HOUSE OF REPRESENTATIVES—*Wednesday, July 11, 1990*

The House met at 12 noon.

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

May our words, O God, be used for instruction and for celebration, for healing, for peace and for reconciliation and never be used as weapons to hurt or to hinder. May our hearts be full of the love that You have given to us, and may that love and respect find expression in what we say and in what we do. May the words of our mouths and the meditations of our hearts be ever acceptable in Your sight, O Lord, our strength and our redeemer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. McCURDY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following titles:

H. Con. Res. 272. Concurrent resolution authorizing printing of the transcript of proceedings of the Committee on Post Office and Civil Service of the House of Representatives incident to presentation of a portrait of the Honorable William D. Ford.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 566. An act to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

NEED FOR BUDGET NEGOTIATORS TO REACH AGREEMENT ON MORE EQUITABLE TAX CODE

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

Mr. McCURDY. Mr. Speaker, I have a message today for budget negotiators who are considering tax increases to reduce the deficit.

The message is short: Do right by middle-income America.

Hard working middle-class Americans have suffered enough. When it comes to taxes, the average two-parent family is worse off today than it was 10 years ago.

We need an agreement that includes steps toward a Tax Code that is truly progressive, truly equitable for average Americans. Middle-income America does not deserve any tax increases, especially in the area of payroll taxes. What average families deserve is a cut in those taxes.

Here are a few facts from a recently released report on the Progressive Policy Institute's Tax Fairness Index. I ask budget negotiators to plug these numbers into their deficit reduction equation.

Fact: The tax burden on middle-income American families has risen 66 percent after inflation during the last 10 years. Enough already. Any budget agreement should not increase the tax burden of middle-income families.

Fact: A family with a median income of $34,000 now pays taxes at nearly the same effective rate as a family with an income of more than $200,000. Our Tax Code is unfair. It is regressive. Any budget agreement must include steps toward tax fairness.

Fact: While average two-parent families saw their tax burden rise between 1980 and 1988, the richest 5 percent of American families saw their tax burden fall sharply.

The Social Security tax rate, increased seven times during the 1980's, fell hardest on middle-income families, whose income was rising at a rate five times less than the rich.

The shift of the tax burden from the deep pockets of the wealthy to the shoulders of average wage earners is clear. Ronald Reagan spent the 1980's cutting taxes for the rich. We can't let George Bush begin the 1990's by raising taxes on the poor and middle class.

Any budget agreement must take steps toward restoring tax equity.

THE SANTA BARBARA FIRE—EXPRESSION OF GRATITUDE FOR THE RESPONSE OF THOUSANDS OF PEOPLE

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

Mr. LAGOMARSINO. Mr. Speaker, disasters seem to bring out the best and worst in people. In the case of the Santa Barbara fire, the worst was brought about by an arsonist. The best was brought about by the thousands of people who responded with their hands, their hearts, and their pocketbooks to aid the survivors of the fire.

Mr. Speaker, the outpouring of sympathy and aid was a true sign that the spirit of the community has not been dampened by tragedy.

I would also like to express my appreciation to local, State, and Federal fire, police, and disaster organizations, including FEMA, and President Bush for responding with Federal assistance in record time.

THIS SUMMIT TAKES THE PINOCHLE

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

Mr. TRAFICANT. Mr. Speaker, another summit. We have more summits than Mount Vesuvius. But this summit takes the pinochle. Believe me.

Mr. Speaker, Japan wants aid for China. Europe wants aid for Russia. And President Bush, he wants to use the American farmers as a bargaining chip.

Think about it. China massacres students seeking democracy, and they are going to get aid. The Soviet Union, they go from the big bad Communist bear to Winnie the Pooh, and they are going to get aid. And the American farmers, they are going to get more programs.

My colleagues, who is kidding who? America does not need another trade agreement. America needs to enforce the trade agreements that have been broken every day by the big six.

Summit? Hell, this is another dog and pony show, and, with summits like these, the only American farmers left will be those people growing marijuana in our national parks.

SUPPORT THE V-22

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

Mr. WELDON. "If you build it, we will buy it. If you don't build it, we will, and sell it back to you."

Mr. Speaker, this was the quote from the Administrator of International Trade for Japan, Matsunaga, after visiting the Bell Textron plant in Texas and seeing what has been called the biggest breakthrough in aviation since the jet engine, the V-22 Osprey. It is still the No. 1 priority of the Marines of this country and our special operations forces.

Mr. Speaker, today you and our colleagues will be receiving a scale model of this new breakthrough in aircraft for this country and for the world, but there is only one problem with this model, Mr. Speaker. If you look closely on the side, it was made in South Korea.

Mr. Speaker, we really do not care, however, if the South Koreans, the Japanese or even the Europeans build the model. We want to build the real thing. The Marines deserve it. Our special forces deserves it. And America deserves it.

Support the V-22.

THROW ALL THE RASCALS OUT

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

Mr. DEFAZIO. Mr. Speaker, the savings and loan collapse and Government bailout constitute the greatest financial scandal in the history of the modern world.

A giant bacchanalian party was thrown by S&L moguls, Wall Street speculators and their hangers on—billions were stolen or frittered away and now the bill has come due—who will pay? Under current law millions of wage earning, honest, taxpaying American families will toil for years to pay their share of the cost of others profligacy.

What about those responsible—the crooks and swindlers who stole and squandered tens of billions of dollars: Well they're still living in their mansions, cruising their yachts and taking luxury vacations—in fact some of them are now on the Federal payroll as managers of insolvent institutions under RTC control.

There are some who would make this a partisan issue—after all this obscene fraud took place—under the nose of administration regulators—during the Reagan-Bush watch and has continued to balloon during the Bush Presidency. In fact, the President's son is involved in the bankruptcy of one S&L up to his keister.

But this issue is too important to be partisan—it presents a grave and growing crisis for the fabric of our democracy, more serious than the burning of flags.

The President must act—prosecute the crooks, put them in jail, confiscate the mansions and yachts—get back the money and assets. If the President does not want to act, Congress must force this issue—if we do not, the American people will rise up in wrath and throw all the rascals out.

THE BALANCED BUDGET AMENDMENT MAKES CONSTITUTIONAL SENSE

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

Mr. DOUGLAS. Mr. Speaker, as everyone knows, 6 days from now we will be voting on the balanced budget amendment to the Constitution, and one of the arguments that I am beginning to hear from those who favor unlimited spending and unlimited taxing power in this body is that we should not, quote, clutter up the Constitution with mundane financial matters like receipts, revenue, taxes, and debts. Words of that sort have no role in our Constitution they say.

Mr. Speaker, they ought to read article I. That is the Constitution's provision regulating this body so far. Section 7 says that all bills for raising revenue will originate here in the House. Section 8, clause 1, that Congress will have the power to lay and collect taxes, duties, imposts to pay debts. Clause II, to borrow money on the credit of the United States. Clause V, to coin money and regulate the value thereof. Clause V, as well in section 9, that no tax or duties will be laid on articles exported from any State. And then finally clause VII, a regular statement of accounts and receipts will be published.

Mr. Speaker, these are the kinds of things that already are in our Constitution. What our Constitution needs though is some control over the taxing and spending that goes on on this floor, and the one thing we need is to say with all these clauses in the Constitution, "Make sure that what you spend equals what you have."

Mr. Speaker, that is as simple as it is, and, if anyone says that is tinkering with taxing and spending powers, they are darn right. With 3 trillion dollars' worth of national debt we better do something to fix our Constitution because we are not going to fix it here on the floor of the House.

□ 1210

OUR APPROACH TO MASS TRANSIT IS STUCK IN TRAFFIC

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

Mr. FOGLIETTA. Mr. Speaker, I rise today to discuss a serious problem in the way we set our priorities for transportation funding. While commuters spend hours stuck in traffic, while our cities sit under clouds of killer smog, we neglect the transit mode that could alleviate that congestion—mass transit.

Cars are responsible for one-third to one-half of the pollutants that produce smog. Only by removing more cars from the road will we clean up the air and reduce traffic. We will never overcome this problem without encouraging more people to use mass transit—and providing pragmatic Federal funding for upkeep and operation.

Unfortunately, the administration does not seem to agree with me. The President's national transporation policy would reduce operating assistance for urban transit. This proposed reduction in operating subsidies is occurring at the same time that the urban mass transit account has a $2 billion surplus. This account is supposed to provide money for capital expenses. Thus, transit authorities would be stuck with minimal Federal funding for operating expenses and capital expenses. In a world: nothing for mass transit.

It is clear that our approach to mass transit is stuck in traffic. Mr. Speaker, it is time that we begin the journey out of this traffic jam and that we use public transportation as the vehicle.

THE BALANCED BUDGET AMENDMENT

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

Mr. COX. Mr. Speaker, James Madison in his later years expressed one regret about the U.S. Constitution in which he participated in drafting. He said it should have included a limitation on public borrowing.

For the first time since 1982, we have a chance with the balanced budget amendment to the Constitution to fulfill the wishes of James Madison, and it is high time that we do so.

Congress has shown that it will waive any law intended to reign in our out-of-control budget process, whether it be the Congressional Budget Act or Gramm-Rudman.

It is high time that we harness the wild beast that is out-of-control budget process and pass the balanced

budget amendment to the Constitution of the United States when we vote next week.

PRESIDENT SHOULD SEND CONGRESS A BALANCED BUDGET

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

Mr. DORGAN of North Dakota. Mr. Speaker, I am getting a little tired of these no-fault Presidencies. For 10 years we have had budgets sent to this Congress by President Reagan and President Bush. Not once, not once did they send a budget that was in balance. In fact, in every single instance they sent budgets that were seriously out of balance, asking for giant deficits, and then somehow they act as if Millard Fillmore were in charge.

Yes, Congress appropriates, but the President by law sends a budget, Congress appropriates and the President signs or vetoes.

A few minutes ago I came from a hearing where this administration's Treasury Department is asking for an increase in the national debt ceiling to $4 trillion. Now, the President stood at this microphone awhile back and said the budget is going to be balanced by 1993. They are over in the hearing room this morning saying that we want to borrow nearly $900 billion more through 1993. Something is out of whack.

The fact is this Congress has spent less money in the last 9 years than the President has requested, so stop giving us this nonsense about no-fault Presidencies. This is a joint responsibility, yes, but I am tired of Presidents who act as if they were never elected.

If you want a balanced budget, send one to the floor of the Congress and propose a balanced budget, and then if we do not have the opportunity or the courage or the will to support it, then blame us. But do not send big deficits to Congress and keep blaming somebody else. That is not leadership. That is irresponsible.

THE MICKEY LELAND ADOLESCENT PREGNANCY PREVENTION AND PARENTHOOD ACT

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, the United States leads all Western countries in teenage pregnancy rates, teen abortions and teen childbearing rates. More shocking, in my State of Connecticut, the pregnancy rate for girls 10 to 14 years old doubled in the past decade. This year, 1 in 10 teenage girls will become pregnant.

Despite these alarming statistics, Federal commitment to teen pregnancy prevention and health care has dramatically declined in the last decade. Funding for the only Federal program dedicated to teen pregnancy has dropped 30 percent since 1987.

In averting our eyes to this national tragedy, we are leaving teens and their babies exposed to serious and multiple risks—higher infant death, higher incidence of low birth weight and seriously disabled babies, and higher percentage of pregnancy and childbirth complications. Further, teen parents are more likely to drop out of school, be unemployed, and depend on welfare. In 1985, over half of the $15.7 billion aid to families with dependent children budget was spent on payments to families in which the woman had given birth as a teenager.

Tomorrow we will introduce legislation to take an active and interventionist approach to teen pregnancy and parenting. Our bill involves families and communities in helping teen girls and boys to make responsible decisions about sexuality and their futures. For those teens who become pregnant and decide to carry their pregnancies to term, our bill provides prenatal and well-baby care, which are so important to ensuring that their babies are given a fighting chance for a healthy life. And for teen parents, our bill provides services to help them finish their education, get job training, and thus break the cycle of poverty and lead productive lives.

As our late colleague Mickey Leland said:

> We are asking our youth to take responsibility for their actions and we must, in turn, take responsibility as legislators and enact programs that meet the pressing needs of our teenagers.

Let us say "yes" to teens and give them the tools to take charge of their lives.

COMMON CAUSE HAS LOST ITS WAY

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

Mr. TORRICELLI. Mr. Speaker, 20 years ago, as a college student, I joined Common Cause because I believed in the reform they were trying to bring to America. During the years it occurred to me that Common Cause has lost its way. Last week it became painfully clear.

An advertisement appeared in newspapers around America claiming that Congress was responsible for the S&L debacle because it was taking millions of dollars in special interest contributions. It did not say that I had taken contributions from S&L interests. It did not say that I had voted wrong on S&L issues. It could not, because that would be untrue, but the implication was there. The innuendo was made.

What they did not say is that this Member had taken less in contributions as a percent of total contributions than most Members in the State, among the lowest in the Nation.

It did not say that "Public Citizen" has pointed out that I have a nearly perfect record on S&L votes in the public interest.

Mr. Speaker, Common Cause has lost its way. The ad is dishonest. It is untruthful. Mr. Wertheimer has lied to the American people and to my constituents. It is wrong.

I have challenged them to present a list of their contributors and their supporters, because I want to write to them and say they should be placing the blame where it is, not saying that environmental organizations, labor unions, students, senior citizen organizations, who represent these PAC contributions are somehow part of the problem.

Mr. Wertheimer, "You are part of the problem."

TEXTILE MACHINERY MODERNIZATION ACT OF 1989

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

Mr. BALLENGER. Mr. Speaker, there is nothing like improving on an already good idea. A while ago, I and others introduced H.R. 1461 to foster increased research and development in the U.S. textile machinery industry. The basic idea is to use 5 percent of the tariffs collected on imported machinery and allow industry to use it to increase research.

We have a plan for how this money should be dispersed, and the industry trade association has accepted it. The plan requires that the R&D be initiated and paid for before a company gets any Federal reimbursement. Thus a project—or the first year of a multiyear project—will be completed before the Government is asked to make an investment. This assures that money will not be wasted.

Also, the fund would be distributed on a matching basis. The Government would put up a maximum of 60 percent, matched by 40 percent company expenditure.

Under this disbursement plan, the risk—as it should be—lies with business. What research they pursue will be dictated by the marketplace. Our Federal role is one of modest financial support, supplying a little extra capital to increase R&D. Let us enact H.R. 1461.

39-059 O-91-7 (Pt. 12)

□ 1220

LOUISIANA IS PART OF AMERICA

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

Mr. TAUZIN. Mr. Speaker, the Washington Post recently asserted that Louisiana was not actually a part of the United States of America. Why? Because our legislature recently passed one of the strongest prolife bills in America, one of America's strongest State statutes on obscenity and lyrics, and a statute reducing the $25 penalty for punching out a flag burner.

One can argue about the appropriateness of the particulars of those legislations. But we do in Louisiana perhaps feel more passionately about things than some do in America, just as we season our food, our music, and our politics with more spice than most.

May I remind the Post that many Americans feel, as we do in Louisiana, that human life, particularly the most vulnerable, the unborn, deserves our protection, that many Americans agree with us that obscenity can corrupt the national standards, and somebody somewhere ought to sympathize with those of us who feel frustrated, as we do, with the Supreme Court decision that allows people of desecrate so sacred a symbol as our U.S. flag.

Does that make us un-American? I think not. Not part of America? Quite the contrary. We even have a Governor who was educated in Boston, MA. Now, come to think of it, that might be part of our problem.

READ MY BUMPER, NO NEW TAXES

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

Mr. HANCOCK. Mr. Speaker, while in my district over the Independence Day break, I was presented with a new bumper sticker that I am sure will sweep the Nation. As you can see, it reads, "Read my bumper, no new taxes."

This sticker reflects the sentiments of almost all of our constituents. Let us stop accelerating toward new taxes before we cause an accident we cannot repair.

Let us shift gears—we can make more than a dent in the deficit if we put the brakes on spending and control Government waste. That is the least we can do before our economy runs out of gas.

I leave a word of caution to all my colleagues, look both ways before crossing the street, especially when you see one of these stickers on the front bumper. If we raise taxes, congressional hit and runs will surely be on the rise.

So, Mr. Speaker, before we steer this country down the wrong road, take heed to this driving force. Read their bumpers before they make us hit the pavement.

RHETORIC WILL NOT CHANGE FACTS OF S&L SCANDAL

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

Mr. NAGLE. Mr. Speaker, my colleagues on the other side of the isle can say what they will, but no amount of rhetoric will change two essential facts:

The first is that the biggest ripoff in the history of the country occurred on their watch. The Constitution charges the executive branch with responsibility for enforcing the law and clearly their party, growing fat and happy after controlling the White House for 17 of the last 21 years, dropped the ball.

The second is that the ripoffs which are now being uncovered in the savings and loan scandals are the direct result of a policy they succeeded in putting in place which is a fundamental part of their basic, bedrock philosophy.

For years they told Americans government was bad; that we did not really need government; that the only legitimate role for government to play in the modern day marketplace was to get out of the way.

Well, they got government out of the way. Did they ever. And the crooks who plundered the savings and loans and the savings of millions of working families who put their trust in them could hardly load the getaway cars fast enough.

Willie Sutton once said he robbed banks because "that's where the money was." Willie was wrong. The real money was not in banks, but in savings and loans.

And it was not necessary to put on a mask and rob one. All you had to do was own one, or serve on the board of directors of one, at a time when the philosophy which ruled the executive branch really did not take seriously its responsibility to enforce the law.

WATCH THE VOTES ON JULY 17

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

Mr. CRAIG. Mr. Speaker, next Tuesday Members of this House will have an opportunity to vote up or down on a balanced-budget amendment to the Constitution. It is a very plain and simple vote. You either press the green button and say yes or you press the red button and say no.

But from now until then and throughout the course of the day of July 17, we will hear some amazing rhetoric. It will be that, "My goodness, we cannot tie the hands of legislators. We have to have budget control. We have to have budget responsibilities. We cannot use a constitutional amendment to control the spending habits of a runaway House that has no longer the political will to be fiscally responsible. How dare we do that?"

I would hope that the taxpayers who read the CONGRESSIONAL RECORD or who listen to C-Span or who generally follow the proceedings of the House listen to this: an aye vote is for a balanced-budget amendment to the Constitution; a no vote is against a balanced-budget amendment to the Constitution.

The rhetoric notwithstanding, we are either for controlling spending or we are against controlling spending or, more importantly, we are against the taxpayers of this country having the right to control the spending of their legislators who no longer have the political will to do it.

Plain and simple: red and green. Watch the votes on July 17.

REGIONAL DIMENSION OF SAVINGS AND LOAN BAILOUT

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

Mr. PEASE. Mr. Speaker, a recent study by Cleveland State Prof. Edward Hill on the savings and loan bailout has raised more than a few eyebrows in this institution's midwest and northeastern delegations.

Professor Hill, who has been studying the savings and loan situation for the past 2 years, estimates that a tremendous amount of wealth will be transferred from 37 States and the District of Columbia to the 13 States where the savings and loan failures are concentrated, most notably Texas.

Among the losers is my home State of Ohio. When all is said and done, Ohio will lose an average of $670 per person. And that figure may be low, since Professor Hill optimistically assumes a net bailout cost of $203 billion. By contrast, Texas will win big, gaining an average of $4,775 per person.

Critics have quibbled with Professor Hill's numbers, but that misses the point. The bottom line is that States in the Midwest and Northeast, whose savings and loan institutions were run more responsibly, are being asked to pay for the negligence and irresponsibility of State regulators and bankers in the Southwest, and that is not fair.

There is an equity issue here that is dying to be addressed. Before Congress gives another nickle to the Resolution Trust Corporation, we should design a formula that places the burden of financing the bailout where it ought to be: in the States that caused it.

□ 1230

TRUE FACTS REGARDING HORRENDOUS DEBT SITUATION

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

Mr. LEVIN of Michigan. Mr. Speaker, I have just come from a meeting of the Committee on Ways and Means. The administration witness gave their estimates as to the needed increase in the Federal debt. It was very instructive. They asked for or suggested an increase for 1991 to $3.5 trillion; 1992, $3.8 trillion; 1993, over $4 trillion.

Compare that with 1980 when the Federal debt was $900 billion. That is a fourfold increase during this 13-year period.

Also instructive is the percentage of GNP represented by the Federal debt. It would have increased from 34 percent in 1980 to over 61.5 percent in 1993. If you look at the figures in between you see that there has been a steady increase.

This is not a problem, a crisis that occurred overnight. It has been growing through the years. The savings and loan crisis indeed is a national disgrace. It is a spark that has set off a conflagration in a forest of debt.

A few years ago when the President came here, he did not really tell the American people the facts. These are the facts. This is the legacy we now inherit from this administration and the previous administration as we try to grab ahold of this horrendous debt situation.

PRESIDENT TO BE COMPLIMENTED REGARDING STAND ON AID TO SOVIETS

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

Mr. DREIER of California. Mr. Speaker, in the wake of the historical development that took place at the 28th Soviet Party Congress and the NATO summit and this week the economic summit, I would like to congratulate President Bush for hanging tough on a very important item.

Some of our Western allies have come out in strong support of actually providing direct foreign assistance to the Soviet Union. We are all very enthused about the dramatic changes which are taking place in the Soviet Union. We are encouraged by them. But for us to provide economic assistance at a time when we all know foreign assistance in this country is not very popular, especially to the Soviet Union, is what I believe to be a real serious mistake.

Let me say when we have observed the fact that over $17 billion a year has gone from the Soviet Union to prop up its puppets throughout the world who have been opposing the kind of freedom and democratic reforms which we have been witnessing in many countries, is something that needs to be changed before we bring about any kind of consideration of assistance. We also need to have very serious economic reform in the Soviet Union, as the President has said in Houston at the economic summit. Those two very important things need to be accomplished before we consider any kind of foreign assistance to the Soviet Union.

COURSE OF ACTION NEEDED TO RESOLVE THRIFT CRISIS

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

Mr. McMILLEN of Maryland. Mr. Speaker, yesterday the Resolution Trust Corporation [RTC] realized it had a serious case of thrift indigestion, and once again changed its savings and loan rescue policy. The RTC has finally realized that if an S&L is to have any salvage value, it had better not be under its control.

The Reagan and Bush administrations have reversed their S&L policy several times since 1988.

First, we had the taxpayer giveaway known as the "southwest deals," in which Danny Wall handed over blank checks from the Treasury to financiers.

This was followed after the passage of FIRREA with the "pac-man" approach of gobbling up failed thrift after thrift, to yesterday's revised policy of no gobbling. One more change of policy was the RTC's original no-dumping policy for assets to today's "sell assets at any price we can."

While the administration has bounced from policy to policy, the cost of the S&L bailout has jumped higher and higher.

It's been a year since FIRREA passed. It's high time this administration provided some leadership and settled on a course of action to resolve the thrift crisis once and for all. Otherwise, we will never see the end of this debacle.

DEMOCRATS SHOULD THROW STONES WHERE RESPONSIBILITY LIES—THEIR OWN PARTY

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

Mr. BURTON of Indiana. Mr. Speaker, several Members from the Democratic side of the aisle have tried to paint the savings and loan crisis as a Republican problem and they have tried to lay this completely at the doorstep of the Reagan and Bush administrations.

The fact of the matter is there are two Members of the other body that are in leadership positions that are under investigation right now, and I have not heard one Member from that side of the aisle ask those people to step down from their leadership positions. They will not talk about that.

They will not call the Justice Department and ask about an investigation and possible indictment of Mr. St Germain, who used to be the head of the Committee on Banking, Finance and Urban Affairs, or Mr. Coelho, who used to be the Democratic whip of this body, or Mr. Jim Wright, the S&L Speaker of this body.

My question to them is, if you are going to throw stones, why do you not throw them at the people where the responsibility lies, the people in your own party? That is where the responsibility rests. That is where the debacle started.

SENATORIAL PRIVILEGES SHOULD NOT BE GIVEN TO SHADOW SENATORS

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

Mr. PARRIS. Mr. Speaker, the City Council of the District of Columbia recently adopted a resolution to provide for two shadow Senators. Jesse Jackson has now announced his interest in being one of those.

Well, the newspaper of Congress this week had something to say about that. Let me read just several sentences.

You can't fault Jackson for thinking big. He wants the shadow Senators to have the same privileges as real Senators. For example, he'd like to have access to the floor.

He would like to have office space. He would like to have the shadow people have the same or better advantages than are accorded other lobbyists.

Whether statehood is a just cause or not, these D.C. shadow Senators are no more or less than lobbyists for the city. He has no more right to appear on the floor than the shadow Senator from Exxon Oil Co.

Mr. Speaker, I suggest that if in fact you can be a shadow Senator today,

you can be Santa Claus next week, or you can be Robin Hood the week after, or whatever. But when we give office space and staff and access to people who self-appoint themselves in positions of responsibilities, we have very badly compromised the privileges and opportunities of elected office in this, the Nation's Capitol.

AMERICAN TECHNOLOGY PREEMINENCE ACT

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 422 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 422

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4329) to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5072 as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. WILLIAMS). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes for the purposes of debate only to the gentleman from California [Mr. PASHAYAN] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 422 is the rule providing for the consideration of H.R. 4329, the American Technology Preeminence Act.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order the text of H.R. 5072 in lieu of the amendments now printed in the bill as original text for the purpose of amendment. The substitute is to be considered by titles, with each title considered as having been read.

Further, the rule waives section 401(b)(1) of the Congressional Budget Act, prohibiting consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported, against consideration of the bill. While, as originally written, the bill would have been subject to a point of order under this section of the Budget Act, the substitute, made in order by this rule, has been written to eliminate the offending authority.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, we ignore our industrial infrastructure at our peril. Without concerted government and industry action, U.S. manufacturing and American living standards could fall to second-rate status. Last year, our merchandise trade deficit was $108 billion, 95 percent of which was attributable to the manufacturing sector. Particularly after a decade of neglect, efforts to revitalize our domestic manufacturing sector to reverse this trend are imperative.

The American Technology Preeminence Act, the bill for which the committee has recommended this rule, is a step in the right direction. H.R. 4329 authorizes programs in the National Institute of Standards and Technology and reauthorizes support for the regional centers for the transfer of manufacturing technology and assistance to State technology programs.

The bill also provides funding for the Advanced Technology Program. ATP was created in 1988 by the Omnibus Trade and Competitiveness Act to promote industrial competitiveness by encouraging public-private consortia, and by encouraging the development and utilization of advanced manufacturing technology. In addition, H.R. 4329 will strengthen the technology administration of the Department of Commerce to provide for more effective government participation in the solution of the problems facing American manufacturers.

These are constructive efforts to redevelop our industrial base. If the United States is to regain its manufacturing preeminence and reduce its continuing trade deficits, it is imperative that American industry regain its technological edge. This cannot, nor should not, be done by the Federal Government alone. By the same token, we at the Federal level cannot shirk our responsibilities, and a coordinated technology policy is required. H.R. 4339 addresses these urgent needs in a responsible and progressive manner.

Mr. Speaker, this is an open rule which will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

□ 1240

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

Mr. Speaker, House Resolution 422 is an open rule under which the House shall consider legislation to promote more rapid development and procurement of high technology, in order to maintain America's capacity to compete in the international marketplace.

The bill made in order by this rule, H.R. 4329, is a 3-year authorization of appropriations for the operations of the National Institute of Standards and Technology.

Mr. Speaker, the authorization levels contained in the bill are: $145.3 million in fiscal 1990; $184.4 million in fiscal 1991; and $210 million in fiscal 1992.

The bill also would authorize $50 million in funding for the Advanced Technology Program in fiscal 1990, rising to $100 million in fiscal 1991, and to $250 million in 1992.

Mr. Speaker, the rule provides a waiver of the Budget Act for the consideration of the bill. Section 401(b)(1) of the Budget Act prohibits consideration of new entitlement authority that become effective prior to October 1 of the year in which it is reported.

Section 401 of the bill would elevate the Director of the Office of Science and Technology from Executive pay level 2 to level 1, about a $10,000 increase in pay, an entitlement that would have been effective upon enactment.

The joint leadership of the Committee on Science, Space, and Technology have introduced a substitute text for H.R. 4329, which is made in order under the rule as original text for the purpose of amendment.

The new text, H.R. 5072, would correct the Budget Act with regard to increase compensation for the Director of the Office of Science and Technology.

Mr. Speaker, the thrust of this legislation is to improve the way in which the Federal Government can assist the private sector to gain access for its new technologies in world marketplace.

The bill also would authorize the initial funding and programs for the Advanced Technology Program, which was established by the Commerce Department as required by the Trade Act of 1988.

Mr. Speaker, I support this open rule and the legislation it makes in order.

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

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the rule, not because of the bill that is to come, because it is an open rule that will allow us an opportunity to amend whatever problems exist within that legislation. But I am concerned about voting on a rule that contains a budget waiver.

I congratulate the committee for having raised this issue, and the Committee on Science, Space, and Technology is going to come back with a different bill than was previously brought to the Rules Committee that does correct the problem that the Budget Act waiver goes to. In my opinion, however, the Rules Committee ought to require even greater performance from the individual authorizing committees involved. In this particular case, it seems to me that the committee should have been forced to bring the bill to the floor with the correction in it so we could have avoided this budget waiver altogether.

Mr. Speaker, I have consistently said that we ought not be violating the Budget Act using the rules process to do it. In this case, the committee has chosen to bring a rule to the floor that once again contains a Budget Act waiver to have us act upon in this rule. I find that disappointing and so, therefore, I will oppose the rule with that Budget Act waiver in it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I rise in strong support of the rule. It is an open rule and it gives all Members an opportunity to add any amendments or suggested ideas they may have.

I think the committee has been very attentive to the budget issue, and I see nothing in the bill that we would be presenting, or this rule, that is going to have any adverse effect upon the budget or be contrary to the budget.

Having said that, I would have no further use for the time. I want to compliment the gentlewoman from New York [Ms. SLAUGHTER] and the gentleman from California [Mr. PASHAYAN] and the Rules Committee for the very fine reception we received from them recently when we were before them. We think the rule is very adequate. We think it does the job that needs to be done, and we appreciate the efforts and the good work of the Rule Committee.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. WILLIAMS). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4329.

□ 1250

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4329) to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes, with Mr. MCDERMOTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Chairman, I rise in support today of H.R. 4329, the American Technology Preeminence Act of 1990. This bill contains some of the most important steps toward the continuation of enhancing the competitiveness of American industry that the Congress can take this year. H.R. 4329 was developed over the past year and represents the hard work of a large number of individuals.

I want to congratulate Mr. VALENTINE of North Carolina, the chairman of the Subcommittee on Science, Research, and Technology, for his leadership in bringing this legislation to the floor. I also want to acknowledge the efforts of our colleagues on the other side of the aisle, our ranking Republican members, Mr. WALKER of Pennsylvania, at the full committee level, and Mr. BOEHLERT of New York, at the subcommittee level, for their efforts in drafting this legislation.

We owe Mr. WALGREN, the immediate past chairman of the Subcommittee on Science, Research, and Technology, a debt of gratitude for chairing 21 days of hearings on the topics covered by this bill and for bringing it through subcommittee markup. I also want to thank Mr. FOLEY, Mr. GEPHARDT and the Democratic high technology working group for their months of support, for their helpful suggestions, for their advocacy of these programs before the Budget Committee and for their decision to include H.R. 4329 in the high technology package announced last week.

H.R. 4329, while important in its own right, builds on the innovative legislation of the recent past. For a number of years, the Committee on Science, Space, and Technology has been promoting joint research and technology transfer through antitrust and patent reform, Federal laboratory policy, and enhancement of the technology mission of the Department of Commerce. A major portion of the Omnibus Trade and Competitiveness Act of 1988 was devoted to transforming the national bureau of standards of the Department of Commerce into a civilian advocate for high technology. This bill funds and refines these efforts.

The bill also is closely related to H.R. 4611, the National Cooperative Research and Production Amendments of 1990 which Mr. BROOKS brought to the floor of the House on June 5. H.R. 4611 is pivotal legislation which finally recognizes that for purposes of antitrust we are functioning in a global economy where American firms often must work together and even jointly manufacture products. This bill is a giant step forward into the 21st century. It will help U.S. industry survive and prosper in the new economic world brought about by the economic revolution resulting from the European economic unity, the successes of the Pacific Rim, and the entry of Eastern Europe into the world economy.

However, the steps of the past have not matched the national efforts of Japan and Europe. A report this spring by the Department of Commerce identified 12 emerging technologies that will have a combined U.S. market potential of about $350 billion in the year 2000. This is the new wealth that will separate the prosperous nations of the 21st century from the Third World and the formerly great.

The Department of Commerce quite bluntly concluded that we are in trouble in almost all of these 12 technologies. While the Japanese and Europeans are making great strides toward carving out market shares, we are becoming less competitive in these 12 technologies with each passing year. We cannot afford to wait 1 minute longer to act.

The committee is convinced that a comprehensive national technology policy, with primary responsibility in

the private sector for commercial development, is urgently needed. We must ensure an economic environment which can support the costly process of bringing promising new technologies to the marketplace. The solutions to American competitiveness extend far beyond appropriate funding levels for Government research and development.

Just 2 months ago, the Council on Competitiveness warned that:

> There can no longer be any doubt that the United States faces a real and unrelenting technological threat—a threat that spans both commercial and military concerns.

Mr. Chairman, the economic environment in which American businesses operate has changed drastically in the last two decades, and Government recognition of that transformation is imperative.

Dr. Ian Ross, Chairman of the National Advisory Committee on Semiconductors recently testified before the committee that our business environment imposes fundamental disadvantages on American manufacturers, as compared to foreign producers who enjoy advantages in ready access to low-cost capital for long-term investment, and who operate in an environment hospitable to joint ventures that is not general practice here.

Mr. Chairman, the American Technology Preeminence Act of 1990 will make a significant contribution toward solving these problems and toward building the economic framework for American industry to re-take the lead in successfully developing and marketing new technologies.

Let me give you the list of new possibilities and enhancements contained in this important legislation:

First, it provides a 3-year $400 million authorization for the Advanced Technology Program created by the Omnibus Trade and Competitiveness Act of 1988, which is enough to get underway a strong and meaningful civilian cooperative research program.

Second, it will permit companies in key industries to pool their efforts to solve their common technology problems and will provide a minority share of funding to competitively selected joint ventures.

Third, it sets up a bipartisan National Commission on Reducing Capital Costs for Emerging Technology. This will bring together some of our Nation's best minds to grapple with the problem that U.S. industry must pay more for its capital than its foreign competition does.

Fourth, it creates a commission within the President's Office of Science and Technology Policy to examine ways to advance U.S.-based high technology through changes in Government procurement requirements and activities. If only a fraction of the billions we spend annually on Federal procurement can be used for purchases of new innovative American high technology products and services, our economy could benefit immensely.

Fifth, it establishes a high resolution information systems board to bring together industry and Government leaders to foster and monitor the development of a U.S. high resolution information systems industry. In the first quarter of the next century, this family of technology may be the most important worldwide. It will take a concerted American effort to gain our fair share of this market.

Sixth, it mandates the development of a national high performance computer technology plan, which will set out needed actions in hardware, software, and network development. Highways for information are becoming as important as highways for hard goods, and if our technology-based economy is to remain competitive, then we must be able to transfer data at world class rates of speed.

Seventh, it requires the Office of Science and Technology Policy to track major international science and technology proposals whether the United States is an active participant or not.

Eighth, it provides needed additional resources to the National Insitute of Standards and Technology [NIST], our Nation's premier measurement laboratory. These additional resources will permit NIST to begin programs that will make precise measurement possible in a variety of high technology areas and increase the chances of U.S. industry to be major players in these markets of the future.

Ninth, it paves the way for a more active U.S. role in international standards by asking the International Institute for Applied Systems Analysis [IIASA] to develop a methodology or approach that can be used in the establishment of International Product Standards and by authorizing a pilot program for assistance to developing nations as they put together domestic standards codes. Standards are key to quality products and can be used as trade weapons. An unfriendly standard for a while banned U.S. refrigerators from being exported to Saudi Arabia because their electrical cords were 2 yards long rather than 2 meters long, a difference of just 9 percent or about 7 inches. We must be vigilant in assuring that arbitrary standards are not used as artificial trade barriers against U.S. products.

Tenth, these standards efforts, of course, are not meant to displace the current voluntary standards system in the United States. Consensus standards are a strength of our free market and a democratic way of making sure that all interested parties have a say in the development of the standards which affect their livelihoods. Therefore, those charged with carrying out standards initiatives under this act should take advantage of this wealth of knowledge and should draw on existing expertise whenever appropriate.

Eleventh, H.R. 4329 increases the stature and rank of the Director of the Office of Science and Technology Policy and establishes stable funding for the Federal Laboratory Consortium for Technology Transfer.

Mr. Chairman, last month the Department of Commerce identified 12 emerging technologies that will create markets for an estimated $1 trillion by the year 2000, just 10 years from now. The race is on to see who can capture a share of this new wealth. We know our international competitors are not just sitting back to see what happens. They are taking steps now to ensure their industries gain some share of the new markets. It is up to us to make sure companies operating in the United States have an equal chance to compete.

Mr. Chairman, the scientific and technological programs authorized in this bill are essential to this country's economic progress. I urge my colleagues to support this important legislation.

Mr. Chairman, the charts to which I referred are as follows:

U.S. REPORT CARD: STATUS 1989

	Versus Japan	Versus Europe
Behind:		
	Advanced Materials	Digital Imaging Technology.
	Advanced Semiconductor Devices	
	Digital Imaging Technology	
	High-Density Data Storage	
	Optoelectronics	
Even:	Superconductors	Flexible Computer-Integrated Manufacturing
		Superconductors.
Ahead:		
	Artificial Intelligence	Advanced Materials.
	Biotechnology	Advanced Semiconductor Devices.
	Flexible Computer-Integrated Manufacturing.	Artificial Intelligence.
	High-Performance Computing	High-Density Data Storage.
	Medical Devices and Diagnostics	High-Performance Computing.
	Sensor Technology	Medical Devices and Diagnostics.
		Optoelectronics.
		Sensor Technology.

U.S. REPORT CARD: TRENDS

	Versus Japan	Versus Europe
Losing badly:		
	Advanced Materials	Digital Imaging Technology.
	Biotechnology	Flexible Computer-Integrated Manufacturing.
	Digital Imaging Technology	
	Superconductors	
Losing:		
	Advanced Semiconductor Devices	Medical Devices and Diagnostics.
	High-Density Data Storage	
	High-Performance Computing	
	Medical Devices and Diagnostics	
	Optoelectronics	
	Sensor Technology	
Holding:		
	Artificial Intelligence	Advanced Materials.
	Flexible Computer-Integrated Manufacturing.	Advanced Semiconductor Devices.
		High-Density Data Storage.
		Optoelectronics.
		Sensor Technology.
		Superconductors.
Gaining:		
		Artificial Intelligence.
		Biotechnology.
		High-Performance Computing.

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

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

Mr. Chairman, I join Chairman ROE in supporting the need for a comprehensive emerging technology commercialization bill.

At full committee hearings held last year on "Creating the New Wealth," it was emphasized that technological development is much more than just an issue of Federal funding. There was a virtually united plea by witnesses for antitrust reform and for tax changes to level the international playing field.

With today's bill, the Science Committee, as the House's competitiveness advocate, will recommend to the Congress what needs to be done across the board, not just for one industry or technology and not just for yesterday or today, but for tomorrow. H.R. 4329, coauthored by the chairman and myself, has drawn upon vast contributions from many Members on both sides of the aisle, especially Representatives SHERRY BOEHLERT, DON RITTER, TOM CAMPBELL and JACK BUECHNER from the Republican side. It is, therefore, neither a Democrat nor Republican proposal, but a consensus Science Committee initiative, that we bring to you today.

□ 1300

Nevertheless, we Republicans on the committee are flattered the Democratic leadership is endorsing our work by adopting it as their own.

The existing core program that is authorized in this bill is aggressive but responsible. The National Institute of Standards and Technology is increased almost 30 percent in 1991 to meet President Bush's request to make up for the new initiatives in areas such as superconductivity, fiber optics and advanced materials that were denied funding last year. The Institute of Standards and Technology would then be increased another 15 percent in 1992, the pace that would be required for doubling the agency in 5 years. These levels are consistent with our committee's consensus views and the estimates that we sent to the Committee on the Budget earlier in the year.

The newly authorized advanced technology program is a worthwhile effort to reduce the marginal cost of capital for developing new technologies by leveraging the majority funding of industry-led joint ventures. It is a disciplined approach in that it is competitively awarded, seeks proposals requesting a low percentage of Federal funds, requires paybacks from profits, and does not discriminate based upon ownership against companies that are committed to the U.S. market.

But there is one big problem with this bill: Although the $100 million level for this program in 1991 is consistent with the Committee on Science, Space, and Technology, bipartisan views and estimates sent to the Committee on the Budget just a few months ago, the $250 million 1992 level is veto bait, pure and simple. I have a letter from the Commerce Department, from the Acting Secretary of Commerce, saying flatly that this bill was not acceptable with that level of money in it. In fact, the House's own budget resolution only designates $47 million for this program. This bill suggests increasing that level by over 500 percent in 1992. That is very questionable in light of the crisis in the budget situation that the country finds itself with. I will therefore seek to substitute the administration's suggested language of such sums for this Member on the floor's so the President can sign this bill. What the administration has said is rather than do a $250 million level which subjects it to a veto, put a statement in there for the outyears of such sums, meaning that it might be higher than $250 million, although that is unlikey, but at least it will give Members some flexibility in dealing with the budget issues in the months ahead, and to put a $250 million figure in this bill that subjects it then to a veto, I think does a disservice to everything that we have tried to do on a bipartisan basis, to get this policy bill enacted into law.

Therefore, as I mentioned earlier. H.R. 4329 is a comprehensive approach, addressing the structural barriers and burdens that so bady hurt our international competitivness. One way it does this is by creating a Presidential commission to make legislative recommendations to Congress within 1 year to encourage voter private capital investment and technological development. Congressional representation on this Commission is to be offered as an amendment to the bill later on. As far as I am concerned, congressional representation makes sense, and that is acceptable, as long as the appointees from both the executive and the legislative branches are equal. However, if the Commission is stacked in favor of congressional domination, that will be fundamentally unacceptable, and it seems to me will create constitutional problems as well as problems with the President at a time when we say somehow the Congress should dominate the Commission that we are asking the administration to help in appointing. That is simply unacceptable to the administration and ought to be unacceptable to everyone in the House who looks at this. It is being done, in order as I understand it, to balance the partisan makeup of the Commission. Well, the Constitution does not recognize partisan makeup. What it says is that we are coequal branches of government, and I think the Commission ought to be structured in a way that assures that that equal status exists, or again we could end up with a bill that would be abandoned or at least have major initiative in the bill could be abandoned in court challenges that follow.

In my opinion, to create such a commission that would be stacked in favor of Congress would be another unnecessary partisan nail that could be put in what could become the coffin of the bill.

H.R. 4329 as reported by the Committee on Science, Space, and Technology has also included a title to amend the National Cooperative Research Act to permit joint production arrangements among nonaffiliated firms. This is becoming essential for the successful innovation and commercialization of new technologies due to their staggeringly high front-end capital costs and associated risk. Since the Committee on Science, Space, and Technology's original initiative, the House passed antitrust language based upon H.R. 4329, and as I understand the Committee on the Judiciary agreed to the Committee on Science, Space, and Technology's full participation in discussions on this issue with the Senate. In light of this agreement, dropping the antitrust reform title from this is acceptable to this Member.

Overall, the bill is a good one with the exception that I have noted. The rule allows Members to address that problem and hopefully avoid a veto. I hope we will do so.

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

The CHAIRMAN. The gentleman from New Jersey [Mr. ROE] has 22 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 22 minutes remaining.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the chairman of our Subcommittee on Science, Research and Technology, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I would like to express my appreciation to the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE], and also to the gentleman from Pennsylvania [Mr. WALKER] and others who have worked so long and diligently to bring this matter here to this place today for our consideration.

There is now widespread agreement that American prosperity cannot be separated from technology preeminence, and that Government policies play a crucial role—either positive or negative—in delineating the economic environment in which new technologies are developed and marketed.

While this Nation still leads the world in science, we have learned that the fruits of our scientific preeminence do not automatically translate into the new products and new indus-

trial processes that keep us a modern, prosperous Nation. The long process of technological development links the discoveries of science to the marketplace, and we have found to our dismay that other countries have become more adept than we are at reaping the benefits of our research.

We are fortunate in this country to have the National Institute of Standards and Technology, a Federal laboratory whose mission is to ease industry's movement into more advanced technology. The National Institute of Standards and Technology scientists and engineers work closely with industry to develop increasingly sophisticated techniques to monitor the quality and accuracy of new materials and manufacturing processes. Advanced ceramics and advanced semiconductors are just two examples of multibillion dollar markets made possible by advances in precision measurement and quality control.

State-of-the-art quality control has become the hallmark of world class manufacturing. The highly successful Malcolm Baldrige Quality Award, administered by the National Institute of Standards and Technology, has been instrumental in fostering a new awareness among American manufacturers that old management styles cannot produce new products. Manufacturers are finding that the Baldrige Award application process itself is a highly effective tool to evaluate their company's ability to compete in a global market.

Title II of this act authorizes funding for the new Advanced Technology Program which will assist industry-led efforts to make sure that a fair share of advanced technology products are made in America. There is a great deal of successful precedent behind the Advanced Technology Program. The Defense Advanced Research Projects agency [DARPA] has successfully fostered the development of new technologies since 1958. Advanced telecommunications and aeronautics have long benefited from a successful government-industry partnership. As our Nation enters an era where world power will be based more on economic strength than on military might, we must continue to build on the success of the postwar years.

The Advanced Technology Program will not pick marketplace winners and losers. We know from past experience that the Government can be a poor judge of market forces. The Advanced Technology Program will seek partnerships with industry, especially industry-led consortia, to fund a minority share of projects involving promising technologies which have not reached the commercial stage. By drawing on the unique scientific and engineering expertise of the National Institute of Standards and Technology, the Advanced Technology Program will identify industry proposals with special technological promise and support them with matching funds through the early stages of development.

H.R. 4329 also addresses some of the structural barriers which our industries face in developing new technology-based products to market. Among these, none is more intractable than this Nation's relatively high cost of capital. A recently published study in the Federal Reserve Quarterly Review, for example, noted that, in both Japan and West Germany, the actual cost of capital for research and development or for capital improvement is very similar—and, it is two to three times lower than in the United States Our bill creates a bipartisan national commission to find ways to reduce these costs.

Mr. Chairman H.R. 4329 provides the Department of Commerce with enhanced capabilities to assist American industry in its efforts to regain preeminence, and I urge my colleagues to support it.

□ 1310

Mr. WALKER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, the condition of the American economy today reminds me of the old joke about the parents who wanted to have two children so that, if one of them turned out to be a genius, the other one could support him. Our research labs are chock full of geniuses, but we seem to have forgotten about the second child—and too little money is flowing in from our ingenuity.

The purpose of H.R. 4329 is to give birth to that second child—to help ensure that the American research enterprise produces not just great ideas but also great prosperity. That's the idea behind the Advanced Technology Program.

Self-described conservatives may argue that the second child already exists in the form of American industry. Why, they ask, is Government largesse needed to transform science into marketable products?

But this view ignores the long history of Government assistance to corporate research. That involvement dates back at least to the formation of the National Bureau of Standards, now the National Institute of Standards and Technology [NIST], in 1901. The Bureau was formed with the specific intent of aiding corporate research, and the core programs of NIST, which are at the heart of this bill, continue to serve that purpose.

More to the point, the Defense Department has, of course, been a major source of research funds for American industry, supporting even such avowedly civilian undertakings as Sematech. Indeed, thanks to Defense Department funding, the U.S. Government funds 35 percent of industrial research compared to the approximately 2 percent of Japanese industrial research funded by the Japanese Government.

So the question really is not whether we need U.S. Government involvement but whether that involvement needs to be targeted a little differently. There was a time when we could rely on civilian spinoffs from our defense research, but numerous experts have concluded—and the statistics bear them out—that those days are over. If we want to assist civilian research, we need to do so directly. The gap between defense and civilian specifications and markets is just too great to expect much automatic spillover.

Even the "iron triangle" of Sununu, Darman, and Boskin has come to recognize that Federal assistance to "generic, precompetitive" corporate research is needed to shore up the American economy. Admittedly, the definition of those terms remains a little fuzzy. For now, we're probably best using Justice Stewart's famous formulation about pornography, "I can't tell you what it is, but I know it when I see it."

What's not fuzzy is that the United States is facing an enormous—perhaps unprecedented—economic challenge. We would be foolish not to at least try this additional approach—the Advanced Technology Program—grounded as it is in the successful policies of both our and other governments.

This bill also furthers several other technology initiatives, including the Hollings Centers and the Boehlert-Rockefeller Extension Program. These programs help smaller manufacturers make use of existing technology. The hurdle faced by these companies is not creating the technology of the 21st century, but using the technology of the 20th.

These programs, too, are based on ample Government precedents, particularly Cooperative Extension and the State Technical Services Program the Commerce Department ran in the late 1960's. These earlier programs had noteworthy successes as have similar programs abroad. I commend to the attention of my colleagues the OTA study, "Making Things Better," which argues cogently for such efforts.

Together, the NIST core programs, the Advanced Technology Program and the extension programs amount to a powerful second child to help the Nation prosper from its research expertise.

But I think it would be dishonest to present this bill as the cure-all for our economic ills. We have numerous underlying problems, only some of which are addressed by the studies required

by this measure. These include the lack of vertical integration in many of our industries and the ever shorter range focus of Wall Street. A hundred years ago or so, William Jennings Bryan accused the Nation's elite of crucifying his constituency on a cross of gold. Ours may be laid out on a cross of paper.

But those are problems for another day. Today, we can make at least a start at meeting our economic challenge by targeting the Government's resources in a way that reflects the current state of the world. I urge support for this significant legislation, and, in doing so, I want to compliment the gentleman from the Commonwealth of Pennsylvania [Mr. WALKER], the vice chairman of the full committee, and, of course, the gentleman from New Jersey [Mr. ROE], the chairman of our full committee and my neighbor.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. NOWAK], a member of our committee.

Mr. NOWAK. Mr. Chairman, I rise in support of H.R. 4329, which would reauthorize through fiscal year 1992 the National Institute of Standards and Technology and authorize funds for the Advanced Technology Program and other technology programs within the Department of Commerce.

One of the most significant portions of this legislation is the authorization of funds for the Advanced Technology Program. This program, which has never been funded, can become an essential tool in the development of new high technology industries which will be enormously important to both our economy and national security.

America is now facing extremely stiff industrial competition from abroad, not only in such traditional fields as automobiles and steel but also in the next generation of technologies such as high definition television [HDTV] and superconductivity.

For example, Japan and Europe have already invested millions of dollars in the development of HDTV.

It is to the point now where some have already conceded to others the HDTV market, which may be worth $10 billion a year, 15 years after introduction into the marketplace.

Mr. Chairman, H.R. 4329 seeks to remedy the current imbalance between foreign and domestic development of this and other new generation technologies.

By promoting industrial consortia in such fields as HDTV, superconductivity and advanced manufacturing research ventures which are critical to entire industries, but too expensive for a single company to engage in, can now be undertaken.

This bill is a significant step in making these research efforts a reality, and I strongly urge passage of the bill.

Mr. WALKER. Mr. Chairman, I have no requests for time at the present time, and I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD], chairman of our Subcommittee on Energy Research and Development.

Mrs. LLOYD. Mr. Chairman, I rise in support of the American Technology Preeminence Act. Today more than ever we see the mounting evidence of the failure of our industry to effectively compete both in world markets and at home. Our balance of trade deficit stands as a stark reminder of the magnitude of these problems as foreign goods displace American products and workers and as manufacturing jobs move abroad.

This trend is evident for sophisticated products, such as electronic components and computers as well as for basic commodities such as steel and metal casting products. For both the sophisticated products and the more basic products, technology is the key to successful competition. Even in simple manufacturing operations new technology can significantly reduce cost and improve quality and reproducibility. Such technological advances when applied in a timely fashion spell the difference between business success and failure. While once the undisputed leaders in technology, significant segments of American industry finds itself out of step with a rapidly changing technological marketplace.

The advanced technology program is, in my view, the key provision in this legislation; it is designed to assist American companies to meet the challenge of foreign technology initiatives, many of which receive support from their governments. The Advanced Technology Program will encourage joint ventures. This is the key for a successful program for it requires that the American business community be willing to put its money on the line in joint technology development ventures. This requirement provides the market test so critical for any government involvement in technology development.

Mr. Chairman, I believe H.R. 4329, the American Technology Preeminence Act, is an important step in helping American industry to regain its technological leadership. I urge the Members of the House to support the revitalization of American industry by voting for this bill.

□ 1320

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS], a member of our committee.

Mr. SKAGGS. Mr. Chairman, I want to thank the distinguished gentleman from New Jersey for yielding me this time and for his work, and I thank the gentleman from North Carolina [Mr. VALENTINE] for his work on this legislation.

Mr. Chairman, I would like to express my strong support for H.R. 4329, the American Technology Preeminence Act, and for the commitment to our Nation's future economic and scientific stature that this bill reflects.

The United States has always taken enormous pride in the role as leader in scientific research and the development of new technology. We have been home to many of the ideas that have transformed virtually all types of industry, and we have demonstrated over and over again the ability to get high-quality products out into international markets at competitive prices.

In recent years, however, our leadership role has been challenged. It is no longer the case that American businesses and American industry can call the shots in international markets. Many industries in which the United States once led have been taken over by other countries, and we risk being shut out of some emerging high-technology markets.

Obviously, we want to renew our leadership status and stay competitive in an increasingly tough international marketplace. That will require hard work and creativity and a supportive attitude from Government. We need an economic environment here at home that encourages innovation—an environment in which new technologies can be developed and marketed.

That is why the American Technology Preeminance Act is so important.

This bill reflects a strong commitment to funding research—one of the most important investments our Nation can make. One that we have to make if we want to remain the world's leading scientific and economic power. And the bill goes beyond just funding. It addresses the need to establish national policies that promote and encourage innovation and competitiveness.

I am particularly pleased to see in this bill a significant increase in funding for the National Institute of Standards and Technology. For almost 100 years, NIST—formerly the National Bureau of Standards—has provided measurement methods, standards data, and other services for industry, government, and the scientific community. NIST's activities, including direct access to its facilities and technology, are crucial in enabling American firms to deliver precision, high-quality products.

The increase in funding provided in H.R. 4329—a 27-percent increase for the next fiscal year and 15-percent increase for the following year—will

ensure NIST can continue its role in strengthening American industries.

The bill also provides funding for the Advanced Technology Program—a program established by the 1988 Omnibus Trade Bill but never funded. Through this program, companies will be able to improve cooperative efforts to exploit emerging technologies.

The American Technology Preeminance Act brings a budget and a commitment to the table that should make a substantial difference to our laboratories and research facilities as they work to meet the needs of emerging high technology industries. I urge my colleagues to support this bill.

Mr. ROE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BROWN], a member of our committee.

Mr. BROWN of California. Mr. Chairman, I rise today in strong support of H.R. 4329, the American Technology Preeminence Act of 1990. I would like to commend the leadership of our committee chairman, Mr. ROE of New Jersey, as well as the efforts of our subcommittee chairman, Mr. VALENTINE of North Carolina, and our subcommittee's immediate past chairman, Mr. WALGREN of Pennsylvania.

As a nation, we excel at producing good ideas. Our scientific research is second to none. However, if we are to remain competitive in the rapidly changing global marketplace, good ideas are not enough.

The Department of Commerce recently identified 12 emerging technologies that will have a combined potential U.S. market of $356 billion by the year 2000. However, the Department's analysis showed that the United States may well end up behind Japan in each of these technologies.

The message contained in the report is clear: If we do not increase our research and development on these emerging technologies and bring new products to market before competitors, others will reap the economic benefits they promise.

In the civilian sector of our economy, most technological advances are product-driven. The Japanese are masters of the arduous process of incrementally refining a product or industrial process through rigorous quality control and focussed R&D on the key products which drive technology innovation.

One such key product is high definition television [HDTV]. The Office of Technology Assessment recently found that HDTV is driving the state-of-the-art in a number of technologies that will be important to future generations of computer and communications equipment. We often forget that consumer electronics have been the principal driver in many important technologies, such as display and data storage technologies, as well as new optical devices and automated manufacturing systems. We are a nation of inventors, but we must continue to manufacture the products which will spark our inventors to build the better systems and the better machines of tomorrow.

The Advanced Technology Program [ATP] funding levels recommended in H.R. 4329 reflect the committee's recognition of the vital importance this program has for the future of American science and technology, as well as for our whole economy. The committee has been mindful of the tremendous pressures on the Federal budget, and based on extensive hearings, has proposed the minimum levels at which an effective program can go forward. To be effective, the ATP must support a broad range of technologies, but it cannot do so without sufficient resources.

Events in Eastern Europe during the past year have dramatically changed our world. New foreign and domestic policies must be hammered out to reflect the changes that have occurred. There is much talk of a peace dividend, and indeed, the House budget resolution reallocates $30 billion from defense to domestic programs. I applaud the lowering of world tensions which allows us to talk of a defense build-down, but I am concerned that, as defense programs are cut, R&D supported by DARPA that helps the civilian economy will be jeopardized—at the very time when Government support for these technologies is vital for our economic future.

It is high time that we recognize the crucial impact of technology on our commercial industries and our economic well-being. The Federal Government must provide an economic environment conducive to innovation and the rapid improvement of industrial products and processes. This environment must include efforts like ATP to create and maintain a civilian technology base second to none in the world. Just as our military security depends on our superiority in defense technologies, so does our economic welfare depend on a preeminent technology base for commercial industry.

Industrial technology developed by individual private firms often benefits whole industries and the entire economy, not just one firm. As such, the Federal Government has a responsibility to help fund generic, precompetitive R&D on technologies with high potential benefits to our economy. Without the leverage of Federal support for industry joint ventures, much of this essential R&D will not be carried out in this country. The industries of tomorrow that will be spawned by this work would then move overseas.

We can be sure that our Japanese and European competitors are not standing still as we debate these issues. They are moving ahead with well-planned strategies and well-funded programs to capture the lead.

Throughout our deliberations, it has been the sense of the committee that the ATP should not be funded at the expense of the traditional programs at the National Institute of Standards and Technology [NIST]. The committee received a great deal of testimony to substantiate our belief that NIST's core programs serve a vital industry need, and any cutback from the administration's request would hurt the broad range of American industries which NIST serves.

I urge you to support full funding for both the core NIST programs and the Advanced Technology Program, and to vote against any attempts to diminish these important initiatives. I believe that the provisions of this bill are vital to our Nation's future economic welfare, and I urge you to join me in voting for H.R. 4329.

Mr. Chairman, of course, as I said before, I want to pay tribute to the leadership of our distinguished chairman of the committee, the gentleman from New Jersey [Mr. ROE], but also to pay particular tribute to the minority members of the Science, Space, and Technology Committee, including the ranking member, the gentleman from Pennsylvania [Mr. WALKER], and the gentleman from New York [Mr. BOEHLERT].

This is not a partisan bill. This is a bill which has been worked on cooperatively by the Members on both sides and it is another step forward in a process which has been going on for several years. During that process, there has been achieved a degree of unanimity within the committee on the substance of what we are trying to do, namely, to enhance our ability to compete in high technology within global markets.

I suspect that the first major step that was taken to restore our competitiveness in high technology was in the Trade bill of 1988, which President Reagan signed in the closing months of his tenure. That bill established the Advanced Technology Program and changed the name of the Bureau of Standard to the National Institute of Standards and Technology, and gave it major responsibility for advanced technology programs.

What this bill does is to take us another step forward in that chain of event by authorizing the enhancement of this program, authorizing the necessary funds to carry it out on a realistic basis and allow us to move forward again in the area of advanced technology.

As the gentleman from New York [Mr. BOEHLERT] indicated, this is not a cure-all for the problems that face this country in terms of global competition. There are many other deficiencies which this bill does not seek to address, including, as we are all aware, deficiencies in science and engineering education in this country, deficiencies in the funding of our research infrastructure within universities, which has been going downhill for a number of years, and some other problems of that sort. Hopefully these will be addressed in other legislation. But a major area has been and continues to be our inability to focus our national resources on the development of advanced technology. A number of Presidential Commissions have commented on this, have made recommendations which are in effect incorporated in this legislation. I am pleased to see that these recommendations are going to go forward.

Despite the fact that there will be some minor amendments, these are in the nature of perfecting amendments, including the amendment which will be offered by the gentleman from

Pennsylvania [Mr. WALKER]. I do not happen to agree with the substance of what the gentleman is proposing, but I think it is offered in a constructive effort to ensure Presidential approval.

Mr. Chairman, this is a vitally important bill which all Members should support.

Mr. WALKER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Ms. SCHNEIDER].

Ms. SCHNEIDER. Mr. Chairman, I rise in support of the American Technology Preeminence Act, H.R. 4329, a bill that would promote technological advancement through governmental support to the private industries of the United States.

During the past decade, the U.S. trade deficit has grown from $36 billion in 1980 to $109 billion last year, an alarming trend. The rising trade deficit should be a concern for all Americans. For example, in Rhode Island, about 12 percent of the employment force is export-related, altogether a total of 12,000 jobs.

Hearings held by the Committee on Science, Space, and Technology revealed how Government policies were crucial to providing a favorable environment for investment, increased productivity, and innovation. At a time when American industry faces competitive challenges in many areas, it is imperative that we act now and revitalize the economic climate in which new technologies are developed and marketed.

This legislation includes 3-year authorizations for the National Institute of Standards in the Department of Commerce, the White House's Office of Science and Technology Policy, and the extension of technology development activities that were part of the Omnibus Trade and Competitiveness Act of 1988. I am proud to say that one of these activities from the Trade Act was a provision I helped to write to establish a clearinghouse on State and local initiatives to promote competitiveness.

One issue that has been brought to my attention repeatedly as co-chair of the Congressional Competitiveness Caucus is the adverse effect that high interest rates and other costs of capital can have on investment and innovation in the United States. The bill addresses this problem by establishing a National Commission on reducing the costs of capital. The Commission would assess the effects of the relatively high cost of capital in this country and make recommendations on ways to increase investments in innovative manufacturing methods.

The administration has stated objections to this bill in part due to the level of funding in the out-years. The gentleman from Pennsylvania [Mr. WALKER] will be offering an amendment to address the concerns of the administration by leaving open for now the level of funding for the Advanced Technology Program after fiscal year 1991. I will be supporting this amendment because of a desire to work with the administration on this issue. However, I want to make it clear that we need more support from the administration for these programs in the future, not less. It will take U.S. leadership in the White House to restore American economic leadership abroad.

The need to reestablish American technological preeminence is clear. This bill will further growth through the development and implementation of new technologies by private enterprise. I ask my colleagues to support the American Technology Preeminence Act.

□ 1330

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, last year I made a little statement on American competitiveness as far as new jobs created.

There was a handbook that was put out by the Department of Labor that listed some great new jobs that occurred in America. Some of them that were listed by the DOL was the coconut jelly roller, a corncob-pipe assembler, gizzard-skin remover, brassiere-cup molder cutter, and a panty-hose crotch closer.

Japan had such positions listed under their new jobs as laser arc welders, robotic electricians, computer engineers, diversified plumbers, structural-steel specialists, and engineers and energy program analysts.

After all the calls came in after this little statement, the Department of Labor said that that is not totally a true statement that TRAFICANT had made. Let me tell the Members what was not true. It was not a panty-hose crotch closer. It was a panty-hose crotch closer machine operator. I also found out that there is a panty-hose crotch closer machine operator inspector.

I am asking on the House floor today: Is there such a thing as a panty-hose crotch closer machine operator supervisor? These are really big jobs and, ladies and gentlemen, we have lost our edge and our competitiveness.

This is a good bill, and I think we should make a direct commitment.

I want to commend both the ranking Republican on the committee and our chairman, the gentleman from New Jersey [Mr. ROE], for his efforts. The gentleman from Pennsylvania [Mr. WALKER] and the gentleman from New Jersey [Mr. ROE] have done a fine job, and I hope that my buy-American amendment would be accepted.

I am trying to make sure that if there are any panty-hose crotch closers who are going to go out and buy consumer goods that the benefits of our research and development money and our competitive edge would give a chance for Americans to make a living.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. WOLPE], a member of our committee.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I thank the gentlemen for yielding me this time.

Mr. Chairman, I rise as a cosponsor of the legislation before us today and in strong support of the American Technology Preeminence Act.

I want to commend the chairman, the gentleman from New Jersey [Mr. ROE], the gentleman from Pennsylvania [Mr. WALKER], and the gentleman from New York [Mr. BOEHLERT] and the staff of the Science Committee for all of the hard work and long hours that have gone into producing this impotant initiative.

Mr. Chairman, this past year, we have witnessed startling changes around the world that present enormous opportunities for a growing world economy.

It is, indeed, a rare occasion that we can at one time assist emerging Third World democracies, enhance American competitiveness and expand economic growth. But that is exactly what the bill before us would accomplish.

It is incumbent, therefore, upon Congress to seize the moment to act expeditiously and to forge a partnership with industry to create such opportunities. I believe we have developed a comprehensive competitiveness package which accomplishes the dual purposes of strengthening our traditional research programs and, at the same time, creating the advanced technology program to speed commercialization of emerging civilian technologies.

I am particularly pleased that this bill includes a provision that I offered on behalf of myself, the gentleman from California [Mr. DYMALLY], the gentlewoman from Rhode Island [Ms. SCHNEIDER], and the gentleman from California [Mr. BROWN], to create a pilot program to assist other countries in development of international product standards.

From the standpoint of American economic interests, American participation in international standard-setting is simple common sense. This is a low-cost, high-impact method of export promotion for American industry.

The proposal to spend no more than $250,000 annually to match private spending is exactly the kind of com-

petitive good export promotion bargain that we should be supporting.

Much is at stake. For example, in the case of Saudi Arabia, most likely the first country to be targeted in this program, we are talking about American exports worth $5.7 billion in 1988 alone.

Other major export countries of Europe and Asia are investing heavily in export promotion through their participation in international standard setting. These countries have been increasing their share of the Saudi market while the American share has been declining. This provision is a low-cost but high-yield countermeasure. It would be extremely shortsighted, particularly at a time of such huge trade deficits and when U.S. economic growth depends so heavily on increasing exports, to permit the hundreds of millions of dollars in potential American exports to go down the drain simply because the United States failed to seize the opportunity to be involved in the development of international product standards.

Mr. Chairman, I strongly urge my colleagues to support the American Technology Preeminence Act.

Mr. WALKER. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, it is a pleasure for me to speak and rise on behalf of H.R. 4329, the American Technology Preeminence Act, and I certainly must compliment the leaders in our committee for bringing this act forward and for all the work that went on to make it come into reality, the chairman, the gentleman from New Jersey [Mr. ROE], and our ranking member, our vice-chairman, the gentleman from Pennsylvania [Mr. WALKER].

Mr. Chairman, the National Institute of Standards and Technology, known as NIST, located in my district in Maryland has as its first function "to assist industry in the development of technology." In order to meet this mandate, NIST has in place new mechanisms which will help it to better fulfill these responsibilities. These include: regional manufacturing technology centers, advanced technology programs, State technology extension services, and inventions evaluation programs.

Another of NIST's functions include maintaining its traditional function as a lead national laboratory for providing standards and measurements. This second function of NIST, as a national laboratory, is essential to the success of its first function, to assist industry in the development of technology.

NIST's laboratory programs address the development of the generic and enabling technologies needed for such critical industries as factory automation and robotics, bioprocess engineering, semi- and superconductors, optical communications, advance materials, advanced computing, medical diagnostics, and industries related to public safety.

These laboratory programs at NIST are specifically aimed at three broad goals; namely, to support U.S. industry to improve public health and safety, and to support the scientific and engineering research community through fundamental research. The laboratory work will be better directed toward key industrial problems by the contacts which are developed through the extramural programs. The technology transferred to industry by the external programs will be ensured of a sound, scientific foundation through NIST's excellence in laboratory research and development for which the Institute is recognized world-wide.

In Congress, we have forged the union of these two important NIST functions to help increase the competitiveness of U.S. industry. If they are to be successful, they must be nurtured and grow together as one program, dedicated to transferring sound state-of-the-art technology from NIST's strong base of scientific expertise out to our Nation's industry. I ask my colleagues to support NIST, both its laboratory programs and its new extramural programs. Both are needed; indeed, both are essential parts of our efforts to increase U.S. competitiveness.

Mr. Chairman, I stand in support of H.R. 4329. It is, indeed, the American Technology Preeminence Act.

□ 1340

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER], chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment.

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the American Technology Preeminence Act, a bill designed to harness the forces of Government for promoting the competitiveness of American industry and technology.

It is often said that America is one of the few countries without an industrial policy. This is usually lamented by Democrats, and boasted by Republicans.

But it is not really true.

We do have an industrial policy; it just doesn't go by that name. We have tax policy. We have capital market policies and regulations. We have fiscal policy. We have antitrust policy. We have international trade agreements.

All of these policies, taken together, have a profound influence on American innovation, commercialization, and competitiveness.

Nearly all of these policies operate as a constraint on industry, intended to achieve policy goals other than those of efficiency and competitiveness, such as fairness and equity, consumer protection and international harmony.

These policies may have sufficed when the rest of the world lay in ruins after World War II, and American technology and industry strode the world like a colossus.

But the world has changed. Our defeated enemies in World War II now are our economic rivals. A reunified Germany will be the economic centerpiece of a united Europe in 1992. And the economic accomplishments of Japan and its Pacific rim neighbors—and the subsequent displacement of American industry and workers—need no elaboration.

It is time for Government to play an affirmative part in promoting American competitiveness.

Under the leadership of Chairman ROE, and the ranking Republican, the gentleman from Pennsylvania [Mr. WALKER] the Committee on Science, Space, and Technology has brought to the floor an important piece of legislation that will do exactly that.

It recognizes that the Government, through such agencies as the National Institute of Standards and Technology, has a critical role to play in developing and encouraging innovation in leading edge high technologies, such as computer chips, high-definition TV, advanced communications, and composite materials.

The bill draws upon the existing framework in the Government to forge a new force for high technology competitiveness.

It elevates the President's Science Adviser to Cabinet-level status, equal in importance to the President's Economic Adviser.

And it reinvigorates the Department of Commerce to be more active in promoting technology development.

Mr. Chairman, this bill will not make American goods more competitive overnight.

Many of our other policies—and those of our foreign trading partners—must also be addressed if we are to be truly serious about restoring American industrial preeminence.

But we can and must retain the high-technology innovative edge that we have over other countries. This bill finally brings the Government out to play on the same team.

I support the bill and urge my colleagues to do the same.

Mr. ROE. Mr. Chairman, would the gentleman from Pennsylvania [Mr. WALKER] yield 2 additional minutes to the gentleman from New Jersey?

Mr. WALKER. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. MCMILLEN],

a member of the Committee on Science, Space, and Technology.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 4329, authorizing for 3 years NIST, an authorization number in line with the request of the President.

Let me focus for a minute upon a hearing that we had yesterday about the importance of NIST in the Committee on Science, Space, and Technology. We learned that budget restraints and constraints have kept NIST, along with other agencies, from fully complying with the terms of the Computer Security Act of 1987. This is the Federal law that seeks to protect Federal computers from the ravages of hackers.

The testimony pointed to the fact that the Federal Government has a long way to go to make its computer systems impenetrable.

As the lead agency, NIST plays a very important role in trying to safeguard our national computer base.

The bottom line here is if we are going to protect our Federal Reserve System, if we are going to protect our Social Security System, and our national security apparatus in this country, and prevent computer compromises in those systems, then we need funding for this agency. Funding is the biggest impediment to really complying with the Computer Security Act.

Another point I would like to make is that the funding of the Advanced Technology Program is nothing more essential to our trade situation than expediting the commercialization of promising technology. The chairman has talked many times about science being the vehicle for creating new wealth in this country. I think it is very, very important. By supporting this program we can bring innovation to the global marketplace.

Mr. Chairman, I urge the adoption of H.R. 4329, and I salute the authors and the leadership of the committee.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong support of the American Technology Preeminence Act of 1990. I congratulate my colleague, Chairman ROE, on his hard work in putting this bill together.

The American Technology Preeminence Act supports American industrial competition throughout the world. The act makes it clear that in the 1990's there are certain strategic technologies that are vital to the economic success of every American industry. These technologies include advanced electronics, advanced manufacturing, superconducting, advanced ceramics, semiconductors, and x-ray lithography for semiconductors.

Many foreign nations have targeted these strategic technologies as important to their economic futures. They have formulated policies including funding joint R&D projects and creating infrastructure to coordinate industry activities.

The funding levels included in the act for the National Institute of Standards and Technology and for the Institute's Advanced Technology Program are modest in comparison to government investing in strategic technologies by our competitors. And yet, the funding levels are vital because they will serve to reassure private industry that the Federal Government recognizes and supports these growth industries.

The American Technology Preeminence Act includes many basic initiatives of a comprehensive technology policy that will help American firms compete.

By amending the Advanced Technology Program to support joint ventures to solve strategic technology manufacturing problems the act will implement a "civilian DARPA" that will be vital to the competitiveness of the strategic technology industries.

By establishing the National Research and Education Network to link government, industry, and higher education through supercomputers and data bases the act will promote the dissemination of technological information to our strategic industries.

The act also will urge a permanent, enhanced research and development tax credit to reduce capital costs, and will provide a mechanism to identify technologies critical to U.S. interests—as well as those technologies that have been targeted by our competitors.

Ultimately, America's competitiveness and economic strength will depend on the ability of our Government to create the conditions that will ensure the leadership position of the United States.

Mr. Chairman, this legislation outlines the kinds of measures that are necessary to help American businesses do what they do best—compete and win.

I urge my collegues to strongly support the passage of this legislation.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 4329, the American Technology Preeminence Act.

Mr. Chairman, America's cold war victory has ended 50 years of superpower rivalry for military superiority. But our Nation now faces a new and perhaps more difficult struggle for economic leadership in an increasingly competitive global marketplace.

Last week, the Council on Competitiveness reported that last year, for the first time since World War II, Japan invested more than the United States in new factories and equipment.

In May, the Commerce Department released a report that warned "* * * if current trends continue, before the year 2000, the United States will lag behind Japan in most emerging technologies and will trail the EC in several of them."

Our ability to meet the new challenge of global economic competition is threatened by the lack of patient, low-cost capital for American high technology companies.

The cost of capital in the United States is up to three times more expensive than it is in Japan, where Japanese companies often borrow at interest rates of 5 percent or less. Right now, in my district along Route 128 in Massachusetts—one of the Nation's premier high technology breeding grounds—the credit crunch has severely hindered the ability of high technology companies to expand into new technologies.

Small companies and start-ups face not only high rates but a lack of available capital at any rate. Between 1987—the year of the stock market crash—and 1989, available venture capital funds fell 50 percent. In Massachusetts, eight banks recently turned down a fast-growing high technology company's application for a $400,000 loan.

Increasingly, American entrepreneurs have turned to foreign investors for capital infusions. Last year, for example, Apple Computer founder, Steve Jobs, sold a significant stake in his new company, Next, to a Japanese copy machine maker. Earlier this year, Genentech, a pioneering biotechnology firm, sold 60 percent of its shares to a Swiss pharmaceutical giant.

H.R. 4329 will not, in and of itself, solve America's cost of capital problem. But it will provide an immediate infusion of badly needed capital for ventures developing critical new technologies.

The $50 million authorized in the bill for this year for a broad range of emerging technologies is a modest sum when compared to the quarter of a billion the Japanese Government is spending this year on HDTV alone and the $400 million the European Community is spending this year on HDTB. All tolled, Japan's public and private sectors are investing more than a billion per year on HDTV while the United States is spending a mere $70 million.

Mr. Chairman, just a few short years ago, we stood in this Chamber and measured world power by throw weights and megatonnage. Today, we measure superpowers by market share and trade balances. Passage of the American Technology Preeminence Act is a critical first step in America's effort to compete in the new race for global leadership.

Mr. DICKS. Mr. Chairman, almost as quickly as the Berlin Wall began to crumble, many in the United States began developing plans on how to best utilize the expected peace dividend. Having had time however, to absorb the euphoric events of the past year and the exciting implications of these changes, we must now recognize that no peace dividend will ensue without a real and honest assessment of America's most basic needs.

One of America's most pressing challenges in this decade will be an improvement in U.S. competitiveness and the strengthening of our economic power. H.R. 4329 recognizes that America's technology base is fundamental to our continued economic growth and influence in an increasingly interdependent world. It is not enough to speak only of slashing the Federal budget without giving equal time and

thought to how remaining funds can be most effectively utilized.

The Advanced Technology Program funded by this legislation will promote the commercialization of new technologies by providing seed money to research consortia. The objective of the program is not to dictate spending in particular areas or to provide a competitive advantage to one firm over another, but to provide small companies with the opportunity to pursue research in areas which will have important, wide-ranging commercial applications in the future. The Advanced Technology Program recognizes the preeminent role that the development and marketing of high technologies will play in the United States and the world economy.

The United States has long recognized the importance of Government investments in basic research and development. In the context of national security we have given ample support to our national laboratories and agencies such as the Defense Advanced Research Projects Agency within the Department of Defense. The scope of national security has broadened considerably and is today, inextricably tied to American economic strength and influence.

Within this broader context of national security, Government support for basic research and development is necessary in order to ensure America's role as a vital player in world technological developments. As the act states, joint ventures are a particularly effective means of promoting cooperation and of pooling resources to create new technologies which will benefit the entire Nation.

One example of the wide ranging applications of technologies funded through this program is the development of virtual reality technology, which would allow the more than 17 million physically disabled people in the United States to make productive contributions to their communities. This program, being developed by the Human Interface Technology Laboratory at the University of Washington, is working on virtual reality technologies which would allow the handicapped to control computers with eye movements or by voice. Architects could tour buildings before they are actually built; surgeons could walk through their patients' bodies, viewing organs from different angles. Already, corporations from the Digital Equipment Corp. to the Boeing Co. have expressed serious interest in the potential commercialization of virtual reality technologies. The challenge now is to make this technology more accessible and less expensive. This legislation recognizes the wide ranging, beneficial impact cooperation between industry and government may have.

The retention of U.S. influence in a rapidly changing world will depend not only on our ability to project our military power abroad, but even more importantly, upon our ability to export our economic strength and manufacturing expertise. The United States must refrain from slipping into its comfortable habit of making short-term decisions at the expense of its long-term interests. Research supported by an advanced technology program today, will provide the United States with the seeds of growth and influence tomorrow.

Mr. STARK. Mr. Chairman, I stand in strong support of the American Technology Preeminence Act. We must regain our stature as a nation of enterprising genius designing the most advanced components and products. This is surely the blueprint for economic success in the international arena.

Public and private efforts together are needed to provide the proper environment for developing superior technology, which sadly, we now all too often import from our foreign competitors.

The Federal Government has much to offer in these efforts to boost our international competitiveness. Many Federal facilities do exist offering brilliant minds and the most technologically advanced laboratories. For years these laboratories have striven to surpass the weaponry and military capabilities of our adversaries. With the end of the cold war this mission has been accomplished and our Federal scientific establishment is now ready to take on new frontiers.

We must direct these laboratories toward the challenge of regaining our economic and technological preeminence. The Lawrence Livermore National Laboratory, with its expertise and high-technology laboratories, is an excellent example of a Federal facility that could help rebuild our standing in the scientific and technological fields addressed by the American Technology Preeminence Act.

I do hope facilities like Lawrence Livermore National Laboratory will be included in the projects this legislation will help develop.

Mr. KANJORSKI. Mr. Chairman, I rise today in strong support of H.R. 4329, the American Technology Preeminence Act.

H.R. 4329 came to my attention in my capacity of chairman of the Post Office and Civil Service Committee Subcommittee on Human Resources. Section 401 of this bill promotes the Director of the Office of Science and Technology Policy [OSTP] to the same pay level as cabinet officers. This provision comes under the jurisdiction of my subcommittee.

While reviewing the legislation, I was struck by how well H.R. 4329 begins to address issues that were raised in a report prepared by the Task Force on Emerging Technologies of the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance, and Urban Affairs, which I had the honor of chairing in the previous Congress.

Due to persistent national economic factors there is currently a shortage of private funds available to support industrial growth. The existence of both a large national deficit and an immense foreign debt has caused fiscal restraint, especially in the area of research and development [R&D]. Consequently, the United States has fallen behind its major competitors in the pursuit for innovation.

Prudent investment in the research, development, and commercialization of new products has the potential to ultimately balance both the Federal budget and our imports and exports. It will allow us to ensure that short-term financial constraints do not foreclose long-term opportunities.

As identified by the task force report National Science and Technology Policy, U.S. industry must increase its share of the R&D burden. Futhermore, the Federal Government should provide incentives to support such investment by the private sector.

Section 201 of H.R. 4329 authorizes funds and provides guidance for the Advanced Technology Programs [APT], which fosters private investment in conjunction with Federal R&D. The goal of the ATP, which was initially mandated in 1988, is to assist U.S. businesses in creating and applying the generic technology and research results necessary to commercialize significant new scientific discoveries and technologies quickly and to refine manufacturing techniques. The ATP promotes American consortiums in areas such as superconductivity, HDTV, and advanced manufacturing.

The ATP is only one facet of H.R. 4329. There are other provisions that further promote American investment in and application of advanced R&D in myriad fields. By passing this legislation, Congress will be taking action on what many of us have been saying for years: we must begin to promote R&D, and the dissemination and commercialization of its fruits, if we are to remain a world leader.

H.R. 4329 makes a sound investment in our future—not just the future of American technology, but also in the prospects for our country's economy and competitiveness. Thus I urge my colleagues to support H.R. 4329.

Mr. FRENZEL. Mr. Chairman, in addition to my problem with the funding levels in this bill, I strongly oppose the section of the bill which restricts participation in the Advanced Technology Program [ATP] to U.S. majority-owned companies unless the home country of the company provides similar access to the United States.

The administration has also opposed this section of the bill. It is both inconsistent with some of our bilateral investment agreements and would harm our efforts to obtain similar access for U.S. companies abroad, particularly now at the Uruguay round's investment negotiations. If this language cannot be amended at some point during the remainder of the legislative process, I would hope that the President will veto this bill.

In addition, while I can understand the focus behind the Bentley amendment, I still have some concerns about it. It has been greatly improved in the past 2 weeks from its initial version, but I still do not believe we should be in the business of restricting the sale of any patents which result from research conducted under the ATP to other than United States or Canadian-owned companies. Permitting licensing is an improvement, but even this stripped-down language will cause problems with our allies.

Mr. GEPHARDT. Mr. Chairman, a couple of weeks ago the House leadership announced its agenda for action on U.S. high-technology competitiveness. It is an agenda that the Democratic leadership and our committee chairs believe is necessary to improve our high-technology competitiveness and to strengthen our economy.

We announced this agenda because high technology will be the foundation of a growing economy that will provide jobs and new opportunities for American families.

Today, I rise to commend Chairman ROE and his committee for their work on this major legislative accomplishment on our agenda. H.R. 4329, the American Technology Preemi-

nence Act will provide the necessary foundation for U.S. commercial technology development.

This legislation proposes several aggressive programs to promote high technology, including the National Institute of Standards and Technology [NIST] and the Advanced Technology Program [ATP], a high resolution information systems development expanding science and math teacher training and education programs through the National Science Foundation [NSF], and standards. All of these programs are valuable to our nation's success in maintaining and strengthening its commercial technological edge.

Mr. Chairman, as we continue to move forward on establishing a viable technology policy for America through H.R. 4329 and other initiatives on our agenda for action. I'd like to recommend a dose of reality to my colleagues—this special issue of Business Week on "Innovation: The Global Race."

This magazine describes America and the rest of the world as "in the midst of an epic struggle, whose weapons are invention, innovation, and ingenuity."

Many of us in Congress recognize the value of invention, innovation and ingenuity to the jobs and the industries in our states. And, we realize that building on America's past technological accomplishments in these areas and on future high-technology efforts, will require a strong commitment by government, industry, and academia to education of our workers, commercial technology development, aggressive export promotion and much more.

Our view of the obvious importance of these items to our high-technology industrial base is not shared by the administration. The President has threatened to veto H.R. 4329 because of objections to some of the bill's strongest provisions. Again, he has drawn the ideological battle lines and rejected common sense in dealing with the challenges facing America's technological and industrial capabilities.

Without the burden of being blinded by rigid ideology, our trading partners have been able to lay out economic strategies to ensure long-term economic growth and security. This administration doesn't seem to recognize that their ideological myopia is costing us jobs.

As John Kenneth Galbraith said, "The imperatives of technology and organization, not the images of ideology, are what determine the shape of economic society." H.R. 4329, and its technological imperatives, not the President's strict adherence to outdated ideology, will contribute to shaping America's economic society for the future.

Mr. BUECHNER. Mr. Chairman, today, we address legislation which will prove critical for our industrial competitiveness for years to come. H.R. 4329, the American Technology Preeminence Act seeks to expedite the Development of American Industrial Technology by supporting a combination of Federal and Industrial Research and Development Initiatives. Of particular note is the advanced technology program, which will provide incentives to industries developing new technologies, and will encourage joint ventures among firms with the foresight to prepare for the competitive markets of the nineties. Those of us on the Science, Space, and Technology Committee are acutely aware of the growing competition American industry faces, and I applaud this bill as an excellent first step.

However, we will be remiss if we allow our efforts on behalf of our industrial community to end with this step. Through discussions with representatives of the Aerospace Industries Association, which represents major employers in my district, it has come to my attention that there is much more we can do. Like many other industries, the aerosapce industry is subject to erratic Federal procurement policies, restrictive trade policies, overlapping Federal jurisdictions, prohibitive amounts of red tape, and a multitude of other governmental obstacles. In fact, it could be argued that we are becoming our own worst enemy in the world market.

Accordingly, I am drafting legislation that would seek to facilitate the maintain American supremacy in this area. This initiative will include provisions which minimize barriers to exports resulting from outdated security policies. It would also streamline the Inter-Departmental Bureaucracy involved with obtaining export licenses, such that the Defense, State, and Commerce Departments do not have overlapping jurisdiction in the process. This provision would accelerate the licensing process so that valuable time is not lost as American firms compete for foreign business. Additionally, the bill would liberalize offset agreements whereby international trade is encouraged.

Mr. Chairman, I would like to reiterate my support for the Technology Preeminence Act of 1990 as a vital first step in ensuring our technological competitiveness, and I urge my colleagues to support my proposal and similar initiatives which will continue the process which we have begun today.

Mr. WALKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. 'Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 5072, is considered as an original bill for the purpose of amendment and each title is considered as having been read.

The Clerk will designate section 1.

Mr. ROE. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5072

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Technology Preeminence Act".

(b) TABLE OF CONTENTS.—

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1990".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that in order to help United States industries speed the development of new products and processes in order to maintain the economic competitiveness of the Nation, a strengthening of the programs and activities of the Department of Commerce's Technology Administration and

the National Institutes of Standards and Technology is necessary.

SEC. 103. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) FISCAL YEAR 1990.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary") for fiscal year 1990, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $41,666,000.

(B) Materials Science and Engineering, $23,157,000.

(C) Engineering Measurements and Standards, $39,300,000.

(D) Computer Science and Technology, $9,440,000.

(E) Research Support Activities, $17,859,000.

(F) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $26,000,000).

(G) Technology Services, $7,379,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized under subparagraph (C) of paragraph (1)—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $5,589,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $150,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1990.

(b) FISCAL YEAR 1991.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1991, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $50,769,000.

(B) Materials Science and Engineering, $27,295,000.

(C) Engineering Measurements and Standards, $54,947,000.

(D) Computer Science and Technology, $13,419,000.

(E) Research Support Activities, $23,047,000.

(F) Cold Neutron Source Facility, $6,545,000 (for a total authorization of $32,545,000).

(G) Technology Services, $7,636,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,223,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1991.

(c) FISCAL YEAR 1992.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $57,100,000.

(B) Materials Science and Engineering, including the Cold Neutron Source Facility, $36,200,000.

(C) Engineering Measurements and Standards, $61,100,000.

(D) Computer Science and Technology, $16,400,000.

(E) Research Support Activities, $30,000,000.

(F) Technology Services, $8,200,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $8,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (F) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1992.

SEC. 104. PILOT PROGRAM.

Of the amounts authorized under section 103 (a)(1), (b)(1), or (c)(1) and section 201(f), up to $250,000 in each of the fiscal years 1990, 1991, and 1992 may be used to pay the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

SEC. 105. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Office of the Under Secretary of Commerce for Technology—

(1) $3,470,000 for fiscal year 1990;

(2) $4,000,000 for fiscal year 1991; and

(3) $5,000,000 for fiscal year 1992.

SEC. 106. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary to carry out the Japanese Technical Literature Act of 1986 (Public Law 99-382)—

(1) $1,000,000 for fiscal year 1990;

(2) $1,000,000 for fiscal year 1991; and

(3) $1,500,000 for fiscal year 1992.

SEC. 107. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for modernization plans of the National Technical Information Service described in section 212(f)(3)(D) of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989—

(1) $500,000 for fiscal year 1991; and

(2) $1,500,000 for fiscal year 1992.

(b) OPERATING COSTS.—Operating costs of the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered through the collection of fees.

(c) REPORT AND CERTIFICATION TO CONGRESS.—No funds appropriated pursuant to subsection (a)(2) shall be obligated before the Secretary of Commerce submits a report to the Congress which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes a profit and loss analysis for each product, service, and market component; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

SEC. 108. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation—

(1) $1,000,000 for fiscal year 1991; and

(2) $1,000,000 for fiscal year 1992.

SEC. 109. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for fiscal years 1990, 1991, and 1992 such sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 110. CONSTRUCTION OF FACILITIES.

Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

SEC. 111. TECHNOLOGY TRANSFER PROGRAMS.

(a) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended by striking "and 1990" and inserting in lieu thereof "through 1992".

(b) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(1) in paragraph (4)—

(A) by striking "and"; and

(B) by inserting ", and 1992" after "1991"; and

(2) by striking paragraph (5).

SEC. 112. OFFICE OF TECHNOLOGY SERVICES.

Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary or Director may specify.".

SEC. 113. UNAUTHORIZED APPROPRIATIONS.

No funds appropriated for fiscal year 1991 or 1992 for activities of the National Institute of Standards and Technology shall be expended unless such activities have been specifically authorized by law.

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technology Research and Development Act of 1990".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) foreign companies have become more successful in new product development and product improvement using a variety of emerging technologies and have made the world market for high technology products increasingly competitive;

(D) since the mid-1960s, a large percentage of United States Government assistance in technology development has been funded through the Defense Department;

(E) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(F) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(G) materials research is transforming our physical world through breakthrough advances in ceramics, polymers, and composites, and other advances such as high temperature superconductivity may permit materials technologies to revolutionize such diverse industries as transportation, computing, and electrical transmission;

(H) United States overall leadership has diminished in the design, development, and manufacture of consumer electronic products and processes;

(I) high resolution information systems have the potential to revolutionize image transmission and by the 21st century to become the most significant consumer electronics product and have diverse applications, in areas such as semiconductors, flat screen displays, manufacturing, telecommunications, microprocessing, and software;

(J) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacture in fields such as advanced materials and high resolution information systems and related technologies; and

(K) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901, is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as advanced materials and high resolution information systems, and can help encourage United States industry to work together on problems of mutual concern.

(2) PURPOSES.—The purposes of this section are—

(A) to generally promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(B) to improve the competitive position of United States industry by supporting research and development by businesses and academic institutions into emerging technologies including high resolution information systems and advanced materials which have substantial potential to advance the economic well-being and national security of the United States;

(C) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation; and

(D) to reduce the marginal cost of capital by leveraging the funding of United States based, industry-led joint ventures for emerging technologies through the Advanced Technology Program at the Department of Commerce.

(c) EMERGING TECHNOLOGY PROGRAM.—Section 28 of the Act of March 3, 1901, is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "The Secre-

tary, acting through the Director, may provide assistance as necessary under this section to identify and solve generic technology and manufacturing problems in emerging technology fields including high resolution information systems and advanced materials research and development so as to speed commercialization of products and services based on these technologies, and to establish procedures for technology sharing and technology transfer among members of a joint venture while protecting against transfer of intellectual properties, trade secrets, or proprietary data overseas.";

(2) in subsection (b)(1)(B), by inserting "through grants, cooperative agreements, or contracts" after "such joint ventures";

(3) in subsection (b)(2), by inserting "provide grants to and" before "enter into contracts";

(4) by adding at the end of subsection (d)(1) the following new sentence: "In selecting among proposals of relatively equal merit, preference shall be given to proposals requiring the lowest percentage of Federal funds.";

(5) in subsection (d)(3), by striking "cooperative agreement" both places it appears and inserting in lieu thereof "award";

(6) by amending subsection (d)(7) to read as follows:

"(7) The Secretary, acting through the Director, shall negotiate an agreement with each recipient of assistance under this section. In the case of a recipient which is a joint venture, such agreement shall delineate the activities and responsibilities of each participant of the joint venture as required by this section. Each agreement with any recipient under this section shall specify a period of time during which the Federal Government shall receive payments from any profits of the recipient, with respect to any technology developed by the recipient and arising from assistance provided under this section, in proportion to the percentage of the Federal share of the total investment cost of the recipient. Each agreement shall also provide the recipient with the option of paying to the Secretary, in lieu of payments required pursuant to the previous sentence, an amount determined by the Secretary to be equal to the full Federal investment in the recipient plus a reasonable return on such investment calculated as of the time such option is exercised. Funds received by the Secretary pursuant to an agreement described in this paragraph shall, to the extent provided in appropriations Acts, be available for carrying out this section. In the case of an agreement with a recipient receiving an award in an amount greater than $500,000, each such agreement shall be delivered to the appropriate committees of Congress within 180 days after the selection of the recipient.";

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

"(f) Each joint venture receiving assistance under this section shall submit an annual report and operating plan to the Secretary, the appropriate committees of Congress, and the Comptroller General of the United States which—

"(1) describes, and modifies or proposes modifications to, as appropriate, the short- and long-term goals of the joint venture, and the allocation of resources to accomplish those goals;

"(2) describes the financial reporting and auditing procedures to be implemented by the members of the joint venture;

"(3) summarizes the technology accomplishments and applications of research results within the preceding year toward the short- and long-term goals described under paragraph (1);

"(4) summarizes the technology transfer agreements among members of the joint venture; and

"(5) summarizes the results of any audit of the joint venture conducted during the preceding year.";

(8) by adding at the end of subsection (d) the following new paragraphs:

"(10) A company shall be considered a United States business under this section and shall be eligible to participate in any joint venture receiving financial assistance from the Secretary only if—

"(A) the Secretary finds that the company's participation in the Program would be in the interests of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology, to procure parts and materials from competitive suppliers, and to support a United States and Canadian supplier infrastructure; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the company has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords local investment opportunities for United States-owned companies that are comparable to investment opportunities for foreign-owned companies in the United States; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(11) Grants, contracts, and cooperative agreements under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary significant and substantial experience in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.";

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

"(e) The Secretary may, 30 days after notice to the Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to honor the agreement described in subsection (d)(7) or to satisfy any of the criteria set forth in subsection (d)(10), and that it is in the national interest of the United States to do so."; and

(10) by inserting after subsection (f) the following new subsections:

"(g)(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(2) As appropriate, the Secretary shall coordinate Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

"(h) In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures requesting the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director may organize and seek advice from such industry advisory committees as they consider useful and appropriate.

"(i) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development activities by the Institute in support of the purposes of this section.

"(j) As used in this section—

"(1) the term 'high resolution information systems' means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound material;

"(2) the term 'advanced materials' means a field of research including study of composites, ceramics, metals, polymers, superconducting materials, and materials production processing technologies, including coated systems, that provide the potential for significant advantages over existing materials;

"(3) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(4) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(5) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) COMPREHENSIVE REPORT.—The Secretary of Commerce shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the emerging technology program established under section 28 of the Act of March 3, 1901, including an evaluation of the general applicability of any high resolution information systems or advanced materials research and development program results to other advanced technologies.

(e) FEDERAL REGISTER NOTICE.—The Secretary of Commerce shall, within 120 days after the date of appropriation of funds pursuant to subsection (f) of this section, publish notice in the Federal Register stating that the Department of Commerce is prepared to accept applications for assistance under section 28 of the Act of March 3, 1901, as amended by this section. Such notice shall include a description of eligibility requirements for assistance under such section 28, and maximum assistance levels expected to be available for such assistance.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for carrying out section 28 of the Act of March 3, 1901, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, and $250,000,000 for fiscal year 1992.

TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)) is amended—

(1) in subparagraph (A), by striking "a fiscal year referred to in subparagraph (B)(ii)" and inserting in lieu thereof "any fiscal year"; and

(2) by amending subparagraph (B) to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out his responsibilities under this Act.".

TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 401. DIRECTOR.

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by inserting at the end the following:

"Director of the Office of Science and Technology Policy.".

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the following:

"Director of the Office of Science and Technology.".

(c) AVAILABILITY OF FUNDS.—Increased compensation to which the Director of the Office of Science and Technology Policy is entitled as a result of the amendments made by this section shall be subject to the availability of appropriations.

(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1990.

SEC. 402. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The Director of the Office of Science and Technology Policy shall monitor and report annually to the Congress, on all major science and technology proposals involving more than one country and having a total estimated cost greater than $1,000,000,000.

SEC. 403. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'National High Performance Computer Technology Program Act of 1990'.

"SEC. 702. FINDINGS.

"Congress finds and declares the following:

"(1) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high performance computer technology. In particular, the Federal Government should support the development of a high capacity, national research and education network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research; and provide for the training of computer scientists and computational scientists.

"(2) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

"(3) A report, 'The Federal High Performance Computing Program,' by the Office of Science and Technology Policy, dated September 8, 1989, outlining a research and development strategy for high performance computing, provides a framework for a multiagency computer technology program.

"SEC. 703. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PLAN.

"(a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall develop a National High Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with this title and consistent with the framework established in the report referred to in section 702(3). The Plan shall contain recommendations for a five-year national effort, to be submitted to Congress within one year after the date of enactment of this title.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high performance computer technology program for the fiscal year in which the Plan is submitted and the succeeding four fiscal years;

"(B) describe the levels of Federal funding and specific activities of each Federal agency and department required to implement the Plan, including educational activities, research activities, hardware development, software development, and acquisition and operating expenses for computers and computer networks; and

"(C) consider and use, as appropriate, the views of the advisory board described in subsection (b)(4), as well as reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) The National Science Foundation.

"(B) The Department of Commerce, particularly the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration.

"(C) The National Aeronautics and Space Administration.

"(D) The Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency.

"(E) The Department of Energy.

"(F) The Department of Health and Human Services, particularly the National Institutes of Health.

"(G) Such other executive branch agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4)(A) The Plan shall include the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network.

"(B) The National Research and Education Network established under this paragraph shall—

"(i) link government, industry, and the higher education community;

"(ii) provide computer users with access to supercomputers, computer data bases, and other research facilities;

"(iii) be developed in close cooperation with the computer and telecommunications industries;

"(iv) be designed and developed with the advice of potential users in government, industry, and the higher education community;

"(v) be established in a manner which fosters and maintains competition in high speed data networking within the telecommunications industry;

"(vi) have accounting mechanisms which allow users or groups of users to be charged for their usage of the network, where appropriate; and

"(vii) be phased out when commercial networks can meet the networking needs of American researchers.

"(C) The Plan shall define the organization arrangement to be used for managing the operation of the National Research and Education Network.

"(5) The Plan shall facilitate collaboration among agencies and departments with respect to—

"(A) ensuring interoperability among computer networks run by the agencies and departments;

"(B) increasing software productivity, capability, and reliability;

"(C) promoting interoperability of software;

"(D) distributing software among the agencies and departments; and

"(E) distributing federally funded, unclassified software to industry and universities.

"(b) The Council shall—

"(1) develop the Plan;

"(2) coordinate the high performance computing research and development activities of Federal agencies and departments; and

"(3) establish an advisory board, which shall include representatives from universities and industry who are involved in research and development activities in high performance computing.

The function of the advisory board shall be to provide the Council with an independent assessment of the balance among components of the Plan and the effectiveness of the Plan in maintaining American leadership in computing and networking.

"(c) Each Federal agency and department involved in high performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high performance computing activities.

"SEC. 704. REPORT.

"The Chairman of the Council shall prepare and submit to the President and Congress, not later than March 1 of the year following the year in which this section is enacted, a report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high performance computing research and development efforts during that preceding fiscal year;

"(2) a copy or summary of the Plan; and

"(3) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 404. PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in creating technology that is vital to our future economic growth;

(2) United States industry's ability to commercialize innovations in advanced technology is diminishing relative to other countries, and many innovations first made in the United States are marketed by foreign companies;

(3) satisfactory rates of savings and of investment in new plant and equipment are not now occurring;

(4) relatively high interest rates make it difficult for corporate managers to plan long-term strategies and still satisfy the desires of investors; and

(5) the Internal Revenue Code of 1986 should be reviewed to identify ways to reduce capital costs and accelerate the development and utilization of emerging technologies.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by section 403 of this Act, is further amended by adding at the end the following:

"TITLE VIII—PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. PRESIDENTIAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a Presidential Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 13 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisors shall serve as members of the Commission.

"(3)(A) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint as members of the Commission three members, from among individuals not employed by the Federal Government, who are eminent in advanced technology.

"(B) The President, acting through the Secretary of the Treasury, shall appoint as members of the Commission three members, a majority of whom shall be appointed from among individuals not employed by the Federal Government, who have special expertise in matters relevant to the Commission.

"(C) The President, acting through the Secretary of Commerce, shall appoint as members of the Commission two members, from among individuals not employed by the Federal Government, representing manufacturing and services industries and international economic development.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the research and experimentation tax credit be permanently extended and raised to 25 percent, and the research and development costs allocation rules for deduction of expenses from foreign income be revised so as to not discourage the performance of research and development activities in the United States and not penalize companies exporting United States made products or providing services through United States citizens stationed abroad.

SEC. 405. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in inventing technology that is vital to our future economic growth, but the mass market for inventions made in the United States is often lost to overseas companies;

(2) corporate managers are not able to plan long-term strategies and still satisfy the desires of investors;

(3) the United States ability to commercialize innovations in emerging technology is diminishing relative to other countries, because United States industry is less likely than overseas competitors to market the highest quality and most advanced version of existing technologies;

(4) the Federal Government is the largest purchaser in the world of many products incorporating advanced technology;

(5) Federal Government procurement based on product specifications rewards certainty rather than innovation and is not able to take advantage of the latest technical advances; and

(6) an updated Federal Government procurement system based on performance specifications holds the promise of allowing United States companies to improve products and be more competitive in world commercial markets.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and

Priorities Act of 1976, as amended by sections 403 and 404 of this Act, is further amended by adding at the end the following:

"TITLE IX—RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY

"SEC. 901. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

"(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a Commission on Procurement and Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations for changes to Federal Government procurement laws, procedures, and policies with respect to the development of advanced technologies.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

"(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

"(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

"(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Balridge National Quality Award?

"(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

"(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the National Institute of Standards and Technology in such an effort?

"(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

"(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 14 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, as such term is defined in section 5311(b)(2) of title 5, United States Code, shall serve as members of the Commission.

"(3) The Director of the Office of Science and Technology Policy shall appoint as members of the Commission—

"(A) four members, from among individuals not employed by the Federal Government, who are eminent in advanced technology businesses representing manufacturing and services industries;

"(B) three members, from among individuals not employed by the Federal Government, who are eminent in the fields of technology and international economic development; and

"(C) three members eminent in the field of Federal Government procurement.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—(1) The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

"(2) The Commission shall, within two years after the date of enactment of this section, submit to the President and the Congress a final report containing final recommendations with respect to the issues addressed under subsection (b). Such final report shall be a blueprint for Federal Government procurement reform, and shall include specific legislative and administrative changes needed to enable Federal Government procurement activities to take full advantage of emerging technologies.

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Presidential Commission on Reducing Capital Costs for Emerging Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991, 1992, and 1993.".

TITLE V—INFORMATION COLLECTION AND DISSEMINATION

SEC. 501. INFORMATION COLLECTION AND DISSEMINATION.

Within 270 days after the date of enactment of this Act, the Secretary of Commerce shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the National Institute of Standards and Technology, and with representatives of the public, for their views on optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for the establishment and operation of FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

SEC. 502. ELECTRONIC FORMAT.

Section 212(e)(5) of the National Technical Information Act of 1988 is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS

SEC. 601. FINDINGS.

The Congress finds that—

(1) in order for United States-incorporated companies to compete successfully in high resolution information systems markets, the traditional relationship between Government and industry must be adjusted to accommodate modern global economic competition;

(2) joint ventures will be a cornerstone of a comprehensive strategy to build a strong United States base in high resolution information systems; and

(3) an organization is required to ensure that such strategy is integrated into a comprehensive effort to establish a high resolution information systems industry in the United States.

SEC. 602. DEFINITIONS.

As used in this title—

(1) the term "high resolution information systems" includes high definition television and related advanced electronics products and components; and

(2) the term "joint venture" has the meaning given such term in section 28(j)(3) of the Act of March 3, 1901.

SEC. 603. HIGH RESOLUTION INFORMATION SYSTEMS BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High Resolution Information Systems Board (hereafter in this section referred to as the "Board") to foster and monitor the development of United States based high resolution information systems industries.

(b) FUNCTIONS.—The Board shall—

(1) provide guidance for the cooperation of Government and industry as necessary to establish United States based high resolution information systems industries;

(2) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies into commercial products;

(3) develop a high resolution information systems plan to guide the activities of relevant executive branch Federal agencies;

(4) establish guidelines to ensure that industry participation in any joint Government/industry high resolution information systems initiatives strengthens the capability in the United States to manufacture

high resolution information systems equipment and materials;

(5) monitor high resolution information systems industries and promptly alert appropriate Federal agencies of any unfair pricing of foreign high resolution information systems goods;

(6) make recommendations to Federal agencies and the Congress to ensure that the procurement by the United States of advanced electronics products as a general rule aids the development in the United States of advanced electronics capabilities; and

(7) establish a mechanism to coordinate Federal Government procurement of high resolution information systems technology in order to (A) secure lower unit costs by mass purchase offers, and (B) provide high resolution information systems manufacturers an initial market to induce investment in research and development.

(c) MEMBERSHIP AND PROCEDURES.—(1) The Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(2) The Director of the Office of Science and Technology Policy shall, within 90 days after the date of enactment of this Act, appoint, from among individuals with knowledge of the advanced electronics industry, as members of the Board—

(A) nine members from the private manufacturing sector, with at least one representative each from the semiconductor, production equipment, computer display, computer, consumer electronics, and telecommunications industries;

(B) seven members from the private nonmanufacturing sector, including—

(i) four from the transmission delivery systems sector, one each from the terrestrial broadcasters, cable, fiber, and satellite industries; and

(ii) one each from the software industry, the entertainment industry, and the investment community;

(C) one member representing labor; and

(D) one member representing academia.

At least one member appointed under this paragraph shall be from small business.

(3) The Director of the Office of Science and Technology Policy or his designee shall be chairman of the Board.

(4) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(5) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(6) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(7) The Board shall submit to the President and the Congress a report of its activities once every year after its establishment.

TITLE VII—REPORTS

SEC. 701. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redsignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 702. REPORT ON ADVANCED MANUFACTURING AND QUALITY.

Within one year after the date of enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the feasibility and advisability of establishing, in affiliation with the National Institute of Standards and Technology, a Quality Institute and a privately-funded foundation to support that Quality Institute. As part of such report, the Secretary of Commerce shall consider the feasibility and advisability of such Institute—

(1) conducting workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing and service organization, quality, and productivity, including team-oriented organizational approaches to managing production and service technology and corporate research and development;

(2) helping develop and disseminate model curricula in quality which might be used by educational institutions to provide training to students and manufacturing and service company employees; and

(3) carrying out such other purposes as the Secretary of Commerce may recommend.

SEC. 703. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 704. STANDARDS METHODOLOGY.

(a) DEVELOPMENT.—The Director of the National Science Foundation shall enter into a contract with the International Institute for Applied Systems Analysis for the development of a methodology or approach that can be used in the establishment of international product standards.

(b) REPORT.—The Director of the National Science Foundation shall report to the Congress and the President on the results of the contract entered into under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized for fiscal year 1991 under the National Science Foundation Authorization Act of 1988 (Public Law 100-570), $500,000 are authorized to be used to carry out this section.

SEC. 705. INTERGOVERNMENTAL COORDINATION.

The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high resolution information systems including research and development activities.

AMENDMENTS OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ROE: Page 39, line 25, insert "and" after "are not now occurring;".

Page 40, line 3, strike "; and" and insert in lieu thereof a period.

Page 40, lines 4 through 7, strike paragraph (5).

Page 44, lines 3 through 11, strike subsection (c).

Mr. ROE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. WALKER. Mr. Chairman, reserving the right to object—I do not think I will object, but I want to make certain—is the amendment striking the language that, as I understand it, the Committee on Ways and Means objects to?

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

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] is correct. This is the amendment that would strike the language that would be out of our jurisdiction and under the jurisdiction of the Committee on Ways and Means.

Mr. WALKER. Mr. Chairman, reclaiming my time, I regard this as something more than a technical amendment, but I will not object to the amendments being considered en bloc, and I withdraw my reservation of objection.

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

There was no objection.

□ 1350

Mr. ROE. Mr. Chairman, these amendments are technical, in my opin-

ion, in nature and were requested by the Ways and Means Committee after a review of the provision in our bill that expresses congressional findings which substantiate the need for a Presidential commission on reducing capital costs for emerging technology, which is also established by section 404.

One finding relating to the review of the Internal Revenue Code of 1986 is deleted and punctuation is conformed accordingly.

Second, a paragraph expressing a sense of the Congress relating to the permanent extension of the research and experimentation tax credit is deleted. Clearly this is, in our judgment, the prerogative of the Ways and Means Committee, Mr. Chairman, and we do not intend to provide guidelines in this bill prior to their actions.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I rise in opposition to this amendment. I understand why the chairman is doing this at the request of the Ways and Means Committee, but I must say at the outset, the Ways and Means Committee never contacted this Member as the Republican leader of the committee indicating that they wanted this change.

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

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I am not sure whether they contacted the gentleman from Pennsylvania, but I know that my staff was in in deep discussions with members of the gentleman's staff on this very same issue for a long period of time.

Mr. WALKER. I understand that. But my objection comes from the fact that we are amending our bill at the request of another committee, and I think doing damage to something that some of us feel fairly strongly about.

One of the things that we heard over and over again from the witnesses that appeared at our hearings was that we needed to have a permanent research and development tax credit. They made it quite clear that they thought that was something that was in the best interest of this country.

We understood the sensitivities of the Ways and Means Committee, that we could not include that in our legislation. On the other hand, what we did think was that we could put in a sense-of-the-Congress statement that this was the right thing to do. After all, our hearings produced a very clear record that this is something that is good for the entire country.

The Congress itself, this House, has gone on record on several occasions saying precisely that. In fact, the Ways and Means Committee is on record as saying precisely that. I think it contributes to the legislation for us to say very clearly in the bill that a permanent extension of the R&D tax credit is a good thing. If we strike this language from the bill, we are striking out the language which references that provision, so that Members ought to know that if they vote for this amendment they are voting in favor of striking a previously held congressional position in favor of a permanent extension of the research and development tax credit. I think that would be a very wrong signal to send. I think it flies in the face of our hearings. I think it flies in the face of what Congress has said in the past, and I think it flies in the face of what even the Ways and Means Committee said in the past.

So I would urge Members on this amendment to vote against it, and to say in this legislation where we are attempting to move forward an advanced technology program that we do believe that a permanent extension of the R&D tax credit is in the best interests of the country, is in the best interests of advanced technology, and would, in fact, improve the situation for our companies and our industry to compete worldwide.

I see no reason why we have to strike this particular provision. It does not interfere with the jurisdiction of the Ways and Means Committee at all.

Mr. ROE. If the gentleman will yield, it does interfere with the jurisdiction of the Ways and Means Committee or we would not be removing it. It is the assumption of the gentleman that we are removing it for some other reason?

Mr. WALKER. I can understand the gentleman's point, but all we are stating is a sense of Congress. We are not forcing them to do anything. We are simply saying it is the sense of the House, as we already said in the past, it is the sense of the House. We are not saying anything new from what we have said before. We are saying nothing new from what the committee did.

If there is a problem with regard to language in there about raising it to 25 percent, if that is what the real objection is, that is a policy change that would be recommended as a sense of Congress, and I am willing to strike that language. In fact, I have a substitute that would strike that language. If the chairman is willing to go along with just striking out the 25 percent as a substitute here, that is fine. But when we strike all of the language, we are really striking out a previously held congressional position that we ought to have a permanent extension of the research and development credit, and I think that that is a bad approach.

I would urge the Members not to vote for this amendment and to not vote in favor of doing away with a permanent extension of the research and development tax credit.

Mr. ROE. Mr. Chairman, I have no further comments to make. This is a jurisdictional matter and the committee has decided on this direction.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. ROE].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 6, noes 4.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 215]

Ackerman	Cooper	Gordon
Alexander	Costello	Goss
Anderson	Coughlin	Gradison
Andrews	Courter	Grandy
Annunzio	Cox	Grant
Anthony	Coyne	Green
Applegate	Craig	Guarini
Archer	Crane	Gunderson
Armey	Dannemeyer	Hall (OH)
Aspin	Darden	Hamilton
Atkins	Davis	Hammerschmidt
AuCoin	de la Garza	Hancock
Baker	DeFazio	Hansen
Ballenger	DeLay	Harris
Barnard	Dellums	Hastert
Bartlett	Derrick	Hatcher
Barton	DeWine	Hawkins
Bateman	Dickinson	Hayes (IL)
Bates	Dicks	Hayes (LA)
Beilenson	Dingell	Hefley
Bennett	Dixon	Hefner
Bentley	Donnelly	Henry
Bereuter	Dorgan (ND)	Herger
Berman	Dornan (CA)	Hertel
Bevill	Douglas	Hiler
Bilbray	Downey	Hoagland
Bilirakis	Dreier	Hochbrueckner
Billey	Duncan	Holloway
Boehlert	Durbin	Hopkins
Boggs	Dwyer	Horton
Bonior	Dymally	Houghton
Borski	Dyson	Hoyer
Bosco	Early	Hubbard
Boucher	Eckart	Huckaby
Boxer	Edwards (CA)	Hughes
Brennan	Edwards (OK)	Hunter
Brooks	Emerson	Hutto
Broomfield	Engel	Hyde
Browder	English	Inhofe
Brown (CA)	Erdreich	Ireland
Brown (CO)	Espy	Jacobs
Bruce	Evans	James
Bryant	Fascell	Jenkins
Buechner	Fawell	Johnson (CT)
Bunning	Fazio	Johnson (SD)
Burton	Feighan	Johnston
Bustamante	Fields	Jones (GA)
Byron	Fish	Jones (NC)
Campbell (CA)	Flake	Jontz
Campbell (CO)	Flippo	Kanjorski
Cardin	Foglietta	Kaptur
Carper	Ford (MI)	Kasich
Carr	Frenzel	Kastenmeier
Chandler	Gallegly	Kennedy
Chapman	Gallo	Kennelly
Clarke	Gaydos	Kildee
Clay	Gejdenson	Kleczka
Clement	Gekas	Kolbe
Clinger	Gephardt	Kolter
Coble	Geren	Kostmayer
Coleman (MO)	Gibbons	Kyl
Coleman (TX)	Gillmor	LaFalce
Collins	Gilman	Lagomarsino
Combest	Gingrich	Lancaster
Condit	Glickman	Lantos
Conte	Gonzalez	Laughlin
Conyers	Goodling	Leach (IA)

Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1418

The CHAIRMAN. Four hundred seventeen Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1420

PARLIAMENTARY INQUIRIES

Mr. ROE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROE. Mr. Chairman, the parliamentary inquiry I would like to make is this: Is it the Chair's understanding that the next vote will be cast on the committee's amendments that are technical in nature? Is that what the next vote will appear on? As I understand it, this was worked out with the Ways and Means Committee, and the committee's position is aye on this vote.

The CHAIRMAN. The Chair cannot characterize the amendments that are offered in Committee of the Whole by the gentleman.

Mr. ROE. I thank the distinguished Chair.

Mr. WALKER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, is it further understood that the nature of the amendment is to strike language regarding the R&D tax credit in the bill?

The CHAIRMAN. As previously stated, the Chair will not characterize the amendments.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 160, not voting 8, as follows:

[Roll No. 216]

AYES—264

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Crane
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gaydos
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Parris
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Richardson
Rinaldo
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—160

Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Coughlin
Cox
Craig
Dannemeyer
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Gallegly
Gallo
Gejdenson
Gekas
Gillmor
Gilman
Gingrich
Goodling
Goss
Grandy
Grant
Green
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Myers
Nielson
Obey
Oxley
Packard
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland (CT)
Saiki
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Tauke
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—8

Chapman	Gray	Lukens, Donald
Crockett	Hall (TX)	Nelson
Ford (TN)	Leath (TX)	

□ 1437

Mr. HAMMERSCHMIDT changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ROE: Page 2, in the table of contents, in the item relating to section 404, strike "Presidential" and insert in lieu thereof "National".

Page 39, line 14, strike "PRESIDENTIAL" and insert in lieu thereof "NATIONAL".

Page 40, line 12, through page 44, line 2, amend the quoted title VIII to read as follows:

"TITLE VIII—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 20 members, 11 of whom shall constitute a quorum.

"(2) The Vice President, the Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers shall serve as members of the Commission.

"(3)(A) The President pro tempore of the Senate—

"(i) on the recommendation of the majority leader of the Senate, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the Senate, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(B) The Speaker of the House of Representatives—

"(i) on the recommendation of the majority leader of the House of Representatives, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the House of Representatives, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(C) Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner by which the original appointment was made.

"(4) The Vice President shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) Recommendations of the Commission shall require the approval of two-thirds of the members of the Commission.

"(7) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(8) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

Page 50, line 11, strike "Presidential" and insert in lieu thereof "National".

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

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

There was no objection.

Mr. ROE. Mr. Chairman, I offer this revised language for section 404, which is the National Commission on Reducing Capital Costs for Emergency Technology, as an attempt to address the concern, both by the honorable gentleman from Pennsylvania [Mr. WALKER], the ranking member of the Committee on Science, Space, and Technology, and also of our distinguished Speaker, the gentleman from Washington [Mr. FOLEY].

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

Mr. ROE. I yield to the distinguished gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, did the gentleman from New Jersey [Mr. ROE] mention that he was offering the amendment on my behalf?

Mr. ROE. Oh, no, no, no, no.

□ 1440

Mr. WALKER. Mr. Speaker, then what did the gentleman say?

Mr. ROE. I am speaking of the concern, of our mutual concern; if the gentleman would like me to drop in his name, I would be glad to.

Mr. WALKER. No, no. I was just trying to understand.

Mr. ROE. I would never, never in a hundred years say that I would offer an amendment on behalf of the gentleman from Pennsylvania.

Mr. WALKER. I just wanted to say that I oppose the amendment.

Mr. ROE. Mr. Chairman, there may be no more important obstacle to American ideas becoming American high-technology products that the pernicious effect of the high costs of money for American companies. Even before this year's tightening of capital, American companies were paying 50- to 150-percent premiums over their Japanese and German competitors for the capital they need to do research and development, to build a new factory, or to buy new production equipment. We've heard a great deal said about how the Japanese think in terms of years when perfecting products while Americans think fiscal quarter to quarter. The reason becomes obvious when one learns that research and development capital, if available in the United States costs over 20 percent compared to 8.7 percent in Japan or 14.8 percent in Germany.

Such differences are not accidental. They are the result of carefully thought-out national policy. We must examine the situation and then enact appropriate fiscal policies if the United States is to remain a technologically sophisticated nation.

Bringing down the cost of capital in the United States for emerging technologies will require creative thinking and bipartisan good will. The problem is important enough to require the efforts of the best economic minds in

the country—Republican and Democrat—to formulate bipartisan recommendations and then a bipartisan commitment to implement the recommendations.

Therefore, I am proposing an amendment to revise the Capital Cost Commission membership to include 20 members and be comprised of an equal number of appointees by both Democrats and Republicans, working under the leadership of the Vice President of the United States. This expanded membership to 20 members with an equal number appointed by Democrats and Republicans—six high ranking administration officials, Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers, plus four technical experts appointed by congressional Republicans and 10 by congressional Democrats.

Make the Vice President of the United States the chair of the Commission.

Require a majority present for a quorum and two-thirds of the membership voting for a recommendation.

The amendment makes the Commission a bipartisan approach to solving high technology industry's most preplexing problem—getting investment capital at a reasonable cost. The two-thirds requirement for a recommendation assures that all recommendations will be bipartisan.

There are many examples of commissions that have involved appointees both from the executive branch and administrative branch. These include the National Commission on Social Security, the U.S. Commission on Improving the Effectiveness of the United Nations, the National Clean Water Study Commission, the Federal Council on the Aging, the Competitiveness Policy Council, and the National Transportation Policy Study Commission.

I urge my colleagues to accept this bipartisan approach to a most important problem.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I pointed out in my opening remarks, when this bill emerged from the committee, it emerged in a bipartisan nature. It was jointly written by Members of the majority and the minority. I thought we had done pretty good work. I had some differences with sections that we will address later, but I thought that it was for the most part a good bipartisan product that we could be proud of and would address a very serious concern for the country.

It included as a part of that bipartisan work a Capital Cost Commission. The idea was that you were going to have 13 Members of this Commission appointed by the President to take a look at the problem that the chairman just outlined. We do have a problem with capital costs.

Now, the fact is there are already some people working on that. I have a letter here from the Department of the Treasury that just came up to me today that indicates something that I did not know and I do not think we have heard in our hearings, and that is that the administration has already completed an interagency study on the cost of capital facing U.S. businesses which is expected to be reviewed by the Cabinet in the next few weeks.

So part of this work has already been done and that is something that I was unaware of and I think the committee was unaware of; but be that as it may, we thought it was something that needed to be addressed and we came up with a commission.

Somehow, after it left our committee, and I think it was about the time this whole thing got in the hands of the Democratic leadership, we began to have complaints about the Commission that was endorsed by both sides of the aisle when the committee completed its work, and all of a sudden we began to have machinations that we had to change the makeup of the Commission and it somehow had to be a commission that included congressional and Presidential representation.

I personally do not have a problem with that. That is fine. Let us have both parties represented.

The gentleman from New Jersey has just told the House of a number of commissions that have been formed in that vein. What the gentleman did not mention, though, is that those commissions when they have been formed of that type have been balanced between the legislative and executive branches because that is the way in which the Constitution sets up these commissions.

Well, in this particular instance, we do not have a balanced Commission.

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

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I know the distinguished gentleman from Pennsylvania because of his integrity and his ability would not want to say something that was not accurate. Unless I misunderstood the gentleman, I think the gentleman said there was no other commission the gentleman was aware of that was made up in the nature of which we are suggesting of different legislative branches.

Mr. WALKER. It is my understanding that the commissions we have had in the past have had an equal balance of administration and congressional appointees, some of them have sometimes come from outside and been appointed by the executive branch from the outside, but for the most part they have been balanced.

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

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Well, I am certainly saying, Mr. Chairman, that there is a whole plethora of different commissions that are not balanced in that nature at all. For example, the President appointed five of the nine on the National Commission on Social Security. The Senate had final say on the President's nominees for advice and consent in the process. They were not balanced.

The litany goes on:

National Commission on Children (Public Law 100-203):
President—12.
House—12 (Speaker).
Senate—12 (President Pro Tempore).
Bipartisan Commission on Comprehensive Health Care (Public Law 100-360):
President—3.
House—6 (Speaker).
Senate—6 (President Pro Tempore).
National Commission on AIDS (Public Law 100-607):
President—5.
House—5 (Bipartisan leadership).
Senate—5 (Bipartisan leadership).
Commission on Education of the Deaf (Public Law 99-371):
President—3.
House—4 (Bipartisan leadership).
Senate—4 (Bipartisan leadership).
Comptroller General—1.
National Economic Commission (Public Law 100-203):
President—4.
House—5 (Split 3-2).
Senate—5 (Split 3-2).

Mr. Chairman, I know where the gentleman is coming from, but I think it is important to point these things out.

Mr. WALKER. In some cases, though, what we had was outside people who were appointed by both sides, and we ended up with relative balance between congressional participants and administration participants.

Mr. ROE. But it is not balanced that way.

Mr. WALKER. But in this case——

Mr. ROE. Well, Mr. Chairman, I think the gentleman is not correct.

Mr. WALKER. Well, I would simply say to the gentleman, in this case what they were doing, all the outside participants are appointed by the Congress and all the congressional participants are appointed by the Congress.

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

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, I will ask unanimous consent that I would be able to place in the RECORD the list of those commissions that are appointed on the basis of which we have been talking about that are not necessarily balanced in the way the gentleman is talking about. There are a whole lot of

them. I think the Members ought to know about them.

Mr. WALKER. Well, Mr. Chairman, the gentleman can certainly do that on his own time.

I want to make my point, and that is that the gentleman is not correct, I think, in terms of the constitutional obligation here.

I have a letter from the Department of the Treasury that is certainly familiar with all those things, too. The Department of the Treasury says very definitely in here:

Finally, we urge the Congress to consider the potential constitutional questions that this amendment raises. The Commission to be established by the proposed amendment would not clearly be a part of the Legislative, Judicial or Executive Branch of the government. Such a hybrid Commission, even though merely advisory, would be inconsistent with the tripartite system of government established by the Constitution.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, this is a commission that has at least some problems with regard to that balance.

The point is that the gentleman from New Jersey made very clear what the intent is here. The intent of this Commission is not to work in the sense of blending executive and legislative concerns. The intent here is to balance the thing partisanly. The attempt is to come up with 10 Repubicans and 10 Democrats, supposedly.

Mr. ROE. Mr. Chairman, if the gentleman will yield, that is not the intent of the amendment at all.

Mr. WALKER. Well, if the gentleman will allow me to reclaim my time, the gentleman said that in his remarks.

Mr. ROE. I did not say that in my remarks at all.

Mr. WALKER. The gentleman said there would be 10 Democrats and 10 Republicans.

Mr. ROE. Yes, but if the gentleman had read the rest of the amendment, the gentleman would read that those people would be recommending other private citizens to be appointed.

□ 1450

Mr. WALKER. The gentleman made very clear that is what the whole intent of this is. You know, I do not think we need to kid people. It has been a part of the discussion behind the scenes; what we wanted to do is come up with a commission that had partisan balance to it, and I cannot imagine anybody would disagree with that. That has been the whole basis of the discussions behind the scenes that it had to be partisanly balanced by the time it finished.

I am suggesting that we ought not be attempting to attain partisan balance here, that what we ought to be doing is trying to find a way to make this Commission work and to make it work in terms of the executive branch and the legislative branch having equal input to make certain that both branches of government find ways of accommodating the need to address the capital costs question to this country.

I am a little bit chagrined, to tell you the truth, that we have come up with a commission that has as its first priority partisan balance rather than effectiveness, and I am just saying that I am going to oppose something which was designed in that manner.

If we look at the congressional appointees on this as the Commission is now structured, we find out of the 14 people to be appointed, 10 come from the majority and 4 come from the minority. That does not even reflect a partisan balance in the House; there is a 10-to-4 ratio in terms of congressional representation here.

What the gentleman is saying is, well, all the people from the administration will be Republicans and so, therefore, we have to have this supermajority coming out of Congress. Is that fair? I thought we were a coequal branch of government. I thought we ought to operate independently here; we ought to at least be given our just due on that.

This is stacked even more than the Committee on Rules is stacked in this particular instance.

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

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, the gentleman knows that is incorrect; the gentleman knows that statement is incorrect.

If he looked at the balance of the 20 Members, we have from the administration, the Secretary, OSTP, Commerce, Treasury, OMB, CEA, and the Vice President as a voting member.

Mr. WALKER. Reclaiming my time, I made that point.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, if the gentleman will allow me to reclaim my time, I made that point; I said he was counting all six people from the administration as being Republicans, and then what he is saying is that in terms of this coequal branch of government that we ought to stack it inordinately in favor of the Democrats here.

Mr. ROE. If the gentleman will yield further, how are we stacking it? How are we stacking it? Are not the members of the Cabinet and the Vice President, and I do not care whether they are Republicans, are they Republicans, or are they not? What has that got to do with it?

Mr. WALKER. Why then in this bill when it comes to this coequal branch of government that I serve in under the Constitution as a coequal branch, why is it that there is a 10-to-4 ratio that disadvantages the Republicans? Why did the gentleman come up with 10 to 4? Why should it not be balanced the way the House of Representatives is balanced and the way the Senate is balanced?

Mr. ROE. There are as many Republicans as there are Democrats. It is totally balanced.

Mr. WALKER. No; no. In terms of the congressional representation, 14 people here, and the gentleman has balanced it 10 to 4 in favor of Democrats. We are a coequal branch of government. We ought to be given the opportunity to have our just due there, and we ought to consider the administration people separately.

Mr. ROE. The gentleman is not part of the administration then?

Mr. WALKER. No. I am not a part of the administration.

Mr. ROE. I just asked. I do not know.

Mr. WALKER. I say to the gentleman that is where we have a real disagreement, and where this Commission makes no sense at all. I was elected by the people of the 16th Congressional District of Pennsylvania to come here and serve in the U.S. Congress as a coequal branch of government. I am not here as an administration representative. I do not do the administration's bidding. I did not do the administration's bidding on this bill. I do not think that is the proper role of this Commission or of the U.S. Congress.

I think when these commissions are put together that we ought to have the ability as a Congress to be treated with respect on our side of the aisle. This Commission does not treat us with respect on our side of the aisle as a coequal branch of government. It says that somehow congressional Republicans are simply an extension of the administration. I think that that is a lie. I think that it makes no sense whatsoever in terms of policy and so, therefore, this Commission makes no sense in terms of policy.

I want a policy that speaks to capital costs problems, and I want a commission that is broadly based and does fit within the context of the constitutional system.

This Commission does not do that. I am disappointed by it. I think we would have done better to stick with what we originally did. We would have had a far more effective commission, one that would have addressed the concerns that we wanted addressed, and I simply say to the gentleman

that I think this Commission ought to be opposed.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from New Jersey [Mr. ROE] is recognized for 5 minutes.

There was no objection.

Mr. ROE. Mr. Chairman, I have the highest regard for the distinguished gentleman, our ranking member, from Pennsylvania, but let me point out something to the gentleman.

Is it not amazing that we have been working on this bill from last October, and this bill has been waiting for the Committee on Rules now for 3 weeks, 2 weeks before I got in there. We have negotiated back and forth on amendments time and time again, and all of a sudden I get delivered to the desk up here, and talk about the branches of Government, I get delivered a letter up at my desk, which is the same letter, I believe, which the distinguished gentleman from Pennsylvania has, and they tell us how bad we are, such a hybrid commission, even though merely advisory, would be inconsistent with the tripart Federal system of Government, established by the Constitution. "We commend you for addressing your crucial issues," and so forth, and, "You may be strongly opposing this particular amendment because it may be unconstitutional."

For God's sakes, cannot the Congress of the United States pass a piece of legislation that provides a commission which has an advisory capacity to select 20 people in the country the best we know how, Democrat or Republican alike? Make them all Republicans. Republicans are not going to steal the White House any more than the Democrats are.

The point in issue is the way this structure is set up with the 20 appointments.

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

Mr. ROE. If the gentleman will let me finish, of course, I will yield to him. Of course, I will yield. I interrupted the gentleman two times, and he can interrupt me five, but I want to finish what I am trying to say to make it clear.

The way it is set up here, the Members of the Congress both in the Senate and the House would not be members of the commission. They would recommend some expert in the particular field in the country, whether they are Democrat or Republican or whatever they are, that are trained in a way that can help out economically for the commission to decide.

Let me finish, please, and then I will give the gentleman all the time he needs.

So, therefore, we are not coming back and saying we are picking Democrats or Republicans. That is not the issue. We are trying to establish a bipartisan process where we can select people in the country, where the legislative branch has its input and has its particular chance to appoint the people they recommend. To find out what? To get some knowledge. This is not a partisan nit-picking issue. It is a method to be able to get people together in the country to be able to think about what we should do to create the capital.

I am not going to go to Wall Street or to New Jersey or anyplace else or Pennsylvania and say, "Are you a Democrat? Therefore, we will appoint you to the committee." That is not what this is all about in the first place. It is a chance to marshal the knowledge of the country. It is a fair, bipartisan way of doing it.

Mr. Chairman, I will now yield to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I do not understand why we could not stick with the commission we had originally, the Presidentially appointed commission of experts.

Under this we tell the President who he has to appoint.

Mr. ROE. Reclaiming my time, I was not even going to bring it up, but the gentleman brought it up. So let me respond. The way it was in the original bill it was all administration people. There is no representation from the Congress at all. If we are going to create a bipartisan national direction to try to establish economic policies for the country, it is about time Congress and the White House stopped their nit-picking and arguing and thought about the people of the country. That is what we ought to be doing around here.

Mr. WALKER. If the gentleman will yield further, I am glad we have all the applause. After the applause, I think the gentleman can do that.

The point is that the President is told who he shall appoint to the commission, and only Congress gets a chance to select all these experts the gentleman is talking about under his proposal.

If we are going to do what the gentleman is requesting, then his position makes no sense either. He is telling the administration they have to appoint certain people, but he is saying that only Congress is going to be given the ability to appoint these experts that he is talking about.

Why can we not have then a commission which is equally picked by both the administration and the Congress that consists of no politicians but consists only of experts? But that is not the gentleman's commission. If the gentleman really wants to address the needs of the American people, why did we not do it that way? But that is not what we did. We, in fact, told the President.

□ 1500

Mr. ROE. Mr. Chairman, if I may reclaim my time, the gentleman established his amendment as he thought it ought to be done. I happen to think that it is fair.

Mr. WALKER. Mr. Chairman, I do not have an amendment.

Mr. ROE. Mr. Chairman, I happen to think it is balanced. I think we are trying to unite the abilities of the administration together with Members of Congress to help to solve a critical problem of the country. In fact, this bill is probably one of the most important bills that will come before the House this year.

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

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

Mr. WALKER. Mr. Chairman, why would the gentleman, if is an important bill, even risk a veto doing something like this?

Mr. ROE. Mr. Chairman, let me reclaim my time. Every time we go to the bathroom around here somebody says, "Check on the White House. They are going to veto."

Well, veto the damn thing. I have got news for you: The administration is not going to veto this bill. Let me tell you why they are not going to veto this bill under any circumstances.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, let me tell you why they are not going to veto this.

If I may refer to my charts, I want to show the American people something. I hope they are looking on their television sets, because this is a Commerce publication from the administration, not from the committee.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, the gentleman from New Jersey [Mr. ROE] is not supposed to refer to the television.

The CHAIRMAN. The gentleman from Pennsylvania is correct. The gentleman from New Jersey [Mr. ROE] should address the Chair only.

Mr. ROE. Mr. Chairman, I was trying to be courteous. I forgot the rules.

U.S. report card status, 1989, Mr. Chairman, coming from the Department of Commerce. This talks about the expertise and the capability and what is happening in the economic development program of the country and where research is going. I hope all

Members look at this when they vote on this amendment.

We are behind in advanced materials, advanced semiconductors, digital imaging technology, high density data, and optical electronics. We are behind in digital imaging versus Japan and versus Europe.

We are even where superconductors and flexible computers are involved, and we are ahead in these areas as of 1989.

But walk with me a minute. Here is what is happening. This U.S. report card is from the Commerce Department, not from the committee. This is from the administration, the Commerce Department.

We are looking badly in advanced materials, biotechnology, digital imaging technology, and superconductors versus Europe. We are losing in flexible computers, high density data, optical electronics, medical devices. We are holding our own here again only in one place.

I would hope when Members look at the next step, again from the report from the Commerce Department, this is a $356 billion potential for the country. And we are nit-picking at this point, probably costing thousands, if not tens of thousands of dollars on this argument, as to what kind of a commission we have, when that is what the country is faced with.

We are only ahead in 10 percent of the technology in the world. I cannot for the life of me understand why Members on both sides do not say to themselves the future of jobs in America, resources, the wealth of America, is at stake.

Margaret Thatcher made a speech in closing out her meetings down in Houston and she made this point.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has again expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, Margaret Thatcher in her speech made this comment. She said she hopes we can get along in the Western World and can look to Eastern Europe and look to Japan and look to what is happening there, and hopes we can come back and say to ourselves that we are not pitting Western Europe, Asia, and the United States against each other. Because if the United States does not play with a full deck and use all our resources, we are going to come out second and third best.

Mr. Chairman, I would hope that as we talk about gaining the use of the best minds of this country, that Members would support this particular resolution and amendment that the Chair has placed before them, because I think it is fair and it is equitable. We are looking for the best minds, and I cannot think of any fairer way of doing it than making it bipartisan.

Mr. Chairman, this is not a partisan issue. This is a bipartisan issue. This is an American issue. These are jobs, these are schools, these are resources. This is water and sewer. This is a clean America. That is where the wealth is going to come from. That is what the opportunity is.

Mr. Chairman, we should be doing the very best we know how and do it as quickly as possible to get this achieved for the benefit of this country.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with much of what the gentleman from New Jersey [Mr. ROE] just said. I think that everybody in this country wants to move ahead technologically and see the kinds of advancement we see we are falling behind in some areas in with our foreign adversaries in the technological and trade areas. So we are all concerned about that.

I think what we are talking about right now, at least the gentleman from Pennsylvania [Mr. WALKER] has been talking about, is a disparity in the makeup of the committee.

Mr. Chairman, I would like to ask the gentleman from Pennsylvania [Mr. WALKER] a question about the committee.

As I understand it, there are going to be 14 members picked by the Congress and only 6 members picked by the administration.

Mr. WALKER. Mr. Chairman, if the gentleman will yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, that is correct.

Mr. BURTON of Indiana. Mr. Chairman, I would ask the gentleman from Pennsylvania [Mr. WALKER], in coequal branches of government, should there not be some kind of balance in the makeup of this committee?

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman from Indiana [Mr. BURTON] that that is my contention. What we ought to have is a balanced commission. If we want to go to congressional appointments and so on, I think there is a way of doing that. But the gentleman from New Jersey [Mr. ROE] described in his opening remarks an attempt to balance the commission partisanly. Now the gentleman says in his remarks he is willing to have all Republicans and so on, it is not really partisan. But that is not what the gentleman said in his original remarks.

The fact is in all of the negotiations, the effort was to make certain it was partisanly balanced. I think when we are dealing with something like this, we ought to be dealing on the technology issues and ought not care about the politics of it. We ought to find a way to deal with the issue from the standpoint of what is best for the country.

That is what I am talking about. We had a commission. I am defending the position of the committee. I am a little stunned that the chairman is out here saying that the work of the committee was bad work and was all for naught and that we produced a bad bill out of the committee with regard to the commission.

Mr. ROE. Mr. Chairman, if the gentleman would yield, the chairman never said that.

Mr. BURTON of Indiana. Mr. Chairman, I have the time.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] has the time.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the position of the committee when we reported this bill was that this should be a Presidential committee. It was not until it got into the hands of the Democratic leadership that all of a sudden, without any consultation with me, they came back and said that we ought to do this. And I said well, we ought to have a balanced commission then. We have been unable to get anybody to agree to the idea of balancing this commission based upon how government really works. I am disappointed in that.

Mr. Chairman, I think what we ought to do then is stick with the committee's work. The committee thought we produced a good bill. We thought it was doing all the things the chairman just described, trying to deal with the technology of the country. We thought what we were doing was producing a bill that all Members could support and we would not have to come on the floor and nitpick.

It was not until after the bill left the committee that we came up with this idea that somehow the commission had to be changed.

Mr. Chairman, I am not attempting to change anything in this regard that the committee did. All I am attempting to do is stick with the committee product. The chairman is the one who is on the floor attempting to change the committee's position. I find that disappointing.

Mr. BURTON of Indiana. Mr. Chairman, reclaiming my time, if I might ask one more question. The gentleman from Pennsylvania [Mr. WALKER] wants to stick with the committee position, but as an alternative, as a compromise, he would go along with a balance between the executive branch and the legislative branch.

Mr. WALKER. Sure.

Mr. BURTON of Indiana. The gentleman just does not like this proposal?

Mr. WALKER. Precisely.

Mr. BURTON of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. ROE].

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

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 249, noes 174, not voting 9, as follows:

[Roll No. 217]

AYES—249

Ackerman	Erdreich	Luken, Thomas
Alexander	Espy	Manton
Anderson	Evans	Markey
Andrews	Fascell	Martinez
Annunzio	Fazio	Matsui
Anthony	Feighan	Mazzoli
Applegate	Flake	McCloskey
Aspin	Flippo	McCurdy
Atkins	Foglietta	McDermott
AuCoin	Ford (MI)	McHugh
Barnard	Frank	McMillen (MD)
Bates	Frost	McNulty
Beilenson	Gaydos	Mfume
Bennett	Gejdenson	Miller (CA)
Berman	Gephardt	Mineta
Bevill	Geren	Moakley
Bilbray	Gibbons	Mollohan
Boggs	Glickman	Montgomery
Bonior	Gonzalez	Moody
Borski	Gordon	Morrison (CT)
Bosco	Gray	Mrazek
Boucher	Guarini	Murphy
Boxer	Hall (OH)	Murtha
Brennan	Hamilton	Nagle
Brooks	Harris	Natcher
Browder	Hatcher	Neal (MA)
Brown (CA)	Hayes (IL)	Nowak
Bruce	Hayes (LA)	Oakar
Bryant	Hefner	Oberstar
Bustamante	Hertel	Obey
Byron	Hoagland	Olin
Campbell (CO)	Hochbrueckner	Ortiz
Cardin	Hoyer	Owens (NY)
Carper	Hubbard	Owens (UT)
Carr	Huckaby	Pallone
Chapman	Hughes	Panetta
Clarke	Hutto	Parker
Clay	Jacobs	Patterson
Clement	Jenkins	Payne (NJ)
Coleman (TX)	Johnson (SD)	Payne (VA)
Collins	Johnston	Pease
Condit	Jones (GA)	Pelosi
Conyers	Jones (NC)	Penny
Cooper	Jontz	Perkins
Costello	Kanjorski	Pickett
Coyne	Kaptur	Pickle
Darden	Kastenmeier	Poshard
de la Garza	Kennedy	Price
DeFazio	Kennelly	Rahall
Dellums	Kildee	Rangel
Derrick	Kleczka	Ray
Dicks	Kolter	Richardson
Dingell	Kostmayer	Roe
Dixon	LaFalce	Rose
Donnelly	Lancaster	Rostenkowski
Dorgan (ND)	Lantos	Rowland (GA)
Downey	Laughlin	Roybal
Durbin	Lehman (CA)	Russo
Dwyer	Lehman (FL)	Sabo
Dymally	Levin (MI)	Sangmeister
Dyson	Levine (CA)	Sarpalius
Early	Lewis (GA)	Savage
Eckart	Lipinski	Sawyer
Edwards (CA)	Lloyd	Scheuer
Engel	Long	Schroeder
English	Lowey (NY)	Schumer
Serrano	Studds	Visclosky
Sharp	Swift	Volkmer
Sikorski	Synar	Walgren
Sisisky	Tallon	Washington
Skaggs	Tanner	Watkins
Skelton	Tauzin	Waxman
Slattery	Taylor	Weiss
Slaughter (NY)	Thomas (GA)	Wheat
Smith (FL)	Torres	Whitten
Smith (IA)	Torricelli	Williams
Solarz	Towns	Wilson
Spratt	Traficant	Wise
Staggers	Traxler	Wolpe
Stallings	Udall	Wyden
Stark	Unsoeld	Yates
Stenholm	Valentine	Yatron
Stokes	Vento	Young (AK)

NOES—174

Archer	Hancock	Ravenel
Armey	Hansen	Regula
Baker	Hastert	Rhodes
Ballenger	Hefley	Ridge
Bartlett	Henry	Rinaldo
Barton	Herger	Ritter
Bateman	Hiler	Roberts
Bentley	Holloway	Robinson
Bereuter	Hopkins	Rogers
Bilirakis	Horton	Rohrabacher
Bliley	Houghton	Ros-Lehtinen
Boehlert	Hunter	Roth
Broomfield	Hyde	Roukema
Brown (CO)	Inhofe	Rowland (CT)
Buechner	Ireland	Saiki
Bunning	James	Saxton
Burton	Johnson (CT)	Schaefer
Callahan	Kasich	Schiff
Campbell (CA)	Kolbe	Schneider
Chandler	Kyl	Schuette
Clinger	Lagomarsino	Schulze
Coble	Leach (IA)	Sensenbrenner
Coleman (MO)	Lent	Shaw
Combest	Lewis (CA)	Shays
Conte	Lewis (FL)	Shumway
Coughlin	Lightfoot	Shuster
Courter	Livingston	Skeen
Cox	Lowery (CA)	Slaughter (VA)
Craig	Machtley	Smith (NE)
Crane	Madigan	Smith (NJ)
Dannemeyer	Marlenee	Smith (TX)
Davis	Martin (IL)	Smith (VT)
DeLay	Martin (NY)	Smith, Denny (OR)
DeWine	McCandless	
Dickinson	McCollum	Smith, Robert (NH)
Dornan (CA)	McCrery	
Douglas	McDade	Smith, Robert (OR)
Dreier	McEwen	
Duncan	McGrath	Snowe
Edwards (OK)	McMillan (NC)	Solomon
Emerson	Meyers	Spence
Fawell	Michel	Stangeland
Fields	Miller (OH)	Stearns
Fish	Miller (WA)	Stump
Frenzel	Molinari	Sundquist
Gallegly	Moorhead	Tauke
Gallo	Morella	Thomas (CA)
Gekas	Morrison (WA)	Thomas (WY)
Gillmor	Myers	Upton
Gilman	Nielson	Vander Jagt
Gingrich	Oxley	Vucanovich
Goodling	Packard	Walker
Goss	Parris	Walsh
Gradison	Pashayan	Weber
Grandy	Paxon	Weldon
Grant	Petri	Whittaker
Green	Porter	Wolf
Gunderson	Pursell	Wylie
Hammerschmidt	Quillen	Young (FL)

NOT VOTING—9

Crockett	Hawkins	Mavroules
Ford (TN)	Leath (TX)	Neal (NC)
Hall (TX)	Lukens, Donald	Nelson

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Donald E. "Buz" Lukens against.

Mr. STANGELAND changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 17, after line 5, insert the following new sections:

SEC. 114. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may be awarded a contract or subcontract made with funds authorized under this Act if that government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

SEC. 115. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary determines that any person intentionally affixes a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall declare that person ineligible to receive any contract or subcontract from the Department of Commerce for a period of not less than three years and not more than five years.

SEC. 116. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY.—The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(2) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(3) the Secretary, in consultation with the United States Trade Representative, determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made for which—

(1) amounts are authorized by this Act to be made available; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this section—

(1) entered into with foreign firms pursuant to a determination made under subsection (b); and

(2) awarded to domestic firms pursuant to subsection (a),

in fiscal years 1991 and 1992.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

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

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

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are my Buy American amendments that provide for an advantage to an American firm when competing as a foreign firm for a contract authorized under this legislative act. In addition to that, it gives an opportunity for a 6-percent weighted average if the item is made in America, and at least 50 percent of its parts and contents are domestically produced. It provides for a report to the Congress that would yearly give the Congress the number of contracts awarded to both domestic and/or foreign firms pursuant to the act.

In addition to that, this particular amendment requires the Commerce Department to declare any person who makes fraudulent use of a "made in America" label be ineligible to receive Federal contracts under this particular act. Finally, under existing trade laws, if the President cites a nation for practicing a significant and persistent pattern of practice of discrimination against U.S. products or services, it is Government procurement, those companies domiciled in that country would be ineligible to bid on such contracts.

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

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, these are amendments that we have reviewed before on different legislative programs coming through our committee, and as far as this Member is concerned, this side of the aisle has no objection to the gentleman's amendments. We urge support of his amendment.

Mr. TRAFICANT. Mr. Chairman, I urge support from the Members on these particular Buy American amendments.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

I have to wonder whether or not we are not doing everything we possibly can to get this bill vetoed. The chairman just told the gentleman from Ohio that these are bills the committee has regularly accepted, or amendments we have regularly accepted. In fact, there is one of the provisions we did not accept at all, and basically rejected in the committee just a few weeks ago. That is the one on restriction of contract awards.

The gentleman's language was faulty in the committee. It is faulty here. It is an absolutely disastrous piece of legislation because what it says in the first part of the language is "that no personal enterprise domiciled or operating under the laws of a government," and then it goes on. What that means in the case of, for instance, the country of India, if General Motors sells cars in India, it will not be able to participate for contracts under the whole ATP Program. Now, that just does not make any sense. If we have IBM operating in India, they would not be able to participate under our Advanced Technologies Program. If we had other high-technology firms in this country who are operating even a small retail outlet in India, they will not be able to operate, or not be able to receive contracts under this program.

That makes absolutely no sense. We are facing massive trade deficits, and now we are saying to companies, there are certain countries that countries ought not operate in, period, despite our trade deficit, because you will be ineligible to participate under our Advanced Technology Program.

This language, we pointed out in committee just a matter of a few weeks ago, was very faulty language. It was wrong at that time. I cannot understand why it came back. It is just the absolutely worst kind of legislation, if we are talking about expanding global economy.

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

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. This has nothing to do with General Motors or IBM. That is quite a distortion.

If we are to take significantly, and I will go a little further, literally, the gentleman's argument, then we would be saying that IBM and General Motors who bid on the contract from their California plant not from their India plant.

This amendment, let me say it again, this amendment states if President Bush cites a nation for in their procurement process discriminating against American products and goods under existing trade law, in which in this case is only one country, India, then those companies domiciled in India cannot bid on these contracts.

Further classification, the gentleman said that it was defeated at the committee level. It was defeated at the committee level, but was approved at the House level on the legislation the gentleman has just questioned.

Mr. WALKER. Mr. Chairman, the gentleman may have that as the intent. It is too bad his intent was not drafted into the language because the draft of the language does not say that. It does not just say "domiciled." It says "or operating under the laws of a foreign government."

We assume that most companies that operate overseas operate under the laws of that nation.

Now, the gentleman may have that as his intent. He did not draft it that way. I pointed out to him in the committee it was not drafted that way. If it was accepted on the floor here, we accepted a very bad provision, at that point, too, and I am simply saying that this is a very, very poor draftsmanship in terms of the language. It does not do what the gentleman intends for it to do. It is much broader than that, and it will do great damage to this bill and great damage to the ability to run the program, should we adopt this language.

I am very disappointed, once again, that the committee has modified our stand coming out of the committee, in such a way, because I do not think that we looked very carefully at this language. This language is bad language and ought to be defeated.

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

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 25, noes 17.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 30, line 18, strike "$250,000,000" and insert in lieu thereof "such sums as may be necessary".

□ 1540

Mr. WALKER. Mr. Chairman, we have had a couple of interesting disagreements here today, and I do not suppose they will affect the outcome of the production of America, whichever way they went. This one will. This is the one the administration feels strongly about. We will either change the bill in this regard or the bill is in real danger. I would submit that what we are asking to be done here is very minor, but yet it is important.

Under the provisions of the ATP program as it now exists, it was funded for the first time this year at a level of $10 million. The President has been seeking to continue the program at that $10 million level in 1991. The House-passed budget resolution would increase the President's request and the current funding by almost 500 percent to $47 million. This bill that we

have before us would increase that $15 million level another 500 percent in 1992 to one-quarter of a billion dollars—new money that we are not currently spending and that we probably do not have.

Now, the chairman of the committee, the gentleman from New Jersey [Mr. ROE] and I have agreed that the $100 million level represented in this bill for the 1991 year is in fact what we ought to have. We will leave it up to the Committee on Appropriations to decide the actual funding levels, but we have agreed to $100 million for this particular program.

The problem is that the quarter of a billion dollars, the $250 million level, will put tremendous pressure for cuts in critical existing technological research areas such as superconductivity, fiber optics, and advanced materials at the National Institute for Standards and Technology. We will be trading off core research for essentially a new program that in some cases could be handouts. I suggest that that is not the direction that we ought to go.

The administration is willing to accept in this authorization language that would make it, instead of $250 million in 1992, "such sums as may be necessary." My amendment does that, and no more. My amendment simply says that in 1992 we ought to have language in there in terms of the authorization for "such sums." Then if we had the money, it could mean more than $250 million. Most likely, it would mean less. But this is something the administration feels is doable and is reasonable within the context of the bill, and it does not bind us to the $250 million figure.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman knows the administration has requested $198 million for a combination of core programs, plus the other programs for 1990.

Mr. WALKER. Right.

Mr. SMITH of Iowa. And I think there is agreement pretty generally in the Congress that we need to add substantially at least to the noncore program including advanced technology.

Mr. WALKER. Sure. And we are saying in this bill that the noncore programs for just ATP ought to go up to $100 million.

Mr. SMITH of Iowa. Whatever we can do in the way of money, that is what we really need to do in this Government on research.

Mr. WALKER. Yes.

Mr. SMITH of Iowa. We do not have as much research in military anymore to spin off, and we should do some more here. But how does "such sums as may be necessary" give any guidance? It seems to me like that is totally open-ended. When we compare that to the $250 million, what difference does it make?

Mr. WALKER. We have $100 million in the bill this year. The reason for the "such sums" language is to assure that we are not bound to the $250 million level. We agree that it needs to go up, but we do not want to bind us to that particular level.

Mr. SMITH of Iowa. But "such sums" could mean $500 million.

Mr. WALKER. Obviously it could mean that, but I think the gentleman, as chairman of the subcommittee that would handle this, knows full well that we are not going to find $250 million, most likely, and certainly we are not going to find more than that.

Mr. SMITH of Iowa. It is going to be very difficult to find $100 million.

Mr. WALKER. Yes, it will be difficult to find $100 million.

Mr. SMITH of Iowa. But I do not quite see how saying, "such sums as may be necessary" changes anything.

Mr. WALKER. Well, it changes it only in the sense that we are not sending a bill to the President that indicates he should sign a bill for 500 percent above the spending level that was included in the House budget for the upcoming year. The administration thinks that that is a very difficult thing for them to sign onto. "Such sums" at least leaves it open that we are going to fund it at a level that is more reasonable for the ability of the budget to sustain. That is the only real difference here, and I do not think it does any damage to the program at all. As a matter of fact, in many cases it strengthens the program because it assures that we will get the funding levels that are doable within the budget context, and we will not be beating ourselves around the head with the particular sum of money.

So I do not think that this is not anything which is very difficult, but it would be a shame to see this program go down and the authorization for this program and the policy changes in this program go down over this matter. Yet that is where we may be, and literally we could have the thing fail simply because of the figure in there of $250 million when we could have accepted the language, "such sums."

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, I have a letter from the Deputy Secretary of Commerce who is the acting Secretary at the present time, indicating that the administration does support the "such sums" amendment. The ranking member of the Budget Committee, the gentleman from Minnesota [Mr. FRENZEL], has indicated to me that he supports this amendment. A number of Members on the Democratic side of the aisle who have been concerned about budget matters, including the gentleman from Minnesota [Mr. PENNY] and the gentleman from Texas [Mr. STENHOLM] and others who have pursued this matter, are in support of the amendment. The ranking member of the Subcommittee on Science, Research and Technology, the subcommittee that handles this matter, the gentleman from New York [Mr. BOEHLERT], and the ranking member of the subcommittee of the Committee on Appropriations that handles these matters, the gentleman from Kentucky [Mr. ROGERS], have also indicated they are in favor of this amendment. So there is broad-based support, and I think that broad-based support comes from the idea that we need to have language that means this new policy is signed rather than creating a needless confrontation.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

Mr. Chairman, I have the highest regard for the gentleman from Pennsylvania [Mr. WALKER], and in my remarks during general debate I indicated my own gratitude to him for the support which he has given for the thrust of this legislation and for his support over a period of years in the committee for constructive efforts to solve many of the problems that face this country in the high-technology area.

I tend to feel in this particular situation that he is exaggerating the significance of the language which he is proposing. We all recognize that any figures that we include in this authorization bill are merely hints to the Committee on Appropriations and to the administration as to the direction that we would like to see followed with regard to this important subject of restoring our competitiveness in advanced technology. I tend to agree with the statement made by the distinguished gentleman from Iowa [Mr. SMITH], the chairman of the subcommittee of the Committee on Appropriations that deals with this subject, that the overall significance is not important. In that sense, the language that the gentleman is proposing, "such sums as may be necessary," is really an open-ended authorization which could lead to even higher appropriations than are proposed in the existing language of the bill.

□ 1550

Mr. Chairman, I do not know what the administration's position is going to be when we actually get to fiscal year 1992. I have been very much encouraged by the administration's willingness to adequately fund many of

the more significant research and development programs of this country, including their commitment to double the National Science Foundation budget in a 5-year period and to recommend similar increases in the space program over the next 5 years. I am inclined to feel, and this may be wishful thinking, that they are going to come to the same conclusion with regard to the importance of the advanced technology initiatives which we have in this legislation, and they may even come to the conclusion that $250 million is not enough and that we should be investing more.

Mr. Chairman, there is no question in my mind that the need is greater than the $250 million, and I have spoken to that effect in committee and on the floor on numerous occasions.

I appreciate the fact that the gentleman from Pennsylvania [Mr. WALKER] serves as a very effective point man for the current position of the administration, and I think fundamentally that that is the flaw in his position. He is not sufficiently looking into the future as to the changes that the administration may be making over the next year or two, and I need only to cite the statesmanlike position of the President when he announced just a couple of weeks ago that we are going to need tax revenue increases. That was a cataclysmic change in policy, and I think that when this administration recognizes the true extent of our advanced technology deficiences in world competition, that the administration is going to make a similar change in position.

Mr. Chairman, there is nothing in this bill that forces such a change. It really provides only a moderate start-up path for doing what I think we are all going to recognize is inevitable in the very near future.

Mr. Chairman, when the gentleman from Pennsylvania [Mr. WALKER] takes a position, he makes it a very high priority and very effectively supports it, and I admire him for that. I happen to disagree with him in this particular situation, and I hope that the Members of the House will recognize that the prudent course is to do what the committee is recommending, provide for a moderate ramping up of authorization for this program and hope that we will have the money to fund it through the appropriation process as the time comes.

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

Mr. Chairman, I rise in support of Mr. WALKER's amendment.

Quite frankly, I see this amendment as a political expedient that does no damage to the bill. In changing the fiscal year 1992 authorization to "such sums," we remove an irritant for the administration, while leaving no doubt that Congress strongly supports the Advanced Technology Program and expects it to grow.

The ATP is something of an experiment, and it is not unreasonable to require the authorizers to come back and take another look at the funding levels in its third year of operation. I don't think that we're sending any message that the hard look will be anything more than an assessment of how much more we want the program to grow.

The program is budgeted at $10 million in this fiscal year, and the same amount was requested for next. Yet H.R. 4329 increases the fiscal year 1991 authorization to $100 million. That shouldn't leave any doubts about our intentions regardless of whether we set a specific number for year three.

So I say, let's take an issue off the table by leaving open the precise amount available for fiscal year 1992. Doing so will do no damage to the ATP and will make it easier to get a bill.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me first commend the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE], and the ranking Republican, the gentleman from Pennsylvania [Mr. WALKER], for getting this authorization to the floor.

Speaking as the ranking member of the Subcommittee on Commerce, Justice, State, and Judiciary, let me say we need this bill and the guidance that it will provide to us. When the House passed the Commerce, Justice, State bill, appropriations bill before the July recess, we took no action on NIST, as the chairman knows, because we did not have the authorization, and we respected the committee, and we want this authorization to pass. NIST is the one agency in the government, a civilian DARPA, if my colleagues will, that can help the United States get back on to the world stage of competition and product development, and, heaven knows, we need it.

So, Mr. Chairman, I am pleased that this important authorization has been brought to the floor, and we hope that we can pass it expeditiously today and get on with it.

I support this particular amendment, however, Mr. Chairman, because it lends a dose of reality to this bill and the advanced technology program. My problem is not with the ATP program, heaven knows, which I support wholeheartedly as a part of a balanced NIST budget. The issue is whether the dollars in the bill are a proper target for the program.

Mr. Chairman, for this year the Committee on Appropriations in the Congress provided $10 million for this program out of $162 million NIST total budget. With export promotion, economic development programs, the war on drugs, law enforcement all in our subcommittee's portfolio, we were busting at the seams, Mr. Chairman, last year, and yet we found just enough room to launch the ATP Program. This bill would turn a $10 million program in this year into a $250 million program in 1992. That is a 2,500-percent increase.

In fact, if my colleagues examine the bill, they will find that the authorization for the ATP grant in 1992 is greater than the total NIST budget, of which it is supposed to be a part. ATP grants are $250 million, and the other, all of the other, NIST programs are only $250 million.

Mr. Chairman, on the committee I serve on, subcommittee, I do not have that kind of idea that we can get that kind of money, and I doubt that the budget summit is going to come along with it. Seriously. We are working in the dark now on next year's appropriation, much less planning for what could be a very, very tough money year in 1992.

So, Mr. Chairman, I think the gentleman from Pennsylvania [Mr. WALKER] takes the most reasonable approach. He takes a pie-in-the-sky target and gives us a flexible approach. It endorses the ATP Program, which I think we all want to do, or most of us, but it makes sure that the NIST authorization is a balanced one in the outyears.

So, I think this is a truly commonsense amendment. It will save, I think, a good deal of friction about the bill downtown, and it will not harm, certainly not harm, the ATP Program.

Mr. Chairman, I urge our colleagues to support the amendment of the gentleman from Pennsylvania [Mr. WALKER].

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we decide today on the funding for the Advanced Technology Program, I would like to share with my colleagues just how this program came into being, what its importance is, and why it is so vital.

The bill comes to us at an auspicious time, during the emergency of democracy and freer markets in Eastern Europe and the beginnings of some more open markets in the Pacific Rim nations. These events hold a lot of promise for eventually improving our trade position in advanced technology products.

However, Mr. Chairman, much closer to home in our own markets, in our own back yards, we still face concerted efforts by our competitors, by Japan the "new Japan," the European Economic Community, to continuously

increase their share of the rich American marketplace.

□ 1600

I would like to share with my colleagues a recent Commerce Department report on competitiveness in the electronics sector. "The basic message," said an official of the International Trade Administration, "is that we're losing market participation in a wide variety of product areas in those industries."

Our ad hoc approach toward industry, that report states, is "in contrast to that of foreign governments" and that places us at competitive disadvantage.

In another report, the Commerce Department identified areas where we are ahead now, such as artificial intelligence, high-performance computing, and biotechnology. The Japanese were gaining on us in all three areas. There is not one single area in this report of critical technologies for the future where we were gaining on the Japanese and, indeed, there were many areas where we had fallen seriously behind.

So if we do not act in a comprehensive way, we are eventually going to yield our leadership position in many critical technologies in the way we have done with autos, TV's VCR's, compact discs, semiconductors, machine tools, HDTV, and you know the list, it goes on and on.

Our competitors have long-term projects which target the high value-added industries where we still maintain leads, indeed, they target those industries in our own home markets.

This is the background to the advanced technology program, so it is time to make some attempt to overcome that part of this competitiveness problem which relates to the expenditure of Federal R&D and technology-oriented funds. While industry obviously has to take the lead, there has got to be some coordination with Washington; there has got to be some cooperation with Washington and our overall Federal R&D economy, a $70 billion endeavor that too often is disconnected from industry and the marketplace.

This new global economic ball game demands team play in ways that are fairly new to us. We need a policy that can recognize the difference between potato chips and semiconductor chips, between digital video and dish towels.

We need to recognize that some technologies and industries may well be critical to our overall economic well-being, our world leadership, our standard of living, and our jobs.

Limited investments in technology by the Federal Government could create high leverage in the private sector if they are made in partnership with American industry. Indeed, the leverage could be even greater if the efforts are led to some larger extent by industry itself.

I might add that those within the administration, and without, who shun this type of investment totally have had crucial influence on policymaking thus far.

Several weeks ago, the Defense Advance Research Project Agency shifted its position in cutting edge technologies toward a focus primarily on military applications and away from what we call dual use applications.

DARPA also recently awarded some contracts in the important field of high temperature superconductivity for basic research oriented toward military applications, not dual use activity oriented toward the marketplace as well as the military, and that is a disappointment. That is another reason why, my colleagues, the Advanced Technology Program [ATP] at the National Institute of Standards and Technology is so important at this time.

Now that DARPA has apparently decided to focus on military technologies, now that Craig Fields has been retired from the Federal Government, it is even more critical to boost the efforts of the Advanced Technology Program. That program will support collaborative activities which show promise for civilian industry, in much the same way that military technologies evolved with DARPA's backing.

Recently Democrats in Congress announced an action agenda for technology competitiveness, with fostering industry-government cooperation through the Advanced Technology Program [ATP] as the cornerstone of that policy.

I want to applaud my Democratic colleagues for calling attention to this problem facing the United States in high technology industry and trade, but I would like to point out that the Advanced Technology Program is a highly bipartisan idea, perhaps we might even say of Republican birth.

Back in 1987, I introduced the first bill, H.R. 2068, along with strong bipartisan support on the Science, Space, and Technology Committee, to reorganize what was then the National Bureau of Standards into a National Bureau of Standards and Industrial Competitiveness to provide a base for major collaborative activities involving U.S. industry.

We envisioned an agency better equipped to spur interindustry collaboration and foster cross-industry activity to overcome technological hurdles in the precompetitive stages of products and processes.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. RITTER was allowed to proceed for 3 additional minutes.)

Mr. RITTER. Mr. Chairman, that bill was the precursor to the reorganization of the National Bureau of Standards into the National Institute of Standards and Technology [NIST], and the new Advanced Technology Program [ATP].

Once again, the ideas that evolved into H.R. 4329 represent a strong bipartisan effort. My colleagues, the gentleman from California [Mr. BROWN] and the gentleman from California [Mr. MINETA] and I authored the amendment to this bill in subcommittee that boosted funding to the levels we have on the floor today for the Advanced Technology Program.

I would say that a half-hearted effort by the ATP would be worse than no effort at all. We need to make enough of an effort to encourage American industry to regain its edge, to show them we are committed, too; that we will work with them. But I will also point out that the amendment of the gentleman from Pennsylvania [Mr. WALKER] and the comments by the gentleman from New York [Mr. BOEHLERT] and the comments of the gentleman from Kentucky [Mr. ROGERS] on the appropriations process are I think quite relevant. We are authorizing to go from a $10 million program this year to a $100 million program next year to a $250 million program the year after, and those of us who are familiar with the contract and grant activities of the Federal Government and Federal agencies have to be a little cautious when it comes to such rapid expansion. So the amendment of the gentleman from Pennsylvania does have relevance there.

I would like to point out to my colleagues one last thing. This bill is no substitute whatsoever for generic initiatives for American competitiveness, such as a permanent R&D tax credit, antitrust reform, litigation reduction, encouragement of lower cost more patient capital, investment tax credit for productive equipment and facilities, a relentless focus on quality and competitiveness impact analysis of major legislation and regulation. These are hallmarks of the Republican competitiveness package.

A comprehensive effort is needed, pulling tax, trade, education, regulatory, quality as well as ATP type research and development policies.

There is so much more that can be done on a variety of fronts before we can truly say that we here have taken the right steps to make made in America once again preeminent in the world; but I must also say, H.R. 4329 is a solid, achievable step forward and it needs the kind of adequate funding to make it a reality, as opposed to just a dream.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will grant for purposes of discussion that the gentleman from Pennsylvania [Mr. RITTER] might be right. This high technology initiative might have had a Republican birth, but if the amendment of the gentleman from Pennsylvania [Mr. WALKER] is accepted, it almost certainly will have a Republican death.

This day comes too late. This can be the beginning of something serious in America. Perhaps it is a decade too late.

The American response to technological change, to the challenge to our standard of living, to America's strength in the world, and finally the beginning today, here with this bill; but Mr. Chairman, there is something worse than to do today nothing at all. That something worse would be to say to the American people that we are beginning. America is coming back with technological strength, and then in substance to have achieved nothing, to convince them we are serious, but to do nothing.

□ 1610

That is what the Walker amendment is about: Commission language, take a stand, and then take the chance that there will be no funding at all. To say that finally HDTV, a decade late, maglev technology, superconductivity, a host of technologies, "We will promise it to you, but it will not get funded." Do the Members want to take a chance that the administration will not provide the $250 million, the $100 million?

Do the Members believe that discretion should remain with this administration? The administration, the gentleman from Pennsylvania [Mr. RITTER], which did not retire Craig Fields, they did not retire him, they fired him, and they fired him because he believed that for the security of this country and for our economic future we needed to finally take a stand on this same technology that the gentleman from New Jersey [Mr. ROE] envisions today. They fired him. Give them the discretion to fund this initiative? Not on your life.

I would take that chance if we could afford it, if we could believe that, in fact, the administration would come forward and join with us in this effort. I do not believe we can.

I believe that the Walker amendment means we will not lose simply another year, not another 12 months of this fiscal year, but in fact because we will convince our colleagues and the administration and the American people that we began something but, in substance, did nothing at all. We will lose another entire decade.

Mr. Chairman, the Walker amendment must be defeated. But something far more than that must happen. We must finally become serious enough in this institution that we understand what is taking place in America.

We are not simply losing our lead in several assorted technologies. Our standard of living is at issue.

I know there are Members in this body who do not want a government policy to deal with these technologies. They prefer to believe that this should be done in private initiative alone. My friends, there already is a government policy to deal with these technologies. It is well funded. It is serious. It is making headway. The problem is it is not our Government, and nobody is waiting for America anymore.

Someone is going to dominate a $500 billion HDTV industry. Someone is going to capture a multibillion-dollar electronics industry. Someone is going to harness the power of superconductivity. It just is not going to be us.

Take this stand. These are the kinds of votes that are required.

The gentleman from New Jersey [Mr. ROE] and the Science Committee have led the way. If anything, it is woefully inadequate to the size of what is required.

Is there a chance that we are gearing up spending too fast to deal with the consequences ahead? There is that chance. There is another chance, that we are doing too little far too late. Make no mistake about it, my friends, this bill is not about preserving American leadership. It is about a come-from-behind effort to try to catch up in the years ahead.

We cannot afford the lost time that the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] potentially leads to.

Support the chairman. Support the committee, defeat the Walker amendment. Make, at long last, America take a stand.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from New Jersey [Mr. TORRICELLI] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. TORRICELLI was allowed to proceed for 2 additional minutes.)

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

Mr. TORRICELLI. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I guess I am a little bit confused. It seems to me that under my amendment that the gentleman said puts us behind, that we would still go from $10 million of spending this year to $100 million of spending next year. Is that not right under my amendment?

Mr. TORRICELLI. The gentleman is correct.

Mr. WALKER. That is correct. All that I am doing is saying that instead of going to the next step of $250 million, that we would spend such sums as necessary; in other words, we would authorize such sums, which means that the Committee on Appropriations could come up with any amount they wanted at that point.

I am a little confused now. How does my amendment then put us behind by a decade when I am increasing from $10 million to $100 million, to such sums as the Committee on Appropriations may deem necessary?

Mr. TORRICELLI. Reclaiming my time, perhaps I could make it clear for the gentleman, because it is my belief that unless the authorizing committee meets its responsibility to plan where it is this will go, given administration opposition which I believe will come for philosophical reasons because they believe they do not share our commitment as evidenced by the fact they have joined none of these fights in the past, as evidenced by the firing of Craig Fields, I believe the administration will be working with the Members on the Committee on Appropriations, I believe they will be working to convince Members in this body that this effort not expand, indeed, that it end, indeed, that not only is the $100 million level not exceeded but that it is not maintained.

Mr. WALKER. If the gentleman will yield further, he is now talking about the administration and not my amendment. My amendment is an attempt to make certain that the very policy that the gentleman wants to see enacted that would force the administration in a particular way is not subjected to a veto. It now seems to me that one of the things that we ought to do here is try to come up with something that moves us forward and does not raise unnecessary irritants, as the gentleman from New York said, but there is nothing in my amendment that does what the gentleman said.

Mr. TORRICELLI. Reclaiming my time, the gentleman may come to this as the best of intentions, and perhaps, and I believe he very well may, believe that by his amendment he can get that.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. TORRICELLI] has again expired.

(By unanimous consent, Mr. TORRICELLI was allowed to proceed for 1 additional minute.)

Mr. TORRICELLI. That may be the gentleman's intention, but it is my belief that if that is how we proceed the net result will be that this program is not established and never exceeds those numbers.

The gentleman from Pennsylvania [Mr. WALKER] may want to have the White House potentially intimidate us with the prospect of a veto and that there be no program at all. If that is what this President would like to do,

to say to the American people that we are not only behind in these basic technologies but we have decided not to join the fight, let the President make that statement. I say we have no part of it.

If the President would like to veto the work of this committee, he is free to do so. I say we have a program that is up to what is required, every dollar that is needed, that we waste no more time, and let the President make his decision. We will make ours.

Our decision is to proceed.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this point in opposition to this amendment to change the funding level for the Advanced Technology Program from the proposed level of $250 million for fiscal year 1992.

Ultimately, America's business competitiveness and economic strength is going to be determined by a few key strategic industries that will be crucial to the economic success of every American industry.

What the Government must do at the Federal level is create an environment that fosters and supports the competitive efforts of our businesses and workers.

In the face of the multibillion-dollar research and development ventures being conducted by our competitors overseas, the $250 million commitment for fiscal year 1992 for the Advanced Technology Program represents a relatively small amount of money. The funds are needed, however, to demonstrate a steadily increasing Government commitment to the AIP Program.

A strategy for America's future must allow business to engage in long-range, productive investments. The steadily increasing commitment to the ATP Program represented by H.R. 4329 will do just that.

Mr. Chairman, I strongly oppose this amendment.

□ 1620

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if Members will indulge us for a few minutes longer, this has been a spirited debate. I think Members are going to find there are a couple more amendments, and then we should be done.

I would like to share something with Members today. I know we are tired and weary and want to get on with it, but I believe one day I am either going to be determined right or wrong.

Mr. Chairman, I think this is one of the most important votes Members are gong to be casting in the House of Representatives today, because this is a different vote. This vote is a vote for the people of America.

"Oh, that is too dramatic. What did he say that for?"

Yes; it is. Just look at that chart. I know all Members cannot see it, but I wish they could. There is a potential of $356 billion worth of business. Think about your towns and your States and your districts right now. Look into people's eyes and chat a minute. What are Members hearing? Hey, they are cutting back in Boeing, they are cutting back here, they are cutting back there. Thousands and thousands of jobs. Tens of thousands of jobs in industry after industry after industry.

What are they saying to us? Let the marketplace do its thing.

Mr. Chairman, there are three things that are happening. If one were to say to me what is the most important things that have happened in my life that I could remember, other than my personal life, I would name two things. I would say the end of World War II, when the world came back together again to reconstruct itself, and the most important happening other than that in the 20th century is right now, an economic revolution is facing the world. God, can we not see that an economic revolution is taking place?

In the work that is being done in Dallas now a statement was made, and let me share it with Members.

In a recent telex to the U.S. Ambassadors, Deputy Secretary of State Eagleburger urged embassies to become more involved in promoting U.S. exports and technology. "Times have changed," he wrote, "and it is no exaggeration to say that our economic health and our ability to trade competitively on the world market may be the single most important component of our national security as we move into the next decade and into the next century."

Mr. Chairman, the battle will not be fought with nuclear weapons in the next century, nor in the next 10 years, which we are establishing the policy for now. The battle in the next 10 years and the next century is going to be fought on the control of the economy of the world. A global economy, that is what it is.

We are not competing State to State any more. We are not debating whether high technology comes from New Jersey, as the gentleman from Pennsylvania [Mr. RITTER] says, or it goes to Pennsylvania, or Michigan, or any other State in this particular body. We are determining whether the United States is going to be a leader in the world, in the economy and the industrial ability of the human race, is what it amounts to, the wealth of tomorrow that is going to be needed in Members' respective districts.

As we are debating what should be on the budget level and the tax levels in this country, and make no mistake, I am hearing it in New Jersey and I am sure Members hear it in California and Michigan and Tennessee and Pennsylvania, as well as everywhere else, what are we going to be hearing? The new wealth of the world is going to be created out of science and technology. That is what this all says. And we are falling behind in every direction.

There is a point that was made that my father taught me. If I might share it, he said to me, "Remember one thing in your life—that the operation was a success, but the patient died."

Should we be reacting to this situation that is happening economically throughout the world? Should we be saying to ourselves do we compete in the multi-hundreds of billions of dollars of market in the Asiatic area? Do we write it off? Does Japan take it over?

We have to say it, because that is what we are about. Do we give up Europe now? In 1992, the first common market ever before in the history of the world taking place in Europe, do we give that up?

You know what the Germans said to me when we visited there recently? "Don't have any kind of Marshall plan or whatever. We will take care of the middle Eastern European countries," and so on and so forth.

Mr. Chairman, I have enormous personal regard for the gentleman from Pennsylvania [Mr. WALKER]. It may not have appeared that way today because we vigorously have been competing in things we have believed in.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ROE] has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. Mr. Chairman, I say to Members here, this is not a debate between the gentleman from Pennsylvania [Mr. WALKER] and myself and other good folks, and the gentleman from California [Mr. MINETA] and the gentleman from New Jersey [Mr. TORRICELLI] and other Members that have spoken. That is not the battle. The battle we are talking about now is does American take a quantum step forward?

Our military is closing down in many areas. We are reducing many programs.

Mr. Chairman, let me predict today, before the last cock crows 2 or 3 years from today, we are going to be back on this floor battling for public works programs and jobs for the American people. We will be giving away the jobs for the American people, unless we make the investment and understand the order of magnitude of this confrontation we are faced with today.

Mr. Chairman, I would hope Members would vote down this amendment, because it says nothing. "Such sums as

may be appropriated." Who decides that? We argued only a week ago on the floor and fought with the Appropriations Committee and said, "Hey, guys, you don't make all the decisions around here. We are authorizing committees. We should have something to say."

Well, for God's sake, say it. If Members believe it ought to be $250 million to be able to get this going, then let us do it. But let us do it now, and not come back 3 years from today and say, "Too bad we didn't try; too bad we didn't work on it; too bad we didn't do it. It was too late and we lost the rest of the marketplace."

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I would like to just reinforce the point the gentleman from New Jersey [Mr. ROE] is making. We are engaged in a constructive debate here over whether to authorize $250 million 2 years from now.

The practical fact is that Japan devotes close to 3 percent of its GNP to investment in research and development. That is civilian research and development. We invest about 1.5 percent of our GNP in civilian research and development, the most important lack being investment in advanced technology development.

Mr. Chairman, we are quibbling over a trivial amount of $250 million in light of that 1.5 percent of GNP between ourselves and the Japanese.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

There was no objection.

Mr. WALKER. Mr. Chairman, I agree with a lot of what the gentleman from New Jersey [Mr. ROE] just said about world competitiveness, global economies, and so on. I agree with all of that. But I think it is time for a little bit of a reality check here, too;

The $250 million in this account is more money than the entire National Institute of Standards and Technology spends on all of its programs right now.

Mr. Chairman, right down the hall here we have a budget summit meeting. They think they are beginning to do a few things to try to help us be globally competitive, too. They think it is rather important that we do something about getting down deficits and a few little minor things of that type.

Mr. Chairman, $250 million may be trivial in the minds of some people. It is not trivial in my mind. It is not trivial in the minds of many people trying their best to find $10 million here and $10 million there in order to bring down budget deficits.

Mr. Chairman, that is what I am attempting to do here. This is hardly parsimonious in this amendment. We are talking about going from $10 million this year to $100 million next year. I do not think the Committee on Appropriations in their wildest dreams think they can find $100 million next year, but maybe then can. And we are authorizing them to do it.

Then the committee says, "Well, let's go from there to $250 million." The problem is that no one knows anywhere where that money is going to came from. What we said is in order to avoid a confrontation, and maybe get this policy into place, we ought to say "Such sums," and at least add a note of fiscal discipline into the process.

Mr. Chairman, I do not see that that is going to do great harm to the program. It certainly is not going to change the global competitiveness of the United States.

□ 1630

It is going to assure that we get a policy in place that has a real chance of changing our policies with regard to civilian research. And if we can do that, then I think we ought to avoid the President's veto.

The gentleman from New Jersey [Mr. TORRICELLI] said, "Well, if the President wants to do that, let him do that." My concern is that in the course of what we have done today we have tried our best to force the President into that position, and maybe that is the politics behind this. If that is the politics that we are practicing out here, to drive the President into vetoing a bill that we then use this fall, then believe me, I do not want any part of it.

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

Mr. WALKER. Sure, I am glad to yield to the gentleman from New Jersey.

Mr. ROE. If the gentleman would be so kind, let me say something to him. I just do not happen to agree with that at all.

Mr. WALKER. I am just referring to what the gentleman from New Jersey [Mr. TORRICELLI] said.

Mr. ROE. As far as this person is concerned here, and I think the gentleman knows this, we have labored in a bipartisan way, vigorously on this bill.

Mr. WALKER. Yes.

Mr. ROE. Obviously the response people give to each other is not just because we are debating something here, but it is deeply felt and deeply understood, and I think that is coming through. So I would hope that the gentleman, as far as the chairman of this committee is concerned, understands there are no alternative motives in my mind whatsoever. I hope that both the Democrats and the Republicans can rush with it in arm and with the President say, "Hey, look, we did something for our country for a change."

Mr. WALKER. I have not said anything about the gentleman's motives. I do have to tell the gentleman that it is with somewhat suspicion by this gentleman when the Democratic leadership went out and held a press conference and put this into political context, and when the gentleman from New Jersey says if the President wants to veto the bill then let us go ahead and let him veto the bill, I do not want the President to veto the bill, and I think that it would be worthwhile to get the policy in place. If this minor irritant is one of the things that we can correct in order to assure that we get this policy signed, then I think we ought to be for it, and we ought to go ahead and get the policy in place. That is all I am saying, and it seems to me it makes a worthwhile addition to the bill to assure that we get a bill that can be signed downtown and move forward.

That would do the most to help improve American competitiveness. I think we ought to do it.

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

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

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding. I just want to point out that as strong a sponsor of the Advanced Technology Program that this gentleman from Pennsylvania is, that this is one very small slice of the overall pie needed to make the United States of America more competitive. It is important. It should not be discounted.

But in the absence of appropriate tax, regulatory, education, and trade policies; the R&D tax credit, the capital gains reform, the promotion of manufacturing, the focus on quality; in the absence of these more generic and basic driving forces necessary for American's industry to be more competitive, this bill will do not much.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. RITTER and by unanimous consent Mr. WALKER was allowed to proceed for 2 additional minutes.)

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

Mr. RITTER. This bill will do not much. It is a piece of the action. It is important. But so much more must be done to improve the overall climate for U.S. competitiveness.

I also heard on the other side of the aisle a little bit of overstatement, that somehow by going to an Advanced

Technology Program [ATP] we are going to solve the ills of the United States in global high technology competition. That is simply not going to happen and we would be misleading ourselves and the American people to overstate the impact of this bill. I just wanted to put it all in some perspective.

Mr. ROE. Mr. Chairman, will the gentleman yield just one-half a minute?

Mr. WALKER. I am glad to yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, is it not too bad when we get so enthused and so involved that we come back and we say, "over here," and "over there"? I just would like to remind the gentleman that there was some very, very strong support on this side of the aisle for the very areas about which he spoke. I do not think we are talking about your side of the aisle or this side of the aisle. What do we do together to make it better?

Mr. RITTER. I thank the gentleman for his comment. I just wanted to make sure that we will not walk away from this vote thinking that the debate over competitiveness has ended, the problem is solved, and by an additional several millions of Federal R&D contract money with industry somehow will win over several trillion dollars' worth of world economy that the gentleman had in mind and on his charts when discussing jobs and economic activity.

Mr. WALKER. I thank the gentleman.

I would just make one final point. We have often thought in this Congress that we can spend our way somehow to prosperity, and that is not I think very true. What we can do is develop policies that make sense.

This bill has a lot of policies that make sense. It would be a shame to lose those policies over an argument between whether it should be $250 million or "such sums." Such sums is a fiscal discipline approach and I would urge its adoption.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

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

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 272, not voting 10, as follows:

[Roll No. 218]

AYES—150

Archer	Barton	Boehlert
Armey	Bateman	Broomfield
Baker	Bereuter	Brown (CO)
Ballenger	Bilirakis	Buechner
Bartlett	Bliley	Bunning
Burton	Hyde	Robinson
Callahan	Inhofe	Rogers
Campbell (CA)	Ireland	Rohrabacher
Chandler	Johnson (CT)	Ros-Lehtinen
Coble	Kasich	Roth
Coleman (MO)	Kolbe	Roukema
Combest	Kyl	Rowland (CT)
Condit	Lagomarsino	Saiki
Coughlin	Leach (IA)	Saxton
Courter	Lent	Schaefer
Cox	Lightfoot	Schiff
Craig	Livingston	Schneider
Crane	Lowery (CA)	Schuette
Davis	Machtley	Schulze
DeLay	Madigan	Sensenbrenner
DeWine	Marlenee	Shaw
Dornan (CA)	Martin (IL)	Shays
Douglas	Martin (NY)	Shumway
Dreier	McCandless	Shuster
Duncan	McCrery	Skeen
Fawell	McDade	Slaughter (VA)
Fields	McEwen	Smith (NE)
Fish	McGrath	Smith (TX)
Frenzel	Meyers	Smith (VT)
Gallegly	Michel	Smith, Denny (OR)
Gallo	Miller (OH)	Smith, Robert (NH)
Gekas	Miller (WA)	Smith, Robert (OR)
Geren	Molinari	Snowe
Gilman	Moorhead	Solomon
Gingrich	Morella	Spence
Goodling	Morrison (WA)	Stenholm
Goss	Myers	Stump
Gradison	Nielson	Sundquist
Grandy	Oxley	Tauke
Green	Packard	Thomas (WY)
Gunderson	Parker	Upton
Hancock	Parris	Vander Jagt
Hansen	Paxon	Vucanovich
Hastert	Penny	Walker
Hefley	Petri	Walsh
Herger	Porter	Weber
Hiler	Quillen	Weldon
Holloway	Regula	Wylie
Hopkins	Rhodes	
Houghton	Ridge	
Hunter	Roberts	

NOES—272

Ackerman	Dannemeyer	Hall (OH)
Alexander	Darden	Hamilton
Anderson	de la Garza	Hammerschmidt
Andrews	DeFazio	Harris
Annunzio	Dellums	Hatcher
Anthony	Derrick	Hawkins
Applegate	Dickinson	Hayes (IL)
Aspin	Dicks	Hayes (LA)
AuCoin	Dingell	Hefner
Barnard	Dixon	Henry
Bates	Donnelly	Hertel
Beilenson	Dorgan (ND)	Hoagland
Bennett	Downey	Hochbrueckner
Bentley	Durbin	Horton
Berman	Dwyer	Hoyer
Bevill	Dymally	Hubbard
Bilbray	Dyson	Huckaby
Boggs	Early	Hughes
Bonior	Eckart	Hutto
Borski	Edwards (CA)	Jacobs
Bosco	Edwards (OK)	James
Boucher	Emerson	Jenkins
Boxer	Engel	Johnson (SD)
Brennan	English	Johnston
Brooks	Erdreich	Jones (GA)
Browder	Espy	Jones (NC)
Brown (CA)	Evans	Jontz
Bruce	Fascell	Kanjorski
Bryant	Fazio	Kaptur
Bustamante	Feighan	Kastenmeier
Byron	Flake	Kennedy
Campbell (CO)	Flippo	Kennelly
Cardin	Foglietta	Kildee
Carper	Ford (MI)	Kleczka
Carr	Frank	Kolter
Chapman	Frost	Kostmayer
Clarke	Gaydos	LaFalce
Clay	Gejdenson	Lancaster
Clement	Gephardt	Lantos
Clinger	Gibbons	Laughlin
Coleman (TX)	Gillmor	Leath (TX)
Collins	Glickman	Lehman (CA)
Conte	Gonzalez	Lehman (FL)
Conyers	Gordon	Levin (MI)
Cooper	Grant	Levine (CA)
Costello	Gray	Lewis (CA)
Coyne	Guarini	Lewis (FL)
Lewis (GA)	Pashayan	Solarz
Lipinski	Patterson	Spratt
Lloyd	Payne (NJ)	Staggers
Long	Payne (VA)	Stallings
Lowey (NY)	Pease	Stangeland
Luken, Thomas	Pelosi	Stark
Manton	Perkins	Stearns
Markey	Pickett	Stokes
Martinez	Pickle	Studds
Matsui	Poshard	Swift
Mavroules	Price	Synar
Mazzoli	Pursell	Tallon
McCloskey	Rahall	Tanner
McColium	Rangel	Tauzin
McCurdy	Ravenel	Taylor
McDermott	Ray	Thomas (CA)
McHugh	Richardson	Thomas (GA)
McMillan (NC)	Rinaldo	Torres
McMillen (MD)	Ritter	Torricelli
McNulty	Roe	Towns
Mfume	Rose	Traficant
Miller (CA)	Rostenkowski	Udall
Mineta	Rowland (GA)	Unsoeld
Moakley	Roybal	Valentine
Mollohan	Russo	Vento
Montgomery	Sabo	Visclosky
Moody	Sangmeister	Volkmer
Morrison (CT)	Sarpalius	Walgren
Mrazek	Savage	Watkins
Murphy	Sawyer	Waxman
Murtha	Scheuer	Weiss
Nagle	Schroeder	Wheat
Natcher	Schumer	Whittaker
Neal (MA)	Serrano	Whitten
Neal (NC)	Sharp	Williams
Nowak	Sikorski	Wilson
Oakar	Sisisky	Wise
Oberstar	Skaggs	Wolf
Olin	Skelton	Wolpe
Ortiz	Slattery	Wyden
Owens (NY)	Slaughter (NY)	Yates
Owens (UT)	Smith (FL)	Yatron
Pallone	Smith (IA)	Young (FL)
Panetta	Smith (NJ)	

NOT VOTING—10

Atkins	Lukens, Donald	Washington
Crockett	Nelson	Young (AK)
Ford (TN)	Obey	
Hall (TX)	Traxler	

□ 1659

Messrs. DEFAZIO, MILLER of California, ESPY, DINGELL, and RAY changed their vote from "aye" to "no."

Mr. THOMAS of Wyoming, Mrs. ROUKEMA, Mrs. SAIKI, and Messrs. STENHOLM, PENNY, GEREN of Texas, and CONDIT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1700

AMENDMENT OFFERED BY MRS. BENTLEY

Mrs. BENTLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BENTLEY:

Page 26, line 7, insert after "is being sought." the following:

"(12)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States or in Canada. The United States may reserve a nonexclusive, nontransferable, irrevocable paid up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in

the United States or Canada, until the expiration of a first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

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

The CHAIRMAN pro tempore (Mr. HARRIS). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BENTLEY. Mr. Chairman, I first want to commend the Committee on Science, Space, and Technology for its fine work on the ATP Program. The legislation addresses a serious problem, and I want to congratulate the chairman of the committee, the gentleman from New Jersey [Mr. ROE], and the ranking minority member, the gentleman from Pennsylvania [Mr. WALKER], for their leadership in this matter.

Mr. Chairman, this legislation addresses a serious problem. Since the United States must remain competitive, the $250 million allocated by the ATP will stimulate advanced technologies and thus stimulate our Nation's competitive posture.

However, this investment is the starting gate rather than the finish line. No matter how much technology we generate, our competitive position will not be enhanced unless we infuse this technology into our economy.

A few weeks ago, some disturbing statistics were released. For the first time since World War II, a foreign nation invested more money in capital improvements inside than did the United States. Although the $560 billion invested by Japan was "only" $30 billion more than the United States investment, the statistics demonstrates Japan's commitment to production and manufacturing—the linchpin of competitive success.

The statistics concerning capital improvement investments are even more alarming when you consider that Japan has half the population of the United States and, therefore, on a per capita basis, the Japanese have invested twice as much money in capital improvements within its own borders than the United States has.

The Bentley/Hunter amendment, in its way, recognizes this discrepancy. This country must make an ongoing commitment to technology research and product development.

The National Institute of Standards and Technology [NIST] has submitted proposed regulations requiring that "title to technologies funded by the ATP should vest in one of the participants in the government funded research and development projects."

Neither the proposed regulations nor H.R. 5072 clearly states whether foreign participants could receive title to Government funded advanced technologies. The Bentley/Hunter amendment would clarify this situation by simply stating that "title to any technology derived from government funds must remain in an American or Canadian firm."

What is title? Title is ownership. So how does this amendment benefit American companies? We all have heard the advertising slogan, "Membership has its privileges." Well, "ownership has its privileges" and certain rights.

Title to these technologies will become an asset to a United States or Canadian company because the title holder will be able to negotiate cross-licensing agreements and will receive royalties from the technologies.

By conferring title to U.S. companies, Americans will benefit from the royalties, which are taxable income, and the control that goes hand in hand with the privileges of ownership.

I must stress that conferring title will not, in any way, preclude any licensing arrangement between these companies and foreign firms. Business should continue as usual.

If American taxpayers are funding research and development projects that allow foreign participation, then ownership of the technology should remain in American hands.

This amendment gives the privilege of ownership to companies incorporated in the United States or Canada.

Mr. Chairman, I just want to say that I really wanted to make this amendment a lot stronger, but I was told by the chairman of the committee and others that it would not have a chance if I did, so I deferred to the chairman, and that is the amendment I have offered.

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

Mr. Chairman, we have worked very vigorously with the gentlewoman from Maryland [Mrs. BENTLEY] in helping to come to a consensus of her very important amendment. I think that the substance of the amendment is laudable. I think what is important to us is that her amendment will ensure that title to inventions, other than the program, will stay in America. That, I think, is an extraordinary improvement to this legislation, since they owe their existence, as the gentlewoman pointed out, very basically to the funding through taxpayers' money in the United States going into this research.

The amendment further assures that the Government has the legal right to use these inventions, as I understand it, and there are no statutory restrictions on the licensing of the inventions, thereby permitting total widespread use.

Mr. Chairman, we by all means support the amendment. I think it is an excellent amendment, and we very strongly support the gentlewoman's effort. We have absolutely no objection to it on this side of the aisle.

Mrs. BENTLEY. Mr. Chairman, if the gentleman will yield, let me thank the gentleman for those comments.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think that at a time when we are moving toward a global economy the last thing we need to do is discourage people from investing in America. The problem with this amendment is that while it does allow licensing beyond our borders, it is an impediment in the way of those who wish to invest in America and then participate as a part of that investment in high-technology research. I think that would be a mistake. I think it would be one more issue to assure that this program has no chance of being signed by the administration.

So, therefore, Mr. Chairman, I oppose the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FRENZEL. Mr. Chairman, I understand the focus of the Bentley amendment. I think I know what the gentlewoman is trying to do. I congratulate the gentlewoman on having softened it because of some earlier complaints, and I think she has done a good job of trying to put it in acceptable form.

Unfortunately, for me and, I think, probably for the administration, it is not yet acceptable. The idea of preventing sales between a willing buyer and a willing seller involving patents of which we have no understanding at this point seems to me to be a rather unnecessary restraint of trade.

□ 1710

Mr. Chairman, the ability to license will be helpful, but, on the other hand, may give rise to more trade problems. As many Members know, we have complaints not about so-called gray market imports from licensees who can produce the same product outside the United States which is produced inside.

Mr. Chairman, I would simply recapitulate by saying that I do not think this is the best use of America's resources to say what we will never sell and what we will only rent out, and I think it is eventually going to be, or is already, conceived by our trading partners as restraint of trade and is going

to give us some difficulties in the future.

As I look at this bill and see the restraints of foreign-owned companies in participating in our program, in looking at the Buy America language of the gentleman from Ohio [Mr. TRAFICANT], in looking at the language of the gentlewoman from Maryland [Mrs. BENTLEY], which I believe the House is going to accept, and then the defeat on top of that of the amendment of the gentleman from Pennsylvania [Mr. WALKER], it seems quite clear that the House has no intention of enacting a bill, but simply wants to pass a dream.

Mr. Chairman, I intend to vote against the amendment of the gentlewoman from Maryland [Mrs. BENTLEY] and against the bill.

The CHAIRMAN pro tempore (Mr. HARRIS). The question is on the amendment offered by the gentlewoman from Maryland [Mrs. BENTLEY].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HORTON: Page 2, amend the items in the table of contents relating to the sections of title IV to read as follows:

Sec. 401. Major science and technology proposals.
Sec. 402. National high performance computer technology program.
Sec. 403. Presidential Commission on Reducing Capital Cost for Emerging Technology.
Sec. 404. Research, development, technology utilization, and Government procurement policy.

Page 32, lines 9 through 26, strike section 401.

Page 33, line 1, strike "SEC. 402." and insert in lieu thereof "SEC. 401.".

Page 33, line 7, strike "SEC. 403." and insert in lieu thereof "SEC. 402.".

Page 39, line 14, strike "SEC. 404." and insert in lieu thereof "SEC. 403.".

Page 40, line 10, strike "section 403" and insert in lieu thereof "section 402".

Page 44, line 12, strike "SEC. 405." and insert in lieu thereof "SEC. 404.".

Page 45, line 17, strike "sections 403 and 404" and insert in lieu thereof "sections 402 and 403".

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

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

There was no objection.

Mr. HORTON. Mr. Chairman, my amendment strikes the language in this bill that would elevate the director of the Office of Science and Technology Policy to executive 1 level from his current executive level 2 position.

Mr. Chairman, at the outset I want to indicate that I feel strongly about this amendment. I also want to indicate my high regard and esteem for the chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE]. The chairman and myself are very close personal friends. I have the highest regard for his integrity and his abilities. He is a fine leader of this very important committee, which is one of the most important, especially as it relates to our space program. He has done an excellent job in his leadership of this committee. He and I jointly work as a dean of our delegations. He is the dean of the New Jersey delegation. I am the dean of the New York delegation. I have the highest regard and respect for him, especially with regard to this legislation and the work that he does on the committee.

I would say also that the elevation of the director of the Office of Science and Technology Policy to executive level 1 is something that would normally come under the jurisdiction of the Committee on Government Operations because the Executive Office of the President is under the jurisdiction of the Committee on Government Operations, and this does affect the Executive Office of the President. Also, the elevation from level 2 to level 1 would normally come under the auspices or the jurisdiction of the Committee on Post Office and Civil Service on which I serve. Mr. Chairman, serving as one of the ranking members on that committee, and then as the ranking member on the Committee on Government Operations, I must move to strike this language, but hopefully, if this amendment does pass, and I would like the gentleman from New Jersey [Mr. ROE] to accept this amendment, but, if he does not, I would hope that we could later have the appropriate types of hearings to determine whether or not this office ought to be elevated.

However, Mr. Chairman, I agree that the director's position is important, and I believe, too, that it deserves the greatest visibility within this or any administration. Our Nation is falling behind in science and technology education, as well as research and development and manufacturing. President Bush, too, recognizes the importance of his science adviser, as is evident by the appointment of Dr. Allan Bromley and the inclusion of this needed nuclear physicist in White House Cabinet meetings. There have been many persons who have served in this office, but none is more highly qualified than Dr. Allan Bromley, and I certainly do not want this amendment to affect in any way the high regard and respect for Dr. Bromley that is held throughout this House and throughout this Nation. He is probably one of the best that has ever served in this office, however, more importantly, it was President Bush who elevated the position by designating Dr. Bromley as Assistant to the President for Science and Technology from his position as the director of the Office of Science and Technology Policy.

I do not believe, however, that raising Dr. Bromley to the position of executive 1 level improves either his already strong position with the President or his ability to work with other departments and agencies in formulating policy on science and technology related issues. Instead the elevation to executive level 1 creates inconsistencies within the White House staff and the Government salary structure.

For example, if this legislation is enacted, the President's science adviser would be paid more than his chief of staff. Simply stated, that just does not make sense. The elevation of any Government official to Cabinet level salary status deserves careful consideration.

Today, Mr. Chairman, and I point this out very emphatically, today there are only three Government officials other than Cabinet officers who are at the executive 1 level. These are the Director of OMB, the U.S. Trade Representative, and the Director of the Office of National Drug Control Policy, or the drug czar.

Mr. Chairman, I remember when that legislation, the drug legislation, went through our committee. The chairman of the committee, the gentleman from Texas [Mr. BROOKS], and I worked very carefully on this subject, and we were careful to have hearings and to examine very carefully whether or not that ought to be elevated to the Cabinet level position or executive 1.

Those are only three: The Director of OMB, the U.S. Trade Representative, and the drug czar.

Mr. Chairman, the executive 2 level status is adequate. Dr. Bromley is in good company. He shares the same level as the Administrator of NASA, the EPA Administrator, and the White House Chief of Staff, to name just a few.

It has been argued that Dr. Bromley sits in meetings with Cabinet officers but does not enjoy the same status of these officials. The fact is that a number of executive 2 level officials participate in Cabinet meetings, including EPA Administrator Reilly, the White House Chief of Staff, John Sununu, and legal counsel, C. Boyden Gray. I have heard John Sununu described in many ways, but no one has ever accused him of having the status to be effective in his position. I believe the same is true of Dr. Bromley.

My point is that one's effectiveness in his or her position is not completely dependent on the job classification. Dr. Bromley is doing an outstanding job. He has the President's ear. We

need not impose inconsistencies on the Government, and specifically White House salary and position structure, in the name of improving science and technology.

Mr. Chairman, I urge my colleagues to support this amendment.

□ 1720

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are almost done.

There is nobody in this House, including the Members from New Jersey, who have a higher regard for the distinguished gentleman from New York [Mr. HORTON].

I know this is a bit of a flap at the White House, and I am sorry for that. Somebody had mentioned in their passionate speech today that Craig Field had left the Government and had gone elsewhere, and so forth. It seems to me that we had strong debate in the House as to whether or not Members of Congress were being paid adequately, not only for their time, but for their knowledge and so forth. It seems to me that if science, space, and technology are as important as we say it is important in this debate today, then we ought to be saying does the person in the White House who is the chief advisor to the President of the United States in every respect where science and technology is involved, who handles an overall decisionmaking pattern, if you like, of $100 billion a year, plus or minus, in the research of the Nation, who is called upon to advise the Cabinet of the United States and members of the Cabinet as to science and technology issues; very fierce issues have been arising here in the last 6 months or a year in the space program, international science cooperation and so forth, I asked my staff, and I do not have that information available, as to what the difference in the level was in dollars between his present level up to level 1.

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

Mr. ROE. Yes, of course, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, as I understand, the executive level 2 salary is $96,600, and the executive level 1 is $107,300. That is the Cabinet level salaries at the present time.

Mr. ROE. So it is a difference of relatively a few thousand dollars.

Well, I am not going to argue with the gentleman from New York [Mr. HORTON], I think too much of him; but I would hope that we vote this down.

It seems to me the people of this country looked at us and they said, are we worth it? We have had that in some of our primaries, as I look across the aisle here, and we said to the people of the United States that we felt that Members of Congress were really important people, leaders and executives in the Nation, and ought to be able to stay here, all citizens ought to be, at a level of salary they could really support; so we are talking about a few thousand dollars difference here, but there is another principle involved. I think fundamentally the principle is, does the person who is appointed by the President and confirmed by the Senate, who is going to represent science and technology in the Nation, to advise the President of the United States both domestically and internationally, should for some reason he be lesser paid than the person who heads up the U.S. Trade Representative or the drug czar? That is the issue, to be paid considerably less in either case than Members of Congress.

I think we ought to search our conscience on this. I would really respectfully suggest to vote down this amendment and let this matter resolve itself.

Mr. WALKER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I hope the Members will think a little bit about what they are doing here. The question is not whether we have respect for the people, whether they ought to be paid the amount that indicates that respect. The question here is one of properly managing an administration.

Now, what we are suggesting in this bill is that this particular adviser to the President should be paid more than the President's chief adviser, his chief of staff. Does that make any sense at all to do that?

We are suggesting here that this adviser ought to be paid more than the National Security Adviser to the President, Mr. Scowcroft. Does that make any sense?

We are suggesting that this adviser ought to be paid more than the head of the Council of Economic Advisers. Does that make any sense?

We are suggesting that it is more important than the EPA Administrator. Does that make any sense?

We are suggesting that it is more important than the NASA Administrator. Does that make any sense?

I really think that we ought to consider just the fact that the power within the White House does not depend upon the salary level. It depends on how the President regards this person in terms of advice.

Obviously, John Sununu is not held down in terms of advising the President and having power and clout within the administration by the fact that he is in executive 2 salary.

Why would we think the Science Advisor would have anymore problems being respected within the administration? He will not. In fact, the administration raised the Science Advisor to this level to put him on a par with the rest of these folks; the same thing with the National Security Advisor. This is one of the most influential advisers in the Government. Certainly the Science Advisor should be on the same level, but to now suggest that we ought to move him above that level, I just think makes somewhat of a difficult situation.

Let me also point out that a little while earlier today we were very sensitive to the fact that one committee of the Congress did not like some of the language that was in our bill, so we struck out a provision relating to the research and development tax credit at the insistence of one of the committees.

Now we are also dealing with an area that another committee of the Congress has concerns about, namely, the Post Office and Civil Service Committee, that we have waded into their jurisdictional area where they properly should hold hearings, and yet here we are not sensitive to what they should be doing.

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

Mr. WALKER. I am glad to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, there are two issues. One, of course, is the pay, and I want to indicate at this point that I have no problem with the pay increase for Dr. Bromley or any of the other top executives. I have voted consistently for pay increases, not only for Members of Congress, but I have been in the forefront of trying to raise salaries in the executive section. I think we have a hard enough time trying to keep people like Dr. Bromley and others in the Executive Branch. They make a tremendous contribution, so I have no problem with that.

I would point out, however, that pay is a subject that is under the jurisdiction of the Post Office and Civil Service Committee. We have not had this subject before us. We are in the process right now of having hearings and we will have hearings next week on a pay bill for Federal employees. That is under the Post Office and Civil Service Committee.

The other is the structure of the Executive Office of the President. Now, that is under the jurisdiction of the Government Operations Committee. I think that has to be very carefully considered when we talk in terms of elevating someone else to a Cabinet level position, and that is what we are talking about doing here, elevating this office, this assistant to the President to a Cabinet level position. I think we ought to do more study on that and have hearings and look at the subject with regard to others before we disorganize the structure of the Executive Office of the President.

Mr. WALKER. We are really in the jurisdiction of two committees.

Mr. HORTON. Post Office and Civil Service, and Government Operations.

Mr. WALKER. And neither of those committees at this point have had any hearings or have reflected at all on what it is we are about to do.

Mr. HORTON. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. WALKER. I think the gentleman makes a good point with regard to the Executive Office of the President, that we are likely to end up causing some dislocations there, without having given proper thought to it.

In all honesty, this was not discussed at all in a major sense within our committee. It was something that was added to the bill. It was almost added as a matter of fact. We did not have long testimony or anything indicating that this would be of great value to the ATP Program, so this is something that we are doing almost as a throwaway and it is obvious that it is something that should be done with a good deal more thought, so I would certainly support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. HARRIS). The question is on the amendments offered by the gentleman from New York [Mr. HORTON].

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

RECORDED VOTE

Mr. ROE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 195, not voting 10, as follows:

[Roll No. 219]

AYES—227

Archer	DeWine	Horton
Armey	Dickinson	Houghton
Baker	Dixon	Hubbard
Ballenger	Dorgan (ND)	Huckaby
Bartlett	Dornan (CA)	Hunter
Barton	Douglas	Hyde
Bateman	Dreier	Inhofe
Bennett	Duncan	Ireland
Bereuter	Early	Jacobs
Bilirakis	Emerson	James
Bliley	English	Johnson (CT)
Boehlert	Espy	Jontz
Broomfield	Fawell	Kanjorski
Brown (CO)	Fields	Kasich
Bryant	Fish	Kennelly
Buechner	Flake	Kolbe
Bunning	Frenzel	Kostmayer
Burton	Gallegly	Kyl
Bustamante	Gallo	Lagomarsino
Byron	Gekas	Leach (IA)
Callahan	Geren	Lent
Campbell (CA)	Gillmor	Levin (MI)
Cardin	Gilman	Lewis (CA)
Carr	Gingrich	Lewis (FL)
Chandler	Goodling	Lightfoot
Clay	Goss	Livingston
Clinger	Gradison	Long
Coble	Grandy	Lowery (CA)
Coleman (MO)	Grant	Machtley
Combest	Green	Madigan
Condit	Gunderson	Marlenee
Conte	Hammerschmidt	Martin (IL)
Conyers	Hancock	Martin (NY)
Coughlin	Hansen	Martinez
Courter	Hastert	McCandless
Cox	Hefley	McCollum
Craig	Henry	McCrery
Crane	Herger	McDade
Dannemeyer	Hiler	McEwen
Davis	Holloway	McGrath
DeLay	Hopkins	McMillan (NC)
Meyers	Richardson	Smith, Denny (OR)
Mfume	Ridge	Smith, Robert (NH)
Michel	Rinaldo	Smith, Robert (OR)
Miller (OH)	Roberts	Snowe
Miller (WA)	Robinson	Solomon
Molinari	Rogers	Spence
Montgomery	Rohrabacher	Stangeland
Moorhead	Ros-Lehtinen	Stearns
Morella	Rose	Stenholm
Morrison (WA)	Roth	Stump
Murphy	Roukema	Sundquist
Myers	Rowland (CT)	Tauke
Nielson	Saiki	Tauzin
Oakar	Sangmeister	Thomas (CA)
Obey	Sarpalius	Thomas (WY)
Olin	Savage	Towns
Owens (UT)	Saxton	Traxler
Oxley	Schaefer	Upton
Packard	Schiff	Vander Jagt
Parker	Schneider	Vucanovich
Parris	Schuette	Walker
Pashayan	Schulze	Walsh
Patterson	Sensenbrenner	Watkins
Paxon	Shaw	Weber
Payne (VA)	Shays	Weiss
Pease	Shumway	Weldon
Pelosi	Shuster	Whittaker
Petri	Sisisky	Wolf
Porter	Skeen	Wylie
Pursell	Slattery	Yatron
Quillen	Slaughter (NY)	Young (AK)
Rangel	Slaughter (VA)	Young (FL)
Ravenel	Smith (NE)	
Ray	Smith (NJ)	
Regula	Smith (TX)	
Rhodes	Smith (VT)	

NOES—195

Alexander	Feighan	McCloskey
Anderson	Flippo	McCurdy
Andrews	Foglietta	McDermott
Annunzio	Ford (MI)	McHugh
Anthony	Frank	McMillen (MD)
Applegate	Frost	McNulty
Aspin	Gaydos	Miller (CA)
Atkins	Gejdenson	Mineta
AuCoin	Gephardt	Moakley
Barnard	Gibbons	Mollohan
Bates	Glickman	Moody
Beilenson	Gonzalez	Mrazek
Bentley	Gordon	Murtha
Berman	Gray	Nagle
Bevill	Guarini	Natcher
Bilbray	Hall (OH)	Neal (MA)
Boggs	Hamilton	Neal (NC)
Bonior	Harris	Nowak
Borski	Hatcher	Oberstar
Bosco	Hawkins	Ortiz
Boucher	Hayes (IL)	Owens (NY)
Boxer	Hayes (LA)	Pallone
Brennan	Hefner	Panetta
Brooks	Hertel	Payne (NJ)
Browder	Hoagland	Penny
Brown (CA)	Hochbrueckner	Perkins
Bruce	Hoyer	Pickett
Campbell (CO)	Hughes	Pickle
Carper	Hutto	Poshard
Chapman	Johnson (SD)	Price
Clarke	Johnston	Rahall
Clement	Jones (GA)	Ritter
Coleman (TX)	Jones (NC)	Roe
Collins	Kaptur	Rostenkowski
Cooper	Kastenmeier	Rowland (GA)
Costello	Kennedy	Roybal
Coyne	Kildee	Russo
Darden	Kleczka	Sabo
de la Garza	Kolter	Sawyer
DeFazio	LaFalce	Scheuer
Dellums	Lancaster	Schroeder
Derrick	Lantos	Schumer
Dicks	Laughlin	Serrano
Dingell	Leath (TX)	Sharp
Donnelly	Lehman (CA)	Sikorski
Downey	Lehman (FL)	Skaggs
Durbin	Levine (CA)	Skelton
Dwyer	Lewis (GA)	Smith (FL)
Dymally	Lipinski	Smith (IA)
Dyson	Lloyd	Solarz
Eckart	Lowey (NY)	Spratt
Edwards (CA)	Luken, Thomas	Staggers
Engel	Manton	Stallings
Erdreich	Markey	Stark
Evans	Matsui	Stokes
Fascell	Mavroules	Studds
Fazio	Mazzoli	Swift
Synar	Udall	Wheat
Tallon	Unsoeld	Whitten
Tanner	Valentine	Williams
Taylor	Vento	Wilson
Thomas (GA)	Visclosky	Wise
Torres	Volkmer	Wolpe
Torricelli	Walgren	Wyden
Traficant	Waxman	Yates

NOT VOTING—10

Ackerman	Hall (TX)	Nelson
Crockett	Jenkins	Washington
Edwards (OK)	Lukens, Donald	
Ford (TN)	Morrison (CT)	

□ 1750

Messrs. KLECZKA, SYNAR, and FASCELL, and Mrs. BENTLEY changed their vote from "aye" to "no."

Messrs. BALLENGER, BILIRAKIS, PARKER, YOUNG of Florida, PURSELL, FLAKE, CLAY, RICHARDSON, BUSTAMANTE, and BRYANT, and Mrs. KENNELLY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HARRIS). Are there other amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. HARRIS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4329) to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes, pursuant to House Resolution 422, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill to the Committee on Science, Space, and Technology with instructions to report the bill back to the House forthwith with the following amendment:

Page 30, line 18, strike "$250,000,000" and insert in lieu thereof "$150,000,000".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

Mr. WALKER. Mr. Speaker, this motion to recommit is simply an effort to see whether or not we can effect some fiscal discipline in this bill.

In 1991, under this bill we will spend $100 million; in 1992, under this bill we will spend $250 million. My amendment would simply say that instead of $250 million we ought to make the authorization $150 million, and allow only a 50-percent increase in 1 year. I think that is a fairly substantial amount to increase, but it would be fiscally responsible as compared to the bill now before us.

I would urge the Members to vote for this amendment that will limit the increase between 1991 and 1992 to 50 percent.

With that, I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I rise in opposition to the motion. I do not want to take the Members' time, but we have been through this drill once before, and the Members of this House voted overwhelmingly to vote this amendment down before. It has been changed somewhat, but we would be opposed to this amendment because what it is going to do is gut the latter part of this bill.

So I would recommend to all our Members to vote no on the recommittal and yes on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—yeas 165, nays 257, not voting 10, as follows:

[Roll No. 220]

YEAS—165

Archer	Hansen	Petri
Armey	Hastert	Porter
Baker	Hefley	Pursell
Ballenger	Herger	Quillen
Bartlett	Hiler	Regula
Barton	Holloway	Rhodes
Bateman	Hopkins	Roberts
Bennett	Houghton	Robinson
Bilirakis	Hunter	Rogers
Bliley	Hutto	Rohrabacher
Boehlert	Hyde	Ros-Lehtinen
Broomfield	Inhofe	Roth
Brown (CO)	Ireland	Roukema
Buechner	Jacobs	Rowland (CT)
Bunning	James	Saiki
Burton	Johnson (CT)	Saxton
Callahan	Johnson (SD)	Schaefer
Campbell (CA)	Kasich	Schneider
Chandler	Kolbe	Schuette
Clinger	Kyl	Schulze
Coble	Lagomarsino	Sensenbrenner
Coleman (MO)	Leach (IA)	Shaw
Combest	Lent	Shays
Conte	Lewis (CA)	Shumway
Coughlin	Lewis (FL)	Shuster
Courter	Lightfoot	Skeen
Cox	Livingston	Slaughter (VA)
Craig	Lowery (CA)	Smith (NE)
Crane	Machtley	Smith (TX)
Dannemeyer	Madigan	Smith (VT)
Davis	Marlenee	Smith, Denny (OR)
DeLay	Martin (IL)	
DeWine	Martin (NY)	Smith, Robert (NH)
Dickinson	McCandless	
Dornan (CA)	McCollum	Smith, Robert (OR)
Dreier	McCrery	
Duncan	McDade	Snowe
Emerson	McEwen	Solomon
Fawell	McGrath	Spence
Fields	McMillan (NC)	Stearns
Fish	Meyers	Stump
Frenzel	Michel	Sundquist
Gallegly	Miller (OH)	Tauke
Gallo	Miller (WA)	Thomas (CA)
Gekas	Molinari	Thomas (WY)
Gillmor	Moorhead	Upton
Gingrich	Morrison (WA)	Vander Jagt
Goodling	Myers	Vucanovich
Goss	Neal (NC)	Walker
Gradison	Nielson	Walsh
Grandy	Olin	Weber
Grant	Oxley	Weldon
Green	Packard	Whittaker
Gunderson	Parker	Wylie
Hammerschmidt	Pashayan	Young (AK)
Hancock	Paxon	Young (FL)

NAYS—257

Alexander	Bryant	Downey
Anderson	Bustamante	Durbin
Andrews	Byron	Dwyer
Annunzio	Campbell (CO)	Dymally
Anthony	Cardin	Dyson
Applegate	Carper	Early
Aspin	Carr	Eckart
Atkins	Chapman	Edwards (CA)
AuCoin	Clarke	Engel
Barnard	Clay	English
Bates	Clement	Erdreich
Beilenson	Coleman (TX)	Espy
Bentley	Collins	Evans
Bereuter	Condit	Fascell
Berman	Conyers	Fazio
Bevill	Cooper	Feighan
Bilbray	Costello	Flake
Boggs	Coyne	Flippo
Bonior	Darden	Foglietta
Borski	de la Garza	Ford (MI)
Bosco	DeFazio	Frank
Boucher	Dellums	Frost
Boxer	Derrick	Gaydos
Brennan	Dicks	Gejdenson
Brooks	Dingell	Gephardt
Browder	Dixon	Geren
Brown (CA)	Donnelly	Gibbons
Bruce	Dorgan (ND)	Gilman
Glickman	McDermott	Scheuer
Gonzalez	McHugh	Schiff
Gordon	McMillen (MD)	Schroeder
Gray	McNulty	Schumer
Guarini	Mfume	Serrano
Hall (OH)	Miller (CA)	Sharp
Hamilton	Mineta	Sikorski
Harris	Moakley	Sisisky
Hatcher	Mollohan	Skaggs
Hawkins	Montgomery	Skelton
Hayes (IL)	Moody	Slattery
Hayes (LA)	Morella	Slaughter (NY)
Hefner	Mrazek	Smith (FL)
Henry	Murphy	Smith (IA)
Hertel	Murtha	Smith (NJ)
Hoagland	Nagle	Solarz
Hochbrueckner	Natcher	Spratt
Horton	Neal (MA)	Staggers
Hoyer	Nowak	Stallings
Hubbard	Oakar	Stangeland
Huckaby	Oberstar	Stark
Hughes	Obey	Stenholm
Johnston	Ortiz	Stokes
Jones (GA)	Owens (NY)	Studds
Jones (NC)	Owens (UT)	Swift
Jontz	Pallone	Synar
Kanjorski	Panetta	Tallon
Kaptur	Parris	Tanner
Kastenmeier	Patterson	Tauzin
Kennedy	Payne (NJ)	Taylor
Kennelly	Payne (VA)	Thomas (GA)
Kildee	Pease	Torres
Kleczka	Pelosi	Torricelli
Kolter	Penny	Towns
Kostmayer	Perkins	Traficant
LaFalce	Pickett	Traxler
Lancaster	Pickle	Udall
Lantos	Poshard	Unsoeld
Laughlin	Price	Valentine
Leath (TX)	Rahall	Vento
Lehman (CA)	Rangel	Visclosky
Lehman (FL)	Ravenel	Volkmer
Levin (MI)	Ray	Walgren
Levine (CA)	Richardson	Washington
Lewis (GA)	Ridge	Watkins
Lipinski	Rinaldo	Waxman
Lloyd	Ritter	Weiss
Long	Roe	Wheat
Lowey (NY)	Rose	Whitten
Luken, Thomas	Rostenkowski	Williams
Manton	Rowland (GA)	Wilson
Markey	Roybal	Wise
Martinez	Russo	Wolf
Matsui	Sabo	Wolpe
Mavroules	Sangmeister	Wyden
Mazzoli	Sarpalius	Yates
McCloskey	Savage	Yatron
McCurdy	Sawyer	

NOT VOTING—10

Ackerman	Ford (TN)	Morrison (CT)
Crockett	Hall (TX)	Nelson
Douglas	Jenkins	
Edwards (OK)	Lukens, Donald	

□ 1814

The Clerk announced the following pair:

On this vote:

Mr. Douglas for, with Mr. Morrison of Connecticut against.

Mr. MILLER of California and Mr. GILMAN changed their vote from "yea" to "nay."

Mr. SHAYS and Mr. NIELSON of Utah changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the passage of the bill.

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

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This vote is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 327, nays 93, not voting 12, as follows:

[Roll No. 221]

YEAS—327

Alexander	Engel	Long
Anderson	English	Lowery (CA)
Andrews	Erdreich	Lowey (NY)
Annunzio	Espy	Luken, Thomas
Anthony	Evans	Machtley
Applegate	Fascell	Manton
Aspin	Fawell	Markey
Atkins	Fazio	Martin (IL)
AuCoin	Feighan	Martin (NY)
Baker	Flake	Martinez
Barnard	Flippo	Matsui
Bateman	Foglietta	Mavroules
Bates	Ford (MI)	Mazzoli
Beilenson	Frank	McCloskey
Bennett	Frost	McCollum
Bentley	Gallo	McCurdy
Bereuter	Gaydos	McDade
Berman	Gejdenson	McDermott
Bevill	Gephardt	McHugh
Bilbray	Geren	McMillen (MD)
Bilirakis	Gibbons	McNulty
Boehlert	Gilman	Meyers
Boggs	Glickman	Mfume
Bonior	Gonzalez	Miller (CA)
Borski	Goodling	Miller (WA)
Bosco	Gordon	Mineta
Boucher	Grant	Moakley
Boxer	Gray	Molinari
Brennan	Green	Mollohan
Brooks	Guarini	Montgomery
Broomfield	Hall (OH)	Moody
Browder	Hamilton	Morella
Brown (CA)	Hammerschmidt	Morrison (WA)
Bruce	Harris	Mrazek
Bryant	Hatcher	Murphy
Buechner	Hawkins	Murtha
Bustamante	Hayes (IL)	Myers
Byron	Hayes (LA)	Nagle
Callahan	Hefner	Natcher
Campbell (CA)	Henry	Neal (MA)
Campbell (CO)	Hertel	Nowak
Cardin	Hoagland	Oakar
Carper	Hochbrueckner	Oberstar
Carr	Hopkins	Obey
Chandler	Horton	Ortiz
Chapman	Hoyer	Owens (NY)
Clarke	Hubbard	Owens (UT)
Clay	Huckaby	Pallone
Clement	Hughes	Panetta
Clinger	Hutto	Parker
Coleman (MO)	Hyde	Parris
Coleman (TX)	Johnson (CT)	Pashayan
Collins	Johnson (SD)	Patterson
Condit	Johnston	Payne (NJ)
Conte	Jones (GA)	Payne (VA)
Conyers	Jones (NC)	Pease
Cooper	Jontz	Pelosi
Costello	Kanjorski	Penny
Coughlin	Kaptur	Perkins
Courter	Kastenmeier	Pickett
Coyne	Kennedy	Pickle
Darden	Kennelly	Poshard
Davis	Kildee	Price
de la Garza	Kleczka	Pursell
DeFazio	Kolter	Rahall
Dellums	Kostmayer	Rangel
DeWine	LaFalce	Ravenel
Dickinson	Lancaster	Ray
Dicks	Lantos	Richardson
Dingell	Laughlin	Ridge
Dixon	Leach (IA)	Rinaldo
Donnelly	Leath (TX)	Ritter
Dorgan (ND)	Lehman (CA)	Robinson
Downey	Lehman (FL)	Roe
Durbin	Levin (MI)	Rogers
Dwyer	Levine (CA)	Ros-Lehtinen
Dymally	Lewis (CA)	Rose
Dyson	Lewis (FL)	Rostenkowski
Early	Lewis (GA)	Roukema
Eckart	Lipinski	Rowland (CT)
Edwards (CA)	Livingston	Rowland (GA)
Emerson	Lloyd	Roybal
Russo	Smith (TX)	Unsoeld
Sabo	Smith (VT)	Valentine
Saiki	Smith, Robert (OR)	Vander Jagt
Sangmeister	Snowe	Vento
Sarpalius	Solarz	Visclosky
Savage	Sawyer	Volkmer
Spence	Walgren	
Saxton	Staggers	Walsh
Scheuer	Stallings	Washington
Schiff	Stangeland	Watkins
Schneider	Stark	Waxman
Schroeder	Stenholm	Weiss
Schuette	Stokes	Weldon
Schulze	Studds	Wheat
Schumer	Swift	Whittaker
Serrano	Synar	Whitten
Sharp	Tallon	Williams
Shays	Tanner	Wilson
Sikorski	Tauke	Wise
Sisisky	Tauzin	Wolf
Skaggs	Taylor	Wolpe
Skelton	Thomas (GA)	Wyden
Slattery	Torres	Yates
Slaughter (NY)	Torricelli	Yatron
Smith (FL)	Towns	Young (AK)
Smith (IA)	Traficant	Young (FL)
Smith (NE)	Traxler	
Smith (NJ)	Udall	

NAYS—93

Archer	Hastert	Paxon
Armey	Hefley	Petri
Ballenger	Herger	Porter
Bartlett	Hiler	Quillen
Barton	Holloway	Regula
Bliley	Houghton	Rhodes
Brown (CO)	Hunter	Roberts
Bunning	Inhofe	Rohrabacher
Burton	Ireland	Roth
Coble	Jacobs	Schaefer
Combest	James	Sensenbrenner
Cox	Kasich	Shaw
Craig	Kolbe	Shumway
Crane	Kyl	Shuster
Dannemeyer	Lagomarsino	Skeen
DeLay	Lent	Slaughter (VA)
Dornan (CA)	Lightfoot	Smith, Denny (OR)
Douglas	Madigan	
Dreier	Marlenee	Smith, Robert (NH)
Duncan	McCandless	Solomon
Fields	McCrery	Stearns
Frenzel	McEwen	Stump
Gallegly	McGrath	Sundquist
Gekas	McMillan (NC)	Thomas (CA)
Gillmor	Michel	Thomas (WY)
Gingrich	Miller (OH)	Upton
Goss	Moorhead	Vucanovich
Gradison	Neal (NC)	Walker
Grandy	Nielson	Weber
Gunderson	Olin	Wylie
Hancock	Oxley	
Hansen	Packard	

NOT VOTING—12

Ackerman	Fish	Lukens, Donald
Crockett	Ford (TN)	Morrison (CT)
Derrick	Hall (TX)	Nelson
Edwards (OK)	Jenkins	Spratt

□ 1820

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be discharged from further consideration of the Senate bill (S. 1191) to authorize appropriations for the Department of Commerce's Technology Administration, to speed the development and application of economically strategic technologies, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technology Administration Authorization Act of 1989".

STATEMENT OF POLICY

SEC. 2. Congress finds that in order to help United States industries to speed the development of new products and processes and in order to maintain the economic competitiveness of the Nation, targeted increases are required in the programs and activities of the Department of Commerce's Technology Administration (hereafter in this Act referred to as the "Administration") and its National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute").

TECHNOLOGY ADMINISTRATION

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), to carry out executive and analytical activities performed by the Administration, $4,675,000 for fiscal year 1990, which shall be available for the following line items:

(1) Executive Direction, $1,013,000.

(2) Technology Policy and Commercial Affairs, $2,662,000.

(3) Japanese Technical Literature, $1,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 4. (a) FINDING.—Congress finds that the Institute can assist United States industry in three ways to speed the commercialization of new products and processes: through the Institute's internal research and services programs, which provide industry with precise measurement and quality assurance techniques and with new generic manufacturing and process technologies; through its technology extension activities, which disseminate technical information and advanced manufacturing techniques to a wide range of companies; and through its Advanced Technology Program, which can promote and assist industry's own efforts to develop new generic technologies.

(b) INTERNAL RESEARCH AND SERVICES.—There is authorized to be appropriated to the Secretary, to carry out the internal science and technology research and services activities of the Institute, $196,360,000 for fiscal year 1990, which shall be available for the following line items:

(1) Measurement Research and Standards, $50,185,000, of which $3,200,000 shall be available for chemical measurements and quality assurance and $2,500,000 for research on the atomic-level performance of electrical and optical systems.

(2) Materials Science and Engineering, $27,084,000, of which $3,600,000 shall be available to develop improved processing procedures for highperformance composites, and $2,000,000 for steel technology.

(3) Engineering Measurements and Standards, $69,428,000, of which $7,500,000 shall be available to develop measurement and quality assurance techniques for applications in advanced imaging electronics, including advanced television, $7,800,000 for

research in superconductivity, $7,500,000 for lightwave and optoelectronic technology, $2,500,000 for a new initiative in advanced semiconductors, $2,500,000 for a new initiative in automation research, $3,650,000 for the development of measurement and quality assurance techniques for bioprocess engineering, and $9,912,000 for fire and building research.

(4) Computer Science and Technology, $15,088,000, of which $7,500,000 shall be available for computer security activities pursuant to the Computer Security Act of 1987 (Public Law 100-235; 100 Stat. 1724).

(5) Research Support Activities, $34,575,000, of which $6,000,000 shall be available for improvements in computer support and $6,500,000 shall be available for the Cold Neutron Research Facility.

(c) INDUSTRIAL TECHNOLOGY EXTENSION ACTIVITIES.—In addition to the sums already authorized by statute to be appropriated for fiscal year 1990 for Regional Centers for the Transfