existing rules.

The revisions and revocations to existing regulations could be on a rule issued by that agency or by another agency of the Federal Government. The President would be responsible for coordinating these interagency offsets. If the President believes the rule cannot wait to be implemented, and declares an emergency need for the rule, the requirement to offset the costs could be delayed until the necessary research and coordinating action could be considered. However, the President would be required to set a deadline for compliance with the statute.

Now, what would this legislation mean for future regulatory policy?

Essentially this: New regulations must be prioritized. Agencies will only promulgate the most important new rules. This bill will promote more effective and efficient regulation and accountability.

The act would sunset in 3 years. This period will give American enterprise the opportunity to grow without an increasing regulatory burden. Resources that otherwise would be used in complying with new regulations would be available for research and development, new jobs, and investments in plan and equipment.

Also, this act will provide relief to the American people—a chance to see exactly what their hard-earned money is paying for before some unseen regulatory hand in Washington digs into their pockets again.

CONCLUSION

Mr. President, I believe a leaner, more effective regulatory policy will grow from this legislation. Nothing in this act would prohibit the promulgation of new, necessary protections. Rather, we are simply giving the American people the ability to understand what they are receiving for their hard-earned money and the power to control

the hidden tax they are being forced to pay. Mr. President, this legislation will ensure that the hidden tax is not an irresponsible tax.

Mr. President, I ask unanimous consent that the full text of the bill; the letters I have received from Mr. and Mrs. Gallent, Mayor Sandino, and Prof. Thomas Hopkins, and an article by Robert Genetski from the Wall Street Journal of February 19, 1992, be inserted in the RECORD at this point.

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

S. 13

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Accountability Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the overall cost of Federal regulation in the United States has risen to well over $400,000,000,000 per year;

(2) this regulatory burden is paid by individual citizens and their families in the form of a "hidden tax" because intermediaries have no option that do not pass these expenditures to individuals;

(3) the most recent data reveals that the "hidden tax" paid by the citizens of this Nation now exceeds $4,100 annually for each household;

(4) left unchecked, this "hidden tax" will increase by 50 percent between now and the year 2000; and

(5) it is in the best interests of the American people to have the Federal Government devise a systematic way to account for the new regulatory costs that taxpayers are forced to absorb and to have this financial burden better controlled.

(b) PURPOSE.—It is the purpose of this Act to establish that each agency shall, as a mandatory requirement for the issuance of—

(1) any proposed regulation—

(A) thoroughly assess and document the anticipated benefits, reasonable alternative approaches, and all foreseeable compliance costs of each approach; and

(B) assess, and include in all proposed regulatory actions, a range of possible offsets for the costs; and

(2) any final regulation—

(A) have selected the most cost-effective alternative; and

(B) for a period of 3 years following enactment, have fully offset all foreseeable costs through revocation or revision of one or more existing regulations.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "agency" has the same meaning given such term in section 3502(1) of title 44, United States Code, excluding those agencies specified in section 3502(10) of title 44, United States Code; and

(2) the term "regulation" or "rule" means any agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency, but does not include—

(A) administrative actions governed by the provisions of sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

SEC. 4. MANDATORY REQUIREMENT FOR THE ISSUANCE OF NEW REGULATIONS.

In taking any regulatory action, each agency shall strictly adhere to the following requirements:

(1) Administrative regulatory decisions shall be based on substantial evidence on the public record documenting—

(A) the ability of an action to result in specific, reasonably anticipated benefits;

(B) all alternative regulatory approaches, including performance-based approaches, that will result in the benefits documented under subparagraph (A); and

(C) all foreseeable costs that can reasonably be expected to flow, directly or incidentally, from each approach documented under subparagraph (B).

(2) No final regulatory actions may be taken unless the specific benefits resulting from a specific regulatory approach documented under paragraph (1) clearly outweigh the costs documented under paragraph (1).

(3) Agencies shall—

(A) for all proposed new regulatory actions that will generate any cost, propose a range of possible revisions to, or revocation of, one or more existing regulations, that can reasonably be expected to fully offset the reasonably anticipated costs of such proposed regulatory action; and

(B) fully offset the costs documented under paragraph (1) through revision to, or revocation of, existing Federal regulation.

SEC. 5. EXEMPTION.

The requirements of section 4(3) shall not apply in the case of regulatory actions for which the President includes in the Federal Register, accompanying the regulatory action, a statement of waiver that fully outlines the reasons and needs for waiving the requirements of section 4(3) because of emergency need for such specific regulatory action and includes a timetable for satisfying the requirements of section 4 at the earliest possible date thereafter.

SEC. 6. INDEPENDENT EVALUATION.

(a) IN GENERAL.—Three years following the date of enactment of this Act, the President shall provide for independent evaluation of the regulatory process and the effect of regulations on the different areas of the economy, including—

(1) business startups and viability;

(2) employment, including job creation, compensation, and employment of foreign nationals by United States firms;

(3) international trade and competitiveness with foreign entities;

(4) research and development;

(5) impact on State and local governments; and

(6) direct Federal spending for enforcement of regulations.

(b) STUDY FOCUS.—The evaluation required by this section shall also include a study of—

(1) the effect of the regulatory cost cap imposed by this Act;

(2) the methodologies used by regulatory agencies to estimate the cost of a rule or regulation; and

(3) the use of alternative regulatory approaches described in section 4(1)(B).

(c) OMB.—The Office of Management and Budget shall carry out the provisions of this section.

(d) FUNDING.—Notwithstanding section 1346 of title 31, United States Code, the President is authorized to transfer up to $50,000 from the funds available to any agency for administrative purposes to the Office of Management and Budget for the purpose of carrying out this section.

SEC. 7. EFFECTIVE DATE; SUNSET PROVISION.

(a) EFFECTIVE DATE.—The provisions of this Act shall take effect upon the date of enactment of this Act, except that the effective date for regulations or rules promulgated pursuant to a law enacted after the date that is 2 years before the date of enactment of this Act and not later than the date of enactment of this Act shall be 6 months after the date of enactment of this Act.

(b) SUNSET.—The requirements of section 4(3) shall cease to have effect on the date that is 3 years following the date of enactment of this Act.

DIGITRAN SIMULATION SYSTEMS,
Logan, UT, May 28, 1992.

Hon. ORRIN G. HATCH,
U.S. Senator, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR HATCH: The effects of government regulation on American businesses are many. While some of these regulations may serve to help a few select industries, by and large, the effect on most businesses is negative. When the hand of government weighs heavily upon us, it stifles our ability to create, to grow, and, indeed, to even exist.

A good example of this is an incident which recently took place involving our company. Last year, Digitran undertook the necessary procedures to be listed on the National Association of Security Dealers Automated Quotation System (NASDAQ). What should have been a relatively easy listing procedure turned into a nightmare when we learned that the Securities and Exchange Commission, acting under the mandate of the Penny Stock Reform Act of 1990, had changed the listing rules.

Suddenly we were required to have between two and five million dollars in net tangible assets and a five dollar per share stock price. Under these new regulations, if our stock ever fell below that $5 per share price, our company and any broker dealing with our stock would be penalized severely. These regulations have a rippling effect of great consequence. To begin with, no broker in his right mind would touch a company's stock that couldn't be maintained above five dollars. This in turn would slam the door on capital formation. Without capital, the company would be unable to grow, growth necessary to meet the five dollar per share price. Without capital and without growth, the company would die.

As the Creator of most new jobs and economic prosperity in this country, small business needs a friend in government. The current adversarial relationship between business and government is detrimental to the very growth for which both are seeking.

The story is told of a new car traveling the backroads of Brazil in the early part of this century. This car with its large body and powerful engine took the hills and valleys of the country with ease until it encountered a cloud of migratory butterflies. One by one the tiny butterflies were pressed against the radiator of the car until no more air could be circulated, the engine overheated, the car stopped.

Like this car, American business has been tied down with excessive rules and regulations which have effectively stifled the spirit of the free enterprise system. I find it ironic that the very country we criticize most in fits of economic jealousy, is known by the term of Japan Inc. Japan's government-busi-

ness relationship is one of friendship and cooperation. While its foreign trade practices may be irritating and frustrating, there is no question as to the value Japan places on her businesses. No less frustrating is the fact that members of Congress will verbally flail Japan one day and the next day enact dozens more of business regulations which only make American business weaker and less competitive.

We look to you and the other members of Congress for relief of this situation. America's competitiveness problem will not be fixed by turning to the workplace, the schools, or even Japan. It will have to be resolved in the United States Congress.

Sincerely,

DON GALLENT,
President and CEO.
LORETTA GALLENT,
Chairman.

TOWN OF STOCKTON,
Stockton, UT, Oct. 25, 1991.

Re ADA regulations.

Senator ORRIN G. HATCH,
125 South State Street, Room 3438, Salt Lake City, UT.

DEAR SENATOR HATCH: We recently received a copy of the ADA Regulations from the League of Cities and Towns and would like to address some of our concerns.

We support these regulations in theory and are willing to do what we can to abide by them. Unfortunately, like most small towns in the State of Utah, we are very limited in our funds and feel if these regulations are to be imposed upon us, some kind of Federal or State funding or grant also needs to be addressed.

Our building does have a ramp access in the rear, however our restrooms are down stairs. Our building used to be an elementary school and the stairs and stalls in the restrooms are rather small. Making these facilities handicap accessible would be a major undertaking and very costly. The Town Board has discussed the matter and has decided it would be feasible to rent a handicap accessible portable toilet for times when many people would be using the building (such as elections) but don't know if this would be an acceptable solution.

We would appreciate these concerns being addressed for small towns in Utah.

Respectively,

ELDEN SANDINO,
Mayor.

ROCHESTER INSTITUTE OF TECHNOLOGY,
Rochester, NY, Apr. 28, 1992.

Senator ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: Thank you for the opportunity to review draft legislation entitled "Regulatory Accountability Act of 1992."

It is clear to me that regulatory costs are not now adequately monitored and controlled. In my judgment, the bill directly and effectively addresses this troublesome weakness in our current regulatory system. I believe it warrants the Senate's serious consideration.

Sincerely,

THOMAS D. HOPKINS,
Arthur J. Gosnell Professor of Economics.

[From the Wall Street Journal, Feb. 19, 1992]

THE TRUE COST OF GOVERNMENT

(By Robert Genetski)

President Bush showed he had some understanding of problems of the economy when he announced his 90-day freeze on regulation in the State of the Union address. But it is clear that Mr. Bush hasn't grasped the full extent to which regulation has added to the burden that taxes impose on the economy. Regulation's effect on the economy can be every bit as damaging as the effect of taxes. Even though Americans have not seen it in their pay stubs, they have borne the equivalent of growing tax burdens. And tax burdens have climbed as dramatically during his watch as they have under any other President.

The table shows the combined tax and regulatory burden that has been placed on American businesses and workers in recent years. The numbers refer only to increases over and above whatever was imposed the previous year. For example, a new tax of $25 billion in year one and nothing thereafter. Only if the tax is increased above its initial level is the increase presented in a subsequent year.

HIDE BURDEN

In a few cases, Congress and the administration have decided to hide the true burden of government programs by ordering businesses to spend the necessary money to comply with certain edicts. But ordering companies to spend $25 billion to fulfill a public need does not mean that the public has avoided a $25 billion tax. Businesses today earn only 4 cents in profit for every dollar of sales. When a businessman receives the bill for a mandated benefit, the business must reorganize its operations in order to survive. This often means layoffs, plants closing and other cost-cutting moves. Companies that are not able to cut cost sufficiently to pay for the additional burdens are forced to close entirely.

The Clean Air Act and the Americans with Disabilities Act represent two of the largest hidden tax burdens to hit the economy in 1991 and 1992. In both of these cases, the administration and Congress appear to have seriously underestimated the cost of compliance with these acts. Both of these acts are worded so vaguely that the regulatory bodies have raised the cost of compliance far above the official figures. The numbers presented in the accompanying table are conservative estimates.

The official estimate for complying with the Clean Air Act was put at roughly $25 billion per year. Nongovernmental estimates of the cost of complying with the act range as high as $100 billion per year. The table shows a compromise compliance cost of $25 billion in new compliance expenditures for 1991 and an additional $25 billion for 1992.

It appears too that the cost of complying with the Americans with Disabilities Act will be staggering. The disabilities act was supposed to cost $2 billion annually, but depending on how aggressively it is implemented, the cost of compliance could easily amount to at least $20 billion a year for the next five years.

Based on an early sample of plans to alter office buildings to comply with the Americans with Disabilities Act, the cost of compliance appears to be close to $5 per square foot. This figure does not take into account all possible modifications, but just those that are deemed "reasonable."

There are an estimated 180,000 square feet in an average office building. This places the cost of compliance at almost $1 million per building. There are an estimated nine billion square feet of office space in the nation, bringing the total compliance cost nationwide to $45 billion., And that's just for office space.

The American Hospital Association, a hospital lobby, estimates that its members will have to spend $20 billion and counting—and that's before considering the costs for equipping trains, buses, restaurants, rental cars and public facilities.

In addition to the costs of complying which these mandates, there are legal and administrative costs to consider. In the case of the Americans with Disabilities Act vague terminology virtually assures billions of dollars per year in legal expenses. No attempt was made to estimate these legal and administrative expenses.

None of these calculations should be taken to suggest that it is somehow wrong or bad to spend money for cleaner air or to help the disabled. The list of worthy causes has no real limits. Unfortunately, there are definite limits to the amount by which tax and regulatory burdens can be raised without having a serious economic impact. The present economic situation strongly suggests that the push toward higher tax and regulatory burdens has had much greater costs in terms of lost jobs and weaker productivity than most people had assured.

Recent productivity trends clearly support the sense that something is wrong. But the problem is not the Americans are "lazy" as a Japanese politician has recently been quoted as suggesting. Part of the recent weakness in productivity can be attributed to the recession. Productivity tends to increase more slowly than normal during recessions and faster than normal during recoveries.

Still, adjustments can be made for cyclical developments. Judging from past experience, the magnitude of the current recession should have caused actual productivity to fall approximately 2% below a level consistent with a fully employed economy. After making such an adjustment, we see that it becomes readily apparent that U.S. cyclically adjusted productivity has deteriorated dramatically in recent years. The record of what we can call underlying productivity is convincing support for the widespread sense that America's economic problems are more fundamental than cyclical.

Each society has its fair share of workers and loafers. The extent to which those workers improve their productivity depends far more on the overall economic environment in which they operate than on their inherent intelligence or initiative. Tax burdens are an important determinant of that environment.

During the period from the late 1970's to 1981, productivity growth in the U.S. deteriorated dramatically as tax burdens rose. With the tax cuts of 1982–84, U.S. productivity growth returned to its long-term average. Productivity rose by approximately 1.5% per year in the mid-1980's, and the nation experienced its longest peacetime expansion. More recently, the resumption of higher traditional and hidden tax burdens has again brought about a fundamental deterioration in the nation's productivity trend and a renewed sense of economic malaise.

After showing the rest of the world how lower tax rates could boost productivity and living standards, the U.S. regressed. Fortunately, the U.S. economy can revive. Layoffs can be brought to an end and productivity growth restored.

PAINFUL MEASURES

Many politicians have maintained that such a revival would mean painful measures. In a sense, they are right. A true revival would involve major cuts in traditional and hidden taxes to offset the increased burdens that have occurred. This, of course, would

not be painful for most workers and businesses; they would keep more of their income. But it would be painful for politicians and, in some cases, those who benefit from regulation, such as the handicapped. Cuts in traditional taxes or in regulation would mean that politicians would be forced to recognize that there are effective limits to what public policy can accomplish.

In a democracy, the public seldom tolerates poor economic performance for very long. For those politicians who fail to recognize the limits to public policy, there will eventually be political costs as well.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 14. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

EDUCATIONAL EQUITY ACT OF 1993

Mr. HATCH. Mr. President, there is not one of us in this body who is not concerned about education. Republican or Democrat, there is not one of us who does not want to help our State and local governments cope with the mounting demand for more rigorous curricula, new and expanded equipment and facilities, and more specialized and experienced teachers.

One of the things we can do at the Federal level to help improve our schools is to ensure fairness in the distribution of scarce Federal resources. Today, I am reintroducing the Educational Equity Act to do precisely that. Congressman JIM HANSEN, the dean of Utah's delegation in the House of Representatives, will sponsor an identical bill in the House.

Under current law, the dominant factor in the chapter 1 program formula is State per pupil expenditure. States that can afford to spend more money per pupil receive a greater share of the chapter 1 money than States that spend less. This means that a poor child living in a wealthy State is valued more highly in terms of chapter 1 funds than the same poor child if he or she lived in a poorer State. Despite the floors and ceilings currently built into the chapter 1 formula, there are still wide disparities. Even after the 1990 census data is taken into account, an estimated 28 States would benefit from this legislation.

The bill I am introducing today, S. 14, would simply change the chapter 1 formula so that allocations are based on the national per pupil expenditure. This means that poor children will be treated the same under this program regardless of whether they live in Utah or Massachusetts, Mississippi, or Connecticut. The problem of inequality in the distribution of Federal funds was made especially clear in the recent report prepared for the Department of Education by Stephen M. Barro, "The Distribution of Federal Elementary-Secondary Education Grants Among the States."

Some may argue that this bill would simply reward States for not spending their own resources on education. In response, I would make two points. First, the Federal Government supplies only about 7 percent of all education funding. States and local governments are already bearing the lion's share of the costs of educating our children. Second, the current chapter 1 formula does not measure tax effort. In that category, Utah, for example, ranks 10th in the Nation.

And, Mr. President, let me emphasize that I am not proposing to rob from the rich to give to the poor. S. 14 does not require that States with higher per capita incomes receive less in chapter 1 funds per eligible student than any other State. On the contrary, my legislation, the Educational Equity Act, would treat each eligible child the same regardless of whether the child lived in Utah or Maryland. It's treating Johnny and Mary who live in Arkansas the same as Johnny and Mary who live in Michigan.

The inherent unfairness—and inefficiency—of the current chapter 1 formula has also been compounded over the years because it has been used to allocate funds for a number of other education programs—some of which do not even have low-income children as their primary target.

If chapter 1 is a program to help States and local school districts serve educationally/economically disadvantaged children, it makes no sense to me that wealthier States get a disproportionate share of the funds. It's not pork, and it's not partisan. It's just good education policy.

Mr. President, I am proud of what my State has been able to accomplish in education. Utahns are above the national average in years of schooling completed. Our school administration costs are among the lowest in the Nation. Utah citizens make an above average contribution to education through their taxes. Utah is 50th in the Nation of Federal education aid despite being 10th in the Nation in total tax effort. And, Utah has the highest percentage of students who pass advanced placement exams.

The Educational Equity Act will, however, provide equal treatment for educationally/economically disadvantaged children in all States so that Utah and 27 other States can better address continuing educational needs. While many of our States have been able to make do with less than their fair share, it is time to rectify this longstanding imbalance in the chapter 1 formula.

I am very pleased to have the support of the Utah State Office of Education for this important bill, and I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

I urge all Senators to join me as a cosponsor of this important education legislation.

I ask unanimous consent that the text of S. 14 be printed in the RECORD at this point.

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

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educational Equity Act of 1993".

SEC. 2. AMOUNT OF GRANTS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in subparagraph (A) of section 1005(a)(2), by striking the second sentence and inserting "The amount determined under this sentence shall be the average per pupil expenditure in the United States."; and

(2) in each of sections 1201(b), 1221(c), and 1241(b), by striking "in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of average per pupil expenditure in the United States)" and inserting "in the United States".

THE UTAH STATE OFFICE
OF EDUCATION,
Salt Lake City UT, January 20, 1993.

Hon. ORRIN G. HATCH,
U.S. Senator, Washington, DC.

DEAR SENATOR HATCH: We understand that you will soon be introducing legislation in the Senate which will focus on revising the funding formula currently in place for Chapter 1 of Title 1 under Public Law 100-297. As you well know, the current formula makes use of state per pupil expenditure (PPE) amounts rather than utilizing the national average per pupil expenditure. This approach has resulted in poorer states receiving less funding than those with greater financial resources, although the avowed purpose of Chapter 1 is to provide additional educational assistance to children of poverty.

The change which you are suggesting, that of revising the formula to utilize the national average per pupil expenditure, will be a significant move toward providing equitable educational opportunity for all children of poverty. Regardless of how poor a particular state may be, the formula change which you are proposing will generate equal per pupil amounts of funding for all Chapter 1 students in all states. No longer will the students in poorer states be faced with the double jeopardy of low state per public expenditures and low Chapter 1 federal funding allocations. Your proposed formula revision will truly provide equitable support for all Chapter 1 students and should result in significant educational benefits.

Please know that Utah educators appreciate and applaud the leadership you are taking with this important issue. We wish you every success in securing passage of this critical legislation.

Sincerely,

SCOTT W. BEAN,
State Superintendent of Public Instruction.

By Mr. ROTH (for himself and Mr. CAMPBELL):

S. 15. A bill to establish a Commission on Government Reform.

REINVENTING GOVERNMENT ACT

Mr. ROTH. Mr. President, yesterday, in his inaugural address, President Clinton talked about the vision and courage to reinvent America. President Clinton, this is an answer to your call. I rise today to introduce legislation aimed at fundamental reform of the organization and operations of the Federal Government.

If the recent election was about anything, it was about change. The American people are demanding that the Government be more responsive to their needs and more efficient in its missions. And, frankly, the people are right. The Federal Government plays a tremendous role in our lives. Yet whenever we try to accomplish something, the number of agencies one must go through, the bureaucratic struggles one must engage in, the regulations and redtape one must conquer, are enough to discourage even the most courageous among us. This must change if America is to change.

The American people are demanding a Government that is responsive, efficient, capable of completing the mission it has been given. In addition, the Federal Government must become more responsive to making our Nation economically competitive. While the Government plays a fundamental role in our lives and the Nation's business, its structure is based on the outdated model of the 1930's, 1940's, and 1950's. President Clinton's inaugural sounded this same theme:

> Let us resolve to make our government a place for what Franklin Roosevelt called "bold, persistent experimentation," a government for the tomorrows, not our yesterdays.

If we are to reinvent America, Mr. President, we must reinvent government.

We need to reform the structure and operations of our Government. The American people are yearning for a government that works. I find it very troubling to have the Comptroller General of the United States, Charles Bowsher, recently tell the Committee on Governmental Affairs that there are practically no programs, no agencies, no departments that he can say are well run.

That is why I am introducing legislation to establish a Presidential Commission on Government Reform.

We all know that a new President comes in with the best of intentions, but the President has so many matters before him. Internationally, this new President is going to have his plate full on just that alone. But we must look into bringing this Government into the 21st century. That is why establishing a Presidential Commission on Government Reform is so necessary.

During the confirmation hearing for Congressman Leon Panetta, the President Clinton's designee to be the new Director of the Office of Management and Budget, I asked him whether he would support such an approach. He responded that:

> I think you have to do it. I think you do need to have a Commission do it, because, frankly, the problem is it has to be done in a comprehensive fashion. And if you just try to nit-pick away at this, you will never get anywhere. You will run into jurisdictional problems in the Congress on both sides * * * I do think it is essential that we do that. We have not moved into the 21st century yet in terms of our structure of government.

I could not agree with the new Director of OMB more, and I look forward to working with him during this session to see this legislation enacted.

We need to create a new government structure that is much less bureaucratic and more responsive in its provision of daily services to the public. From environmental laws to workplace safety to the regulation of the financial industry, the government is involved in almost every aspect of American business and trade. Instead of an impediment to being competitive, the Government must employ policies which promote competitiveness. The Government must also be able to respond quickly to needs of new business. In formulating such a Commission, I am not suggesting that we weaken laws which help to achieve cleaner air, safer workplaces, and stable financial markets. I am simply proposing that whatever role we mandate for government, that it be performed efficiently and effectively.

With this goal in mind, I am introducing the Reinventing Government Act, which would establish a nine-member Commission on Government Reform. The bipartisan Presidential Commission would develop up to five major pieces of legislation restructuring the executive branch and overhauling personnel systems. Those proposals approved by the President would be voted on, unamended, by Congress. Unless disapproved by both Houses, they would go into effect. This legislative mechanism is similar to that recently used to close military bases and may be the only way we can hope to achieve real action on these politically difficult issues.

The legislation mandates the Commission to propose ways to consolidate and streamline agencies and programs, to reduce the size of the Federal workforce through attrition, and to sunset programs every 5 years.

The Commission would recommend reforms to personnel and management systems which promote personal accountability, maximize productivity, and reward excellence. It also would recommend ways to consolidate the nearly 600 separate grant programs to State and local governments, and to establish criteria for awarding the grants on the basis of performance.

Mr. President, I want to give this new Commission the authority to reorganize the executive branch and to reform the Civil Service System. Government needs to be less costly and more results-oriented. We need to eliminate obsolete programs, unnecessary offices, and overlapping responsibilities. We need more personal accountability and pay-for-performance. Mr. President, this legislation would help to achieve all of these goals.

This Nation is challenged by an increasingly complex set of economic and social problems in the period since World War II. The complicated, seemingly intractable nature of these problems has spawned a host of public sector responses. New agencies, new programs and a vast array of regulatory mandates are evidence of this governmental response.

But as government has tried to grapple with the tough problems, the role of government in our lives has expanded immensely, governmental expenditure levels have risen almost exponentially, and the institutional relationships within government have taken on the complexity of the very problems that government seeks to address. It is no secret to me or to the American people that governmental performance rarely lives up to its promise.

The Commission on Government Reform provides the means for us to step back and examine the broad sweep of how our Government is structured and how it operates. The recommendations produced by the Commission will lay the groundwork for the structural and managerial changes so badly needed in government today.

We have already begun such a process aimed at reforming Congress: The Joint Committee on Organization of Congress, which is due to report on the operations of Congress and recommend ways to make Congress more efficient. Now a similar examination of the executive branch is needed. Its departments and agencies need to be restructured, consolidated, and streamlined. The size of government reduced through attrition, while we take advantage of the technological progress which will take us into the 21st century.

Mr. President, the Commission would consider such ideas as a major restructuring of the Federal Government to make it more efficient and responsive to the needs of the public. Of equal importance, the legislation provides a strategy for carrying through with the implementation of the recommended changes. Like the Base Closure and Realignment Commission, the recommendations of this Commission will have real teeth. I believe this mechanism has worked well for the Base Commission, and I believe it can work well here.

It is important to emphasize that the Commission will be strictly bipartisan in nature. The Commission will be comprised of nine members, appointed

by the President with the advice and consent of the Senate. The members of the Commission will be selected by the President after consultation with congressional leaders. It will not be subject to the influence of one political party or another, or to any particular philosophical bias other than the one based upon effective public service delivery at a minimal cost.

The Commission on Government Reform will provide the independent and objective review we need to improve Government service and efficiency. It will encourage action on the commonsense governmental reforms that so often receive inadequate attention. And it will break the strangle hold of special interests which has prevented Congress from reforming those Government agencies and services in most need of change.

In his inaugural, President Clinton sounded the trumpet of change: "Thomas Jefferson believed that to preserve the very foundations of our Nation, we would need dramatic change from time to time. Well, my fellow citizens, this is our time. Let us embrace it." President Clinton pledged his efforts to America renewal. Government reform will be an essential part of America's renewal. I pledge my efforts for that renewal, and look forward to working with the new President to see these changes take effect.

I ask unanimous consent that a section-by-section analysis and the text of the legislation be included in the RECORD at this point.

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

S. 15

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Reinventing Government Act".

(b) FINDINGS.—

The Congress finds that the American people face a crisis of confidence in the Federal Government that cannot be remedied without dramatic and fundamental reform. Recent polls indicate that an all-time low of only 17 percent of the public approves of Congress, that 78 percent are dissatisfied or angry about the Federal Government, and that Americans think an average of 48 cents out of every dollar in Federal taxes is wasted. While the American people are demanding more performance from their Government for less money, Congress and the executive branch still debate the same old options of fewer services or higher taxes.

The Federal Government has many talented and hardworking employees whose effectiveness is hindered by existing organizations and operations. Such organizations have too often become inefficient and have structures and missions not reflecting current domestic and international priorities. These organizations were developed during the industrial era and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command. Such governmental organizations are so obsessed with regulating processes and procedures that they have ignored the outcomes of their programs.

Unlike the Federal Government, American corporations have spent the last decade making revolutionary changes by streamlining their organizations, decentralizing authority, flattening hierarchies, focusing on quality, and emphasizing responsiveness to the customer. State and local governments have also begun to apply those same principles of post-industrial organization and uses of technology in successful efforts aimed at reinventing government. There is now a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

SEC. 2. DEFINITIONS.

In this Act—

(1) "Commission" means the Commission on Government Reform established by section 3.

(2) "executive entities" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 3. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "Commission on Government Reform".

(b) DUTIES.—The Commission shall carry out the duties specified for it in this Act.

(c) APPOINTMENT.—(1) The Commission shall be bipartisan, composed of 9 members appointed by the President, by and with the advice and consent of the Senate, of whom there must be at least 4 each from the two major political parties.

(2) The President shall transmit to the Senate the nominations for the appointment to the Commission not later than 60 days after the date of enactment of this Act.

(3) In selecting nominees for appointment to the Commission, the President shall consult with—

(A) the Speaker of the House of Representatives;

(B) the majority leader of the Senate;

(C) the minority leader of the House of Representatives; and

(D) the minority leader of the Senate.

(4) When the President submits to the Congress nominations for appointment to the Commission, the President shall designate 1 nominee to serve as chairman of the Commission.

(d) TERMS.—Each member of the Commission appointed under paragraph (1)(A) shall serve until the termination of the Commission.

(e) MEETINGS.—(1) Each meeting of the Commission, except a meeting in which classified information is to be discussed, shall be open to the public.

(2) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the chairman and the ranking minority member of the Committee on Governmental Affairs of the Senate and the chairman and the ranking minority member of the Committee on Government Operations of the House of Representatives.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) PAY AND TRAVEL EXPENSES.—(1)(A) The chairman of the Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) Each member of the Commission other than the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR AND STAFF.—(1) The Commission shall appoint a director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) The director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—(1) The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Upon request of the director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this title.

(3) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(j) OTHER AUTHORITY.—(1) The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent that funds are available for that purpose.

(k) FUNDING.—There are authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act, such sums to remain available until expended.

(l) TERMINATION.—The Commission shall terminate 2 years after the date of enactment of this Act.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) IN GENERAL.—The Commission shall transmit to the President findings and recommendations regarding reforms of the organization and operations of the executive branch of the Federal Government that would improve governmental performance while minimizing costs. Such recommendations shall promote economy, efficiency, and improved service in the transaction of the public business, and shall include ways to—

(1) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and result-oriented accountability;

(2) reform personnel and management systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, promote personal accountability, and reward excellence;

(3) increase program responsiveness by reducing paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(4) consolidate and streamline departments, agencies, and programs so as to reduce costs, minimize hierarchy, and focus responsibility;

(5) reduce the size of the Federal work force through attrition and redirect funding toward improved training and rewarding excellence in the work force;

(6) promote the application of new information technologies to improve management and reduce administrative costs;

(7) consolidate Federal grant programs to State and local governments and establish criteria for awarding grants on the basis of performance;

(8) develop procedures for the substantive review and reauthorization of each Federal program at least once every 5 years; and

(9) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches and greater attention to the long-term impacts of budgetary and policy decisions.

(b) ACTION BY THE CONGRESS, COMPTROLLER GENERAL, AND THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Comptroller General of the United States and the Director of the Office of Management and Budget shall—

(1) assist the Commission, to the extent requested, in the Commission's review and analysis of the matters described in subsection (a); and

(2) not later than January 1, 1994, transmit to the Congress and to the Commission a report containing a detailed analysis of any findings and statutory recommendations they may choose to offer.

(c) REPORTS.—Not later than June 1, 1994, the Commission shall transmit to the President and Congress not more than 5 reports containing the Commission's findings and statutory recommendations for the restructuring of, or improving the operations of, governmental entities.

(d) UNDERLYING INFORMATION.—After June 1, 1994, the Commission shall, upon request, promptly provide to any member of Congress information used by the Commission in making its findings and statutory recommendations.

(e) REPORTS BY THE PRESIDENT.—(1) Not later than July 1, 1994, the President shall transmit to the Commission and Congress separate reports containing the President's approval or disapproval of the Commission's reports made pursuant to subsection (c).

(2) If the President approves a report of the Commission, the President shall transmit a copy of the report to the Congress, together with a certification of the approval.

(3) If the President disapproves a report of the Commission, in whole or in part—

(A) the President shall transmit to the Commission and Congress the reasons for the disapproval; and

(B) not later than July 15, 1994, the Commission shall transmit to the President a revised report containing revised findings and statutory recommendations.

(4) If the President approves a revised report of the Commission submitted to the President pursuant to paragraph (3)(B), the President shall transmit to Congress a copy of the revised report together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification of a report or reports by August 1, 1994, the process by which the report or reports of the Commission are to be implemented shall be terminated.

SEC. 5. IMPLEMENTATION OF COMMISSION RECOMMENDATIONS FOR THE EXECUTIVE BRANCH.

(a) IN GENERAL.—Subject to subsection (b), the President shall—

(1) restructure and improve the operation of all executive branch organizations recommended for reform by the Commission in its reports transmitted to the Congress by the President pursuant to section 4 (c) and (e);

(2) initiate all such restructuring and improvements not later than 2 years after the date on which the President transmits a report to the Congress pursuant to section 4 (c) and (e) containing such restructurings and improvements; and

(3) complete all such restructurings and improvements not later than the end of the 6-year period beginning on the date on which the President transmits the report pursuant to section 4 (c) and (e) containing such restructurings and improvements.

(b) CONGRESSIONAL DISAPPROVAL.—

(1) IN GENERAL.—The President may not carry out any restructuring and improvements recommended by the Commission in a report transmitted from the President pursuant to section 4 (c) and (e) if a joint resolution is enacted, in accordance with subsection (c), disapproving the recommendations of the Commission before the earlier of—

(A) the end of the 30-day period beginning on the date on which the President transmits the report; or

(B) the adjournment of Congress sine die for the session during which the report is transmitted.

(2) CONGRESS NOT IN SESSION.—For the purposes of paragraph (1) and subsection (c) (1) and (3), the days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

(c) CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.—

(1) TERMS OF THE RESOLUTION.—For the purposes of subsection (b), the term "joint resolution" means a joint resolution that—

(A) is introduced within the 5-day period beginning on the date on which the President transmits a report to the Congress under section 4 (c) and (e);

(B) does not have a preamble;

(C) states after the resolving clause "That Congress disapproves the recommendations of the Commission on Government Reform submitted by the President on ", the blank space being filled in with the appropriate date; and

(D) is entitled a "Joint resolution disapproving the recommendations of the Commission on Government Reform.".

(2) REFERRAL.—(A) A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on Government Operations of the House of Representatives.

(B) A resolution described in paragraph (1) that is introduced in the Senate shall be referred to the Committee on Governmental Affairs of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported the resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 4 (c) and (e), such committee shall, at the end of that period, be discharged from further consideration of the resolution, and the resolution shall be placed on the appropriate calendar of the House of Representatives or the Senate, as the case may be.

(4) CONSIDERATION.—(A)(i) On or after the third day after the date on which the committee to which a joint resolution described in paragraph (1) is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution (but only on the date after the calendar day on which the member announces to the House concerned the member's intention to do so).

(ii) All points of order against a resolution described in paragraph (1) (and against consideration of the resolution) are waived.

(iii)(I) A motion to proceed to the consideration of a joint resolution described in paragraph (1) is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable.

(II) A motion described in subclause (I) is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business.

(III) A motion to reconsider the vote by which a motion described in subclause (I) is agreed to or not agreed to shall not be in order.

(IV) If a motion described in subclause (I) is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B)(i) Debate on a joint resolution described in paragraph (1) and on all debatable motions and appeals in connection therewith shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing the resolution.

(ii) An amendment to a joint resolution described in paragraph (1) is not in order.

(iii) A motion further to limit debate on a joint resolution described in paragraph (1) is in order and not debatable.

(iv) A motion to postpone consideration of a joint resolution described in paragraph (1), a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(v) A motion to reconsider the vote by which a resolution described in paragraph (1) is agreed to or not agreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House of Representatives or the Senate, as the case may be, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or of the Senate, as the case may be, to the procedure relating to a joint resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—(A) If, before the passage by one House of a joint resolution described in paragraph (1) that was introduced in that House, that House re-

ceives from the other House a joint resolution described in paragraph (1)—

(i) the resolution of the other House shall not be referred to a committee and may not be considered in the House that receives it otherwise than on final passage under clause (ii)(II); and

(ii)(I) the procedure in the House that receives such a resolution with respect to such a resolution that was introduced in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) Upon disposition of a joint resolution described in paragraph (1) that is received by one House from the other House, it shall no longer be in order to consider such a resolution that was introduced in the receiving House.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

THE REINVENTING GOVERNMENT ACT—SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE AND FINDINGS

This Act may be cited as the "Reinventing Government Act".

The Congress finds that—

The American people face a crisis of confidence in the Federal Government, which cannot be remedied without fundamental reform. While the American people are demanding more performance from their government for less money, Congress and the Executive branch continue to debate the same old options of fewer services or higher taxes. The public wants governmental institutions that respond quickly to citizens needs, with high-quality services delivered at the minimum necessary cost, and with ever more value squeezed out of each tax dollar.

The government has many talented and hardworking employees whose effectiveness is hindered by existing organizational structures and operations. Such organizations have too often become inefficient and have structures and missions not reflecting current priorities. These organizations were developed during the industrial era, and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command. Such governmental organizations are so obsessed with regulating processes and procedures, that they have ignored the outcomes of their programs.

Unlike the Federal Government, American corporations have spent the last decade making revolutionary changes by streamlining their organizations, decentralizing authority, focusing on quality, and emphasizing responsiveness to the customer. State and local governments have also begun to apply those same principles of post-industrial organization and uses of technology in successful efforts aimed at reinventing government. There is a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

SEC. 2. DEFINITIONS

Defines the term "Commission" as the Commission on Government Reform.

Defines the term "governmental entities" as all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 3. THE COMMISSION

The bipartisan Commission shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate. There must be at least four members from each of the two major political parties. The President shall transmit to the Senate the nominations for appointment no later than 60 days after enactment.

In selecting individuals for the bipartisan Commission, the President shall consult with the Speaker of the House, the majority leader of the Senate, the minority leader of the House, and the minority leader of the Senate.

Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS

The Commission shall transmit to the President findings and statutory recommendations regarding reforms to the organization and operations of the executive branch which would improve governmental performance while minimizing costs. Such recommendations shall promote economy, efficiency, and improve service in the transaction of the public business, and include ways to—

(1) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and results-oriented accountability;

(2) reform personnel and management systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, promote personal accountability, and reward excellence;

(3) increase program responsiveness, by reducing paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(4) consolidate and streamline departments, agencies, and programs, so as to reduce costs, minimize hierarchy, and focus responsibility;

(5) reduce the size of the Federal workforce through attrition and redirect funding toward improved training and rewarding excellence in the workforce;

(6) promote the application of new information technologies, to improve management and reduce administrative costs;

(7) consolidate Federal grant programs to State and local governments and establish criteria for awarding grants on the basis of performance;

(8) develop procedures for the substantive review and reauthorization of each Federal program at least once every five years; and

(9) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches, and greater attention to the long-term impacts of budgetary and policy decisions.

The Director of the Office of Management and Budget and the Comptroller General of the United States shall assist the Commission to the extent requested by the Commission. Not later than January 1, 1994, both the OMB Director and Comptroller General may transmit to the Congress and Commission any recommendations they may choose to offer.

The Commission shall conduct public hearings on the recommendations. The Commission shall, by no later than June 1, 1994, transmit to the President a series of no more than five reports containing the Commission's findings and statutory recommendations.

The President shall, by no later than July 1, 1994, transmit to the Commission and to the Congress the President's approval or disapproval of the Commission's recommendations. The President shall treat each report of the Commission as a separate report. If the President approves the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of the approval.

If the President disapproves the recommendations in any of the reports of the Commission, the President shall transmit to the Commission and to the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than July 15, 1994, a revised list of recommendations with regard to that report. If the President approves the revised report, the President shall transmit a copy of the revised report to the Congress, together with a certification of such approval.

If the President does not transmit to the Congress an approval and certification by August 1, 1994, of a particular report, the process by which the recommendations under this Act are to be implemented shall be terminated.

SEC. 5. IMPLEMENTATION OF EXECUTIVE BRANCH RECOMMENDATIONS

Subject to Congressional disapproval of a particular report, the President shall initiate all the recommendations within two years and complete all action no later than the end of six years.

The President may not carry out any of the recommendations if a joint resolution is enacted disapproving such recommendations of a particular report of the Commission before the earlier of the end of the 30-day period beginning on the date on which the President transmits the report or the adjournment of Congress sine die for the session.

A joint resolution is required to be introduced within the 5-day period beginning on the date on which the President transmits a report to the Congress. The resolution shall be referred to the Committee on Government Operations in the House and the Committee on Governmental Affairs in the Senate.

If the committee has not reported a resolution by the end of the 20-day period beginning the date the President transmits the report, the committee will be discharged from further consideration, and the resolution placed on the calendar of the House involved.

On or after the third day after the date on which the committee reported or been discharged of the resolution, it is in order for any Member to move to proceed to the consideration of the resolution. Debate on the resolution shall be limited to not more than five hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order.

TIMETABLE

60 days after enactment: President submits names of the bipartisan Presidential Com-

mission members to Senate for confirmation.

January 1, 1994: Optional reports to Commission by the Office of Management and Budget and the Comptroller General of the United States.

June 1, 1994: Commission reports recommendations in a maximum of five separate reports.

July 1, 1994: President accepts recommendations and sends them to Congress or returns recommendations to the Commission for further review.

July 15, 1994: If President returned recommendations, Commission can issued revised recommendations.

August 1, 1994: President either sends recommendations to the Congress or rejects them.

30 Days: If accepted by the President, the Congress then has 30 days to vote on resolution of disapproval for both executive and legislative branch findings and statutory recommendations.

By Mr. MOYNIHAN:

S. 16. A bill to amend title IV of the Social Security Act to require full funding of the Job Opportunity and Basic Skills Training Program under part F of such title, and for other purposes; to the Committee on Finance.

WORK FOR WELFARE ACT

Mr. MOYNIHAN. Mr. President, ask American parents what they dislike about how things are in our country, and chances are good that pretty soon they'll get to welfare.

Americans are the most generous people on Earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become "a narcotic" and a "subtle destroyer" of the spirit.

Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy.

It is time to replace the assumptions of the welfare state, and help reform the welfare system.

Today I am introducing a bill to do just that.

In his State of the Union Address of 1935, FDR was not addressing the subject of welfare as we know it today. He was referring, as he stated, to the then gigantic relief rolls which cared for able-bodied men and their families in the depths of the Great Depression. Probably a quarter of work force was then unemployed. He was proposing a giant public works program.

What we now call welfare is title IV of the Social Security Act which was enacted later in 1935. Originally designed as a "widow's pension," it has since become a vast program supporting single parent, female headed households. There are at present twice as many AFDC cases as unemployment cases. AFDC supports some 4.4 million adults at this time, along with 9 million children, over 13 million Americans in all.

In 1988 the Family Support Act, overwhelmingly passed by Congress and signed by President Reagan changed the terms of the AFDC program. The bill would not have passed without the leadership of a chairman of the Governors Association, namely Bill Clinton, our new President. With his help, a new social contract was put in place. Society would help the dependents in return for a concerted effort by dependents to help themselves. Welfare would be temporary; it would lead to work.

Title II of the act created the Job Opportunities and Basic Skills Training Program [JOBS].

The terms of the JOBS Program are simple and direct. All able-bodied adult recipients of AFDC must enroll or lose their benefits. The exceptions are mothers with children under age 3, or, at State option, under age 1.

The program has been coming along. There are now some 500,000 adults in the JOBS pipeline, with about half that number actually in education or jobs programs. Current expenditures, including day care, are $1.5 billion per year.

However, Federal funds for JOBS are capped at $1 billion, and the State match is such that in the current recession many States are not using all the Federal funds available.

The Work for Welfare Act of 1993 would respond to this emergency by: eliminating the cap on Federal funds, and eliminating State matching requirement beyond current outlays.

The additional funding will come to $4.5 billion, including some $1.4 billion for day care.

The bill answers the public's demand for action. As of the date of enactment, signing up for JOBS becomes part of signing up for welfare.

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

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

S. 16

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work for Welfare Act of 1993".

SEC. 2. FULL FUNDING OF JOB OPPORTUNITY AND BASIC SKILLS TRAINING PROGRAM.

(a) IN GENERAL.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended—

(1) in subparagraph (B)(i), by striking "and State resources otherwise permit"; and

(2) in subparagraph (E)(i), by striking "and State resources otherwise permit".

(b) REMOVAL OF FEDERAL PAYMENT LIMITATION AND IMPOSITION OF STATE MAINTENANCE OF EFFORT.—Section 403(k) of such Act (42 U.S.C. 603(k)) is amended—

(1) in paragraph (1)—

(A) by striking "of the applicable percentages (specified in such subsection)"; and

(B) by striking "but such payments" and all that follows through "the State";

(2) by striking paragraphs (2), (3), and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) In order to receive the payments described in paragraph (1), each State must maintain its payments in any fiscal year under this part at or above the level of such payments as of fiscal year 1993.";

(3) by redesignating paragraph (5) as paragraph (3); and

(4) by adding at the end the following new paragraph:

"(4) The State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.".

(c) REMOVAL OF CERTAIN PAYMENT LIMITS AND MANDATED STATE PARTICIPATION RATES.—Section 403(1) of such Act (42 U.S.C. 603(1)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "Notwithstanding paragraph (1), the" and inserting "The";

(B) by striking "(in lieu of any different percentage specified in paragraph (1)(A))";

(C) in clause (v), by striking "15" and inserting "50"; and

(D) in clause (vi), by striking "20" and inserting "50";

(2) in paragraph (3)(C), by striking "(in lieu of paragraph (1)(A))";

(3) in paragraph (4)(B)(i), by striking "40" and inserting "50"; and

(4) by striking paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(d) REPEAL OF STATE MATCH REQUIREMENT FOR SUPPORTIVE SERVICES.—Section 402(g) of such Act (42 U.S.C. 602(g)) is amended by striking paragraph (3)(A) and inserting the following:

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, there shall be no requirement for State resources for purposes of section 403(a), except that no such State shall expend amounts for child care in any fiscal year less than the amount such State expended in fiscal year 1993.".

(e) TIME LIMITATION.—Section 482(b) of such Act (42 U.S.C. 682(b)) is amended by adding at the end the following new paragraph:

"(4) For all individuals required to participate in the program pursuant to section 402(a)(19)(C), the State agency shall conduct the assessment, develop the employability plan, and refer the individuals to a program component (as required in this subsection) within 60 days of the date upon which the individual is found eligible for such program.".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to expenditures made after September 30, 1993.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. AKAKA, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. DECONCINI, Mr. FEINGOLD, Ms. FEINSTEIN, Mr. INOUYE, Ms. MIKULSKI, Ms. MURRAY, Mr. PELL, Mr. ROBB, Mr. SIMON, Mr. WELLSTONE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. BINGAMAN, Mr. WOFFORD, Mr. LEAHY, Mr. CAMPBELL, Mr. BIDEN, Mr. DODD, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. RIEGLE, Mr. MITCHELL, Mr. COHEN, Mr. HARKIN, and Mr. SPECTER):

S. 17. A bill to amend section 1977A of the Revised Statutes to equalize the

remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT OF 1993

• Mr. KENNEDY. Mr. President, on behalf of Senators DURENBERGER, PACKWOOD, AKAKA, BRADLEY, MOSELEY-BRAUN, DECONCINI, FEINGOLD, FEINSTEIN, INOUYE, MIKULSKI, MURRAY, PELL, ROBB, SIMON, WELLSTONE, ROCKEFELLER, BOXER, BINGAMAN, WOFFORD, LEAHY, CAMPBELL, BIDEN, DODD, and METZENBAUM, I am pleased to reintroduce the Equal Remedies Act, to repeal the caps on the amount of damages available in employment discrimination cases brought under the Civil Rights Act of 1991.

The Civil Rights Act of 1991 for the first time gave women, religious minorities, and the disabled the right to recover compensatory and punitive damages when they suffer intentional discrimination on the job—but only up to specified monetary limits. Victims of discrimination on the basis of race or national origin, by contrast, can recover such damages without arbitrary upper limits. The Equal Remedies Act will remove this inequity by eliminating the caps on damages that were imposed by the 1991 act.

The caps on damages in the Civil Rights Act of 1991 were a compromise necessitated by concern about passing a bill that then-President Bush would sign. The issue was only one of the important issues covered in that piece of legislation, which also reversed a series of Supreme Court decisions that had made it far more difficult for working Americans to challenge discrimination. The bill as a whole represented a significant advance in the ongoing battle to overcome discrimination in the workplace. In order to guarantee that the bill would become law, many Senators joined in agreeing to the compromise on damages. However, many of us made clear that we intended to work for swift enactment of separate legislation to remove the caps.

I am committed to enactment of the Equal Remedies Act in this Congress. We must end the double standard that relegates women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

The caps on damages deny an adequate remedy to the most severely injured victims of discrimination. For example, if a woman proves that as a result of discrimination, she needs extensive and costly medical treatment exceeding the level of the caps, she will be limited to receiving only partial compensation for her injury.

At the same time, the caps limit the extent to which employers who discriminate—particularly the worst violators—are punished for their discriminatory acts and deterred from engaging in such conduct in the future. The more offensive the conduct and the greater the damages inflicted, the more the employer benefits from the caps.

The caps on damages are unjustifiable and unacceptable. Damages available to victims of job discrimination based on race and national origin are not limited in this way. No similar caps exist in any other civil rights laws, and they are not appropriate in this instance. Enactment of the Equal Remedies Act is essential to remove this glaring injustice in our civil rights laws.

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

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

S. 17

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Remedies Act of 1993".

SEC. 2. EQUALIZATION OF REMEDIES.

Section 1977A of the Revised Statutes (42 U.S.C. 1981a), as added by section 102 of the Civil Rights Act of 1991, is amended—

(1) in subsection (b)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3), and

(2) in subsection (c), by striking "section—" and all that follows through the period and inserting "section, any party may demand a jury trial.".•

• Mr. FEINGOLD. Mr. President, I am pleased to join my distinguished colleague, Senator KENNEDY, and other Members of this body in sponsoring the Equal Remedies Act, which was first introduced in the 102d Congress. I strongly support this bill, which is aimed at achieving equitable application of our civil laws.

Title VII of the Civil Rights Act of 1964 was intended to guarantee equity in employment, proscribe discrimination, and remedy injury caused by discrimination by ensuring accountability for intentional wrongdoing by employers. The Civil Rights Act of 1991 reinforced the original act's intent, and for the first time established the right of women, religious minorities, and the disabled to recover compensatory and punitive damages. However, the 1991 act set arbitrary limits on the amount of damages that can be recovered by these groups of individuals. The limits range from $50,000 to $300,000, depending on the number of employees who work for the defendant. For 15 to 100 employees, the limit is $50,000; for 101 to 200 employees, the limit is $100,000; for 201 to 500 employees the limit is $200,000; and for more than 500 employees, the limit is $300,000.

The effect of these limits violates the fundamental principles of equality, which underlie our uniquely American form of democracy. Within this context, no law can remedy injustice if it is unjust on its face. As it stands, the 1991 Civil Rights Act creates a double standard remedy for those who are victims of intentional illegal discrimination. This bill seeks to eliminate the double standard, and to avoid the creation of a two-tiered system of justice. At its heart is a reaffirmation of the basic principles of civil rights law, full and fair remedy for employment discrimination. Further, the current act's arbitrary treatment of women, religious minorities and the disabled flies in the face of the 14th amendment to the Constitution of the United States. Equal treatment under law requires that the same standards be applied in the application of law and the administration of justice to all those who are affected and protected by the law.

Opponents of this legislation will argue that it will open the flood gates of litigation. However, a 10-year study of litigation under the civil rights statute without arbitrary limitations or damages did not reveal excessive awards. There is simply no basis for assuming any different results in cases involving intentional discrimination covered by the Equal Remedies Act of 1993.

Employers who intentionally discriminate must be held fully accountable for their actions. We cannot tolerate laws that shield lawbreakers from full responsibility. The employing community itself should welcome strict enforcement and imposition of penalties for those who intentionally commit acts that damage the reputation of all businesses.

Mr. President, the Equal Remedies Act of 1993 would simply establish equitable treatment for all victims of invidious discrimination, regardless of whether that discrimination is based upon race or national origin, gender, religious beliefs, or disability. There is no justifiable basis for continuing this double standard of justice.•

• Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Equal Remedies Act of 1993. For millions of working women, as well as millions of religious minorities and disabled Americans, this bill represents a giant step toward equal treatment under the law.

The Civil Rights Act of 1991 addressed a longstanding injustice in terms of the remedies available under Federal civil rights law. The injustice was a simple one: Racial minorities could recover unlimited compensatory and punitive damages for intentional discrimination, but women, religious minorities, and the disabled could not.

The Civil Rights Act of 1991 allowed these excluded groups to recover damages for the first time. But President Bush refused to sign the bill unless we included strict limits on the damages they could recover. So the injustice in Federal law remains: Racial minorities can still recover unlimited punitive

and compensatory damages, but women, religious minorities, and the disabled cannot. Instead, these groups are stuck with limited damages no matter how outrageous an employer's conduct was, no matter how many months or years that conduct continued, and no matter how severe a worker's injuries or losses were.

The Equal Remedies Act we are introducing today eliminates these monetary limitations, to ensure that we treat all forms of intentional discrimination equally.

For workers, the costs of job discrimination go far beyond just lost wages. There is living evidence all around us of the emotional and psychological damage that bigotry inflicts on its victims. Often this harm is accompanied by physical symptoms as well, such as migraines, ulcers, miscarriages, and other stress-related injuries.

In addition, there may be other economic losses. These include medical expenses, as well as professional injuries.

One of the principal goals of our Federal civil rights laws is to make discrimination victims whole for all losses they have suffered. Putting a limit on compensatory damages is completely incompatible with this purpose. The losses suffered by these victims are not capped in any way; why should their remedies be?

Our Nation was built upon the premise that every person has a fair chance, based on ability, to make it in our society. That is the essence of the American dream. But the very laws that embody that dream of equal opportunity discriminate against women, religious minorities, and the disabled in terms of the remedies they may recover. We must remove this inequity from our laws.●

● Mrs. BOXER. Mr. President, I support the Equal Remedies Act of 1993 because all Americans have a right to work in an environment free from harassment and intimidation.

Our Constitution promises equal opportunity and our Government must guarantee it. The Civil Rights Act of 1991 took an important step toward eradicating discrimination in the workplace. The Equal Remedies Act will finish the job.

By lifting the cap on damages for intentional discrimination against women, religious minorities, and the disabled, we will and the double standard that has offered these groups second-class remedies under civil rights laws.

I urge my colleagues to support this important legislation.●

By Mr. SPECTER:

S. 18. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

COMPREHENSIVE HEALTH CARE ACT

Mr. SPECTER. Mr. President, the Federal Government should act promptly to reform the health care system in the United States. Aside from stimulating an economic recovery, the 1992 great national political debate demonstrated that health care legislation is our Nation's highest priority.

Escalating costs are out of control while 37 million Americans have no health care insurance. In 1992, Americans spend $839 billion[1] on health care or 14 percent of our gross national product. Those figures for 1970 were $74.4 billion and 7.4 percent of the GNP. At the current rate of increase, the cost of national health care by the year 2000 is projected to be $1.6 trillion, or 18 percent of GNP.[2]

This bill has two objectives:

First, to provide health insurance for 37 million Americans now not covered;

Second, to reduce the health care costs for all Americans.

Health care reform is a very complex issue for Congress to address. But it is not so complex that we cannot act now. As many of my colleagues will recall, in 1990 the Congress passed the Clean Air Act that many said was not possible. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment and retained jobs.

During the 102d Congress, I pressed to have the Senate take action on this issue. On July 29, 1992, I offered an amendment on health care to other legislation then pending on the Senate floor. When the majority leader argued that the health care amendment did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for September 8, 1992. The majority leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress.

While there were early suggestions that the new administration and the congressional leaders would place health care legislation on a priority basis, recent reports suggest that it will be deferred until the end of the first 100 days or perhaps beyond that time.

I urge the new President and the congressional leaders to act now on health care legislation. I suggest this bill is a good starting point.

The health care legislation which I am introducing is comprised of initiatives which are reforms that our health care system can readily adopt—now. They are reforms which both improve access and affordability of insurance coverage and implement systemic change to bring down the escalating cost of care in this country.

This bill, entitled the Comprehensive Health Care Act of 1993, melds together the three health care reform bills I introduced in the 102d Congress and builds upon them with significant additions. The additions include the implementation of small business insurance market reforms which I pressed for, and which were adopted by the Senate in modified form, during the last Congress. They also include new incentives to increase the supply of generalists physicians and a program to provide comprehensive health education to children from preschool through high school.

Taken together, I believe these reforms will both improve the quality of health care delivery and will cut the escalating cost of health care in this country. They represent a blueprint which can be modified, improved, and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, and yield cost savings of billions of dollars to the Federal Government which can be used to insure the remaining uninsured and underinsured Americans.

SUMMARY OF THE BILL

In the eight titles described below, this bill seeks to reduce the health care costs for the 219 million Americans now covered, 86.1 percent, and to cover the other 37 million Americans, 13.9 percent, who are not. The 219 million Americans now covered derive their health insurance coverage as follows: approximately 64.3 percent from employer plans; 15 percent from Medicare; 9.6 percent from Medicaid; 3.6 percent from the military; and 7.5 percent from individual private insurance.[3]

Title I, which deals with health insurance market reforms, targets the 29 million uninsured who are employed or are dependents of employed persons. While it is not possible to predict with certainty how many additional Americans will be covered by the full deductibility of health insurance costs for the self-employed, small employer health insurance market reforms, health insurance purchasing groups, and the elimination of managed care plan re-

[1]The Commerce Department Annual U.S. Industrial Outlook Report.

[2]Agency for Health Care Policy and Research, "Nutritional Health Expenditures as Percent of GNP Over Time: 1970 to 1987"; Congressional Budget Office, "Study of Projections of National Health Expenditures," October 1992.

[3]Congressional Budget Office study, "Projections of National Health Expenditures," October 1991.

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strictions imposed by the States, as set forth in title I, a reasonable expectation would be that approximately 15 million Americans would be added to those covered at a cost of $8.6 billion over 5 years. The coverage estimate is based on the fact that over 50 percent of the 29 million uninsured individuals who are employed, or dependents of employed persons, work in businesses covered by the insurance market reforms under title I of the bill. It is anticipated that cost would be offset by administrative savings from the development of purchasing groups as I propose. Such savings have been estimated as high as $9 billion.[4]

With the expansion of primary and preventive health services—focusing particularly on low-birthweight babies—and the expansion of health care education to cover toddlers through 12th graders, as proposed in title II, it is conservatively projected that approximately $2.5 billion per year could be saved. I believe the savings will be higher. Again, it is impossible to be certain of such savings; only experience will tell. For example, how do you quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, physical and emotional health, drug and alcohol abuse, accident prevention and safety, et cetera? I suggest these projections, subject to future modification, only to give some generalized perspective on the impact of this bill.

Title III of the bill, relating to disclosure of information to Medicare and Medicaid beneficiaries, can lead to savings of very substantial dollars because consumers will be provided with material information regarding the quality and cost of health care services. This will cause the health care services market to function more efficiently, with a concomitant decrease in health care costs. I believe that such disclosure will result in savings, but there is no source material available estimating such savings.

Title IV, concerning the patient's right to decline medical treatment, will also lead to substantial dollar savings. Approximately 27 percent of Medicare expenditures are made in the final days of life,[5] and conservatively estimating that approximately 10 percent of such expenditures are unwanted, we could save well over $3 billion.[6]

Increasing the number of primary care providers like generalists, physicians, nurse practitioners, and physician assistants, as proposed in title V, I believe will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected a 10 to 15 percent savings for all medical costs—or $300 million to $450 million. While our system is dramatically different from Canada's, it may not be unreasonable to project a 5-percent—or $41.5 billion—savings from the increase in the number of primary care providers in our system. Again, experence will raise or lower this projection. Assuming this savings, though, it seems reasonable, based on an average expenditure for health care of $3,742 per person projected for 1992, that we could cover another 10 million uninsured persons.[7]

I believe that we can achieve 20 percent, if not more, savings by increasing the use of managed care in the Medicare Program. Title VI promotes this. Managed care has worked in the private sector to help control costs. Successful private sector management principles can, and should, be applied to Medicare beneficiaries. This could control costs, improve quality of care, and could result in a savings of as much as $26 billion, based on projected Medicare expenditures in 1993 of $131 billion.

Outcomes research is another area where we can achieve considerable health care savings in the long run. According to the former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, 20 to 30 percent of health care procedures are either inappropriate, ineffective, or unnecessary. If the implementation of medical practice guidelines eliminates 10 to 20 percent of these costs, savings between $8 and $16 billion can be realized.[8] To achieve this we must, as Dr. C. Everett Koop, former Surgeon General of the United States says, have a well funded program for outcomes research. Title VII accomplishes this by imposing a one-tenth of 1 cent surcharge on all health insurance premiums. Based on the Congressional Budget Office's estimate that in 1992 private health insurance premiums totaled $254 billion, this surcharge would result in a $254 million outcomes research fund—compared to the approximately $70 million appropriated for fiscal year 1993.

Finally, title VIII addresses the issue of home nursing care. The costs of such care to those requiring it are exorbitant. Title VIII proposes, among other things, tax credits and tax deductions to defray such costs and proposes home and community-based care benefits as less costly alternatives to institutional care. The cost to the Treasury of this needed proposal is also expected to be costly, however, possibly approximately $20 billion.

Action must also be taken to eliminate health care fraud and streamline the cumbersome and costly administrative structure within the health care system. The General Accounting Office has estimated that $70 billion per year is the cost of health care fraud in this country.

Last year the Labor, HHS, and Education Appropriations Subcommittee, on which I serve as the ranking member, appropriated nearly $400 million for fiscal year 1993 to safeguard Medicare payments and combat fraud and abuse in the system. While this is a substantial amount, a recent report by the General Accounting Office stated that limited resources and the fluctuations in administrative budgets have disrupted fraud detection efforts and limited enforcement capabilities. In reviewing five of the Medicare contractors, the GAO found that only half of the complaints involving allegations of fraud or abuse Medicare contractors reported receiving in fiscal year 1990 were investigated. As ranking member, I intend to press for additional funding in fiscal year 1994 to ensure that allegations involving fraud and abuse in the Medicare Program are fully investigated.

Estimates for administrative costs range as high as 25 cents per dollar spent on health care, or over $200 billion annually. Regarding action to reduce administrative costs, the Senate report accompanying the Labor, HHS, and Education appropriations bill for fiscal year 1993 noted that substantial savings could be achieved from the $838 billion expended for health care services through the development of a national uniform electronic billing system. The report directed the Health Care Financing Administration to use a portion of the funds appropriated for research and demonstration projects to support projects designed to enable a speedier and more successful move to a national uniform electronic billing and data system.

While the development of a national electronic claims system to handle the billions of dollars in claims is complex and will take time to implement fully, I believe it is essential for operating a more efficient health care system and achieving the savings necessary to provide insurance for the remaining uninsured Americans. I am prepared to work with other Senators and take a leadership role in the development of implementing legislation, to press this important area of health care reform.

To repeat, the specifications of expanded coverage and savings are necessarily imprecise. Suggested modifications on the projections are welcome from other Senators or anyone else interested in this subject. It is hoped that this bill and hearings will stimu-

[4] Congressional Budget Office testimony before the Committee on Ways and Means, U.S. House of Representatives, March 4, 1992.

[5] J. Lubitz and R. Prihoda, "The Use and Costs of Medicare Services in the Last Two Years of Life," Health Care Financing Review, Spring, 1984.

[6] Based on 1992 Medicare expenditures of $116 billion and 1993 projected expenditures of $131 billion.

[7] Based on Congressional Budget Office projections of the number of insured persons in 1992 divided by the estimated total expenditures for health care for the same year.

[8] Dr. Marcia Angell, former Editor of the New England Journal of Medicine, "Cost Containment and the Physician," The Journal of the American Medical Association, September 6, 1985.

late discussion and input from specialists in the field.

While precision is again impossible, it is a reasonable projection that we could achieve under my proposal a net savings of approximately $82 billion I arrived at this sum by totaling the projected savings of $112.4 billion—$9 billion in small business administrative cost savings; $12.5 billion for preventive health services; $15 billion for reducing unwanted care; $41.9 billion from increasing primary care providers; $26 billion through managed care reform; and $8 billion through outcomes research—and netting against that the projected cost of $30.4 billion—$254 million for funding outcomes research, $8.6 billion for the health insurance market reforms, $20 billion for long term care, and approximately $1.6 billion in funding for the primary and preventive health care, low birth weight, health education and generalists physician—for the initiatives that I am proposing. I believe this net savings of $82 billion would be sufficient for new Federal programs to provide health care coverage for the 12 million Americans who would still not be covered. Obviously, experience will require modification of these projections, but at least it is a beginning.

TITLE I

HEALTH INSURANCE MARKET REFORMS

We have the greatest health system that has ever been devised, but it needs substantial improvement. Our system covers 86 percent of the American people, yet 37 million Americans are uncovered, and it is too expensive for those who are covered. It is estimated that 80 percent of the individuals without health insurance today have jobs or are dependents of those who are employed. In 1990, about half of the working uninsured and their dependents were connected to the labor force through small businesses which employed fewer than 25 persons. Clearly, one means of improving access to health care is to make insurance more affordable to these employers and their employees. Title I, therefore, implements a series of health insurance market reforms in order to make health insurance more affordable and available to employers and employees of small businesses.

The substance of each of these initiatives passed the Senate on two occasions during the last Congress. Regretably, they did not become law. The reforms are long overdue, and given their bipartisan support, they deserve our prompt attention. They include the following: First, expanding full deductibility of insurance premiums to self-employed individuals; second, establishing a basic health benefits plan for small employers and setting minimum standards for insurers offering insurance to small businesses; third, authorizing Federal grants for the support of small business health insurance purchasing groups; and fourth, fostering the development of efficient managed care plans by exempting plans which meet Federal standards from State mandates.

DEDUCTIBILITY FOR SELF-EMPLOYED

Under current law, businesses are permitted to deduct 100 percent of what they pay for the health insurance of their employees, but self-employed individuals may not deduct any of their costs. The provision permitting self-employed individuals to deduct 25 percent of their health insurance costs expired on December 31, 1992. It is hard to find a provision in the Internal Revenue Code that is more discriminatory than this one concerning the deductibility of health care costs.

It is estimated that 13.6 percent of uninsured workers are self-employed. Providing full deductibility of health insurance premiums for self-employed individuals is a simple matter of fairness. It also should make health insurance coverage more affordable for the estimated 4.6 million self-employed individuals and their families who are now uninsured.

It is estimated that the cost of this provision is $1.7 billion in the first year and $8.6 billion over the next 5 years.[9]

SMALL EMPLOYER HEALTH INSURANCE

Two factors contribute heavily to the cost and lack of availability of health insurance for small employers. The first is State mandated benefits. There are over 800 mandated benefit requirements which states have enacted to regulate health insurance coverage. Overall, estimates of the cost of mandates vary from a low of 3 percent of premiums in Iowa to a high of 21 percent of premiums in Maryland. For those health plans which meet the Secretary's basic benefit standards for small employers, the bill would exempt insurers from these State mandated benefit requirements.

The second factor which limits the ability of small employers to afford insurance coverage is insurers engaging in activities with regard to small groups, such as medical underwriting and exclusionary practices, that effectively preclude small employers from obtaining coverage. For example, in setting premiums insurers build a margin of 8.5 percent of claims for risk and profit for groups of one to four employees, compared with 1.1 percent for larger firms.

To combat these practices, the bill implements several Federal standards for the sale of insurance to employers with 3 to 49 employees who work at least 20 hours per week. Insurers would be required to meet these standards or, failing that, they would lose valuable tax deductions for reserves set aside to meet future liabilities. The standards include: First, guaranteed issue and renewability requirements; second, strict limits on preexisting condition exclusions in order to expand coverage to the estimated 1.5 million persons presently excluded from group plans; third, limits on the variation of premiums across and within business classes; fourth, meeting the minimum benefits requirements established by the bill; and lastly, permit termination of small employer insurance contracts only if the entire class of business is terminated.

HEALTH INSURANCE PURCHASING GROUPS

A major obstacle for making health insurance affordable to small employers is the fact that they generally pay higher premiums for comparable benefits than large employers. This is due in large measure to the fact that charges for administrative costs in premiums for small employers can be as high as 40 percent of claims. This contrasts with an average charge for large firms of 5.5 percent.

In order to help reduce the administrative costs associated with marketing and administering plans to small employers, title I also establishes a new grant program intended to encourage the development of health insurance purchasing groups for small employers. The program authorizes the Secretary of Health and Human Services to award grants to assist in the formation and initial operation of qualified small employer purchasing groups. The purchasing groups, consisting of a minimum of 100 small employers, would enter into health insurance contracts with insurance carriers, and would market and administer the products in order to provide health insurance for their employee members. The establishment of these purchasing groups should substantially reduce the cost of insurance to participating small businesses and to their employees.

My bill authorizes such sums as may be necessary to implement this provision. Similar proposals have included authorizations of up to $150 million per year.

MANAGED CARE PLAN RESTRICTIONS

Increasingly, managed care plans, such as health maintenance organizations and preferred provider organizations, are viewed as critical components to controlling the cost of care and increasing the affordability of coverage. Because these plans actually manage both the providers and the delivery of health care, they are able to better control costs.

Many States, however, have enacted restrictions on managed care plans which have hampered the ability of insurers to operate efficiently and effectively. To remedy this problem, the bill directs the Secretary of Health and Human Services to develop standards for approved managed care plans which meet the basic benefit requirements. The Secretary is to take into account the recommendations of the Managed

[9] Congressional Joint Committee on Taxation, March 1992.

Care Advisory Committee established in the bill. For those health plans which meet these standards, the bill would exempt them from State restrictions on managed care.

Key aspects of the bill I am introducing today focus on expanding primary and preventive health services, and enhancing the management of health care costs in several areas: First, enhancing consumer decision-making about their health care; second, reducing inefficient and unnecessary care; third, preventing disease and ill health, particularly low-birthweight births which result in costly neonatal care; fourth, expanding Federal health education and disease prevention programs among children from preschool through high school; fifth, improving efficiency by permitting access to the most appropriate providers and increasing the number of generalists physicians; sixth, encouraging the development of medical practice guidelines; and lastly, studying the feasibility of implementing health care expenditure targets.

TITLE II

PRIMARY AND PREVENTIVE HEALTH SERVICES LOW BIRTHWEIGHT BABIES

While examining the issues that contribute to our health care crisis, I was struck by the fact that so much attention is being focused on treating the symptoms and so little on some of its root causes. Granted, our existing health care system suffers from some very serious structural problems. But there also are some commonsense steps we can take to head off problem before they reach crisis proportions. Subtitle A includes three initiatives which enhance primary and preventive care services aimed at preventing disease and ill health.

Each year about 7 percent, or 287,000, of the 4,100,000 American babies born in the United States are born of low birthweight, multiplying their risk of death and disability. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies still are born of low-birthweight. The Executive Director of the National Commission to Prevent Infant Mortality, put it this way: More babies are being born at risk and all we are doing is saving them with expensive technology."

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw 1-pound babies in 1984, when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

It is tough enough coming into this world if you weigh 8 pounds 10 ounces, as I was reported to have weighed when I was born. If you weigh 16 or 20 ounces, it is a tragedy. Even if the child responds to the medical treatment and survives, the physical and developmental consequences of being born of such low weight last long into life.

Beyond the human tragedy of low birth weight there are the financial consequences. Low-birthweight children, those who weigh less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, rehospitalization, and special services up to age 35. The short- and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that $8 billion was expended in 1987 for the care of 262,000 low-birthweight infants in excess of that which would have been spent on an equivalent number of babies born of normal weight. Furthermore, the OTA estimated that for every low-birthweight birth averted by earlier or more frequent prenatal care, the U.S. health care system saves between $14,000 and $30,000 in the first year in addition to the projected savings in lifetime care.

The Department of Health and Human Services estimated that by reducing the number of children born of low-birthweight by 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

The costs associated with low-birthweight babies obviously are more pronounced for those of exceptional low-birthweight, babies who weigh 2 pounds or less at birth. It is also a financial disaster. According to the National Association of Children's Hospitals, the costs of hospital care for a 1-2 pound baby range from $120,000 to $180,000 during their initial hospitalization, with a length of stay between 80 and 100 days.

We know that in most instances prenatal care is effective in preventing low-birthweight babies. Numerous studies have demonstrated that low-birthweight is associated with inadequate prenatal care or lack of prenatal care. To improve pregnancy outcomes for women at risk of low-birthweight, subtitle A authorizes the establishment of an innovative maternal and infant care coordination Federal grant program.

The program targets Federal resources to States to assist them in the development and implementation of coordinated, comprehensive primary health care, social services, and health and nutrition education for women at high risk for low-birthweight pregnancies. Participating States would be required to offer comprehensive services including:

Family planning counseling;

Pregnancy testing;

Prenatal care;

Delivery, intrapartum and postpartum care;

Pediatric care for infants, including in-home services for low-birthweight babies; and

Social services, including, outreach, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling.

States would coordinate to the maximum extent possible existing Federal and State resources, such as, Medicaid, WIC, and other maternal and child health programs. They also would be required to demonstrate that the major service providers, and community-based organizations involved in maternal and child health, are involved in the program. Finally, the grantees would need to demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low-birthweight babies.

At the suggestion of Dr. Koop, the program authorizes incentives of $500 for pregnant teenagers, women 19 years of age and under, who agree to enroll in prenatal care consisting of five prenatal and one postnatal care visit. Dr. Koop noted that the French once paid pregnant women to have such prenatal and postnatal visits, and this resulted in materially improving the health of French babies. While in an ideal world such an incentive payment should not be necessary, if it is effective, it is money well spent, both in humanitarian and economic terms.

HEALTH EDUCATION

The second initiative involves the provisions of comprehensive health education for our Nation's children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nourishment among students is a serious problem at their schools; 60 percent cited poor health as a serious problem. Another study issued last year by the Children's Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle this Nation must invest in proven preventive health education programs. My legislation includes two comprehensive health education and prevention initiatives.

The first focuses on elementary and secondary school students. To meet the needs of these children my bill establishes a $50 million program of grants to local educational agencies to develop and strengthen comprehensive health education programs. A portion of these funds could be used for curriculum development, teacher training, coordination, and program evaluation.

Drawn from the recommendations of the Carnegie Foundation's report entitled "Ready to Learn," this effort supports school-based instruction in health education. Through an integrated health curriculum, students advancing from grade to grade would be taught a range of health-related subjects, including nutrition, physical and emotional health, drug and alcohol abuse, accident prevention and safety, and environmental hazards. Throughout the course of study, special emphasis will be placed on prevention of chronic and communicable disease ranging from the basics of washing hands before meals to stopping the spread of AIDS and other sexually transmitted diseases.

About one million teenage girls each year risk their futures through early pregnancy and childbearing. My proposal would deal with this issue by teaching preteens prevention options, the consequences of becoming pregnant, responsibilities of parenting, and the challenges of child rearing.

As it stands now, over half of the teens who become pregnant receive no early prenatal care. My bill would provide information to these teens on the importance of nutrition during pregnancy, early prenatal care and effective use of health services and the health care delivery system. "This Nation", Dr. Ernest Boyer, of the Carnegie Foundation recently wrote, "simply must interrupt the cycle of ignorance that will have such tragic consequences for the coming generations. Today's students urgently need to be taught the facts of health—as well as the facts of life."

In order to lay the foundation for sound health and nutrition habits, however, we must begin when children are in their most formative years. As Dr. Koop has recently suggested, everything we do in public education is too late; we have neglected to focus on toddlers through kindergartners. "These early years in every child's life when preventive measures can actually stop a lifetime of poor health and poor prospects for learning, deserve our caring and nurturing attention."

The second phase of my proposal would address this issue by authorizing a $40 million grant program to be awarded to Head Start resource centers to support health education training programs for teachers and other day care workers. This amount, according to the Children's Defense Fund would provide sufficient funds for expansion of the current training program.

Head Start currently serves 722,000 children, or approximately 36 percent of the eligible 3-, 4-, and 5-year olds. My proposal would support training to enhance teacher skills and the development of a comprehensive health education curriculum at the preschool level. Expanding training to day care workers will support health and education instruction for preschool children who now receive little or no training in health and personal hygiene. By emphasizing the consequences of alcohol and drug use, seat belt safety, proper use of smoke detectors, and health and fitness, this initiative would instill in these young minds good behavior patterns which will have social as well as cost-saving benefits for the future. Other components of this effort will strengthen the role of parent involvement, ensure coordination, and the transition of students into the public school environment.

This Nation's children spend thousands of hours in day care, Head Start, and elementary and secondary schools. These experiences shape the quality of their lives. If a comprehensive health education program is begun in the early childhood programs and continued through the formative years, the health of the next generation, and succeeding generations, will be greatly improved and this Nation will be well on its way to solving a large part of the health care crisis.

Title II further expands the authorization for a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources now in these programs if we are to make any substantial progress in reducing the costs of acute care in this country.

TITLE III

DISCLOSURE OF INFORMATION TO BENEFICIARIES UNDER MEDICARE & MEDICAID

The Nation's attention is focused today on improving the access to, and the financing of, health care for all Americans. These two issues cannot be resolved satisfactorily, however, without expanding the involvement of the consumer in decisionmaking and focusing on patient-centered care. This should include, at a minimum, a payment system that gives patients a choice of health care plans, physicians and nonphysician providers, and hospitals; access to the kind of patient information and education that allows informed choice; and rewards the practitioners and facilities that provide the type of care consumers choose. Consumers should compare hospitals and health care providers on price and performance, much as people compare mileage rating, service records, and sticker prices when they shop for automobiles.

A recent report issued by the Congressional Budget Office [CBO] on the economic implications of rising health care costs found that consumers lack information regarding the quality and cost of health care services. The CBO argued that this is a key factor in the increasing cost of care. According to the CBO, consumers do not have information about the full range of alternative treatments and prospective outcomes of treatment alternatives. Furthermore, consumers lack basic information about the cost of care that is required to make informed decisions about health care providers and procedures.

To address patient-centered care and increase consumer information and participation, my bill requires that institutional health care providers receiving payment for services provided under the Medicare and Medicaid Programs make an annual report available to the beneficiaries. The annual report would include: First, mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures; second, hospital-originated infection rates; third, a list of routine preoperative tests and other frequently performed medical tests and the cost of such tests; and fourth, the number and types of malpractice claims filed, decided or settled against the institution.

Each noninstitutional provider receiving Medicare and Medicaid payments is also required to make an annual report available to the beneficiaries. The annual report would include: First, provider's education, experience, qualifications, board certification, and a license to provide health care services; second, disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization which result in a finding of improper conduct; third, malpractice action taken against the provider resulting in verdict, judgment, or settlement; and fourth, a disclosure of any provider health care ownership.

Finally, all health care providers receiving payment under Medicare and Medicaid will be required to make certain information available to the patient prior to the performance of a procedure. The following information is required: First, the nature of the procedure or treatment; second, a description of the procedure or treatment; third, the risk and benefits associated with the procedure; fourth, the success rate for the procedure or treatment generally, and for the provider; fifth, the provider's cost range for the procedure; sixth, any alternative treatment which may be available; seventh, any know side effects of any medications required in connection with the procedure; and eighth, the interactive effect of the complete regimen of medications associated with the procedure.

TITLE IV

PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

It has become increasingly apparent that, despite the enactment of landmark legislation by the Congress in November 1990, added safeguards

should be enacted in order to assure that patients are not needlessly and unlawfully treated against their will.

In 1990, the Congress enacted the Patient Self-Determination Act [PSDA] as part of the Omnibus Budget Reconciliation Act of 1990. This legislation states, in summary, that health care providers must adopt written policies concerning adult patients' rights, under State law, to consent to, or to refuse, treatment. The statute states further that providers must adopt written policies concerning adult patients' rights under State law to formulate so-called advance directives—written instruments by which incapacitated patients may speak, despite incapacity, concerning their treatment wishes. Finally and most important, the Patient Self-Determination Act requires that health care providers inform patients of these rights in writing. Thus, the PSDA enlists the assistance of health care providers in educating patients concerning their rights under State law.

The Patient Self-Determination Act's reliance entirely on State law in defining the scope and extent of patients' rights appears to have given rise to at least two problems. First, in many States the full scope of patients' rights has not yet been clearly articulated by the legislatures or by the courts. A recent white paper issued by The Annenberg Washington Program of Northwestern University entitled "The Patient Self-Determination Act—Implementation Issues and Opportunities" supports this conclusion, stating:

> The Act relies on state law governing withdrawal and withholding of life-support, yet the status of such law in most states is confused and conflicting. * * * By pragmatically avoiding an effort to declare a uniform, national law regarding end-of-life decisions, the Act relies instead on vague and widely varying interpretations of the law in 51 separate jurisdictions.

As a result, health care providers are placed in an uncertain position with respect to their duty to notify patients, in writing, of their rights under the Patient Self-Determination Act. In short, in too many States, health care providers face great difficulty in informing patients of their rights since the precise scope of those rights has not yet been defined by State law.

A second problem which continues to surface is a product of the degree to which our society is mobile. In many States, the law on patient self-determination is relatively clear. For example, many States have adopted model "living will" and/or "Durable Power of Attorney for Health Care" forms which are recognized by health care providers throughout the State. Forms however, vary from State to State; there is no uniform national form.

As a result, there is, in the words of the Annenberg white paper, a portability problem. That is, patients continue to present in local hospitals out-of-State forms to document their treatment wishes. In cases where the patient is competent, such an out-of-State form may not present an insurmountable obstacle since such patients may always sign the in-State form provided to them when they are admitted to the health care facility. In many cases, however, patients who have signed out-of-State forms have lost the capacity to sign new forms.

In such cases, the health care provider again is placed in a highly tenuous position. Should the unfamiliar form be honored even though it differs from the form sanctioned by local law? Or should the patient's written wishes be disregarded due to legal technicality? If the patient's wishes are to be disregarded, who, then, is to make critical decisions concerning care? Such problems—which are not uncommon—could be avoided entirely by the creation of nationally recognized advance directive and "Durable Power of Attorney for Health Care" forms.

Title IV addresses these problems by first stating that the patient's right to self-determination, including the patient's personal right to decline treatment, shall be recognized in all States. This is a fundamental right of self-determination which has been sustained by the U.S. Supreme Court in its 1990 landmark decision in the Cruzan case. Second, it directs that the Secretary of Health and Human Services, in conjunction with the U.S. Attorney General, develop nationally recognized forms for advanced directives and "Durable Powers of Attorney for Health Care."

Uniformity and portability, however, are not the only issues left unresolved with the enactment of the Patient Self Determination Act. For example, the Annenberg white paper notes that despite the Patient Self Determination Act, patients still are reluctant to exercise their rights, and health care providers still are hesitant to honor those rights. Reinforcing the point, a special report in the New England Journal of Medicine, authored by a panel of distinguished physicians, nurses, ethicists, attorneys, and educators, concluded that despite "widespread agreement that (written) directives can have many benefits * * * few Americans have executed advance directives." Another recent study by the National Center for Health Statistics of the Public Health Service found that only 8.9 percent of decedents in 1986 had executed living wills.

This of course points out the need for educating both providers and patients on the need for, and use of, advanced directives and durable powers of attorney for health care and related end-of-life decisions. To improve the education of patients and providers, my bill directs the Secretary to examine a number of other issues related to the PSDA, such as, education and training of health care professionals and patients, ethical considerations, and the timing for initiating discussions with patients regarding their rights to determine their course of treatment. The bill requires that the Secretary report to the Congress within 180 days from enactment on these subjects. To educate patients, the bill also requires the periodic dissemination of information to Social Security beneficiaries when they receive their checks and to Medicare and Medicaid beneficiaries on the utility of such forms and related end-of-life decisions. Consideration has been given to distributing the forms to recipients; however, no provision has been included in this legislation awaiting hearings on this issue.

There has been no definitive study of the fraction of end-of-life care dollars which are spent on treatments which have been declined either verbally or by advance directives. A frequently cited 1978 health care financing review study reported that Medicare expenditures were 6.2 times higher per enrollee for people who died than for survivors. The 1.1 million Medicare beneficiaries who died that year consumed 27.9 percent of all Medicare expenditures. About 30 percent of expenditures for people who died were spent in the last 30 days of life and constituted 8 percent of total Medicare expenditures that year. In a 1985 update of the 1978 study, few changes were found. In 1985, 5.3 percent of the Medicare population died which accounted for 26.7 percent of expenditures. Assuming a conservative estimate that 5 to 10 percent of these costs are for unwanted care, nearly $3.5 billion could be saved from the projected costs of the Medicare Program in 1993.

Nonetheless, I believe that the conclusion of the Annenberg white paper, which states that greater respect for the patient's right to decline treatment could result in reduced health care costs, is valid.

Nothing in my bill mandates the use of uniform forms—their use would be completely voluntary. The point, however, is that terminal patients should have the option—uniformly recognized in each State—to decline unwanted care. A legitimate basis for action by the Federal Government would be to prohibit the expenditure of Federal funds under Medicare and Medicaid to providers who knowingly deliver care to patients contrary to written directive.

I believe unnecessary and unwanted expenses amount to billions of health care expenditures each year. It is crucial that reliable data be developed to evidence the magnitude of expense being incurred unnecessarily for unwanted treatment. This bill directs the Secretary to take steps necessary to develop these data.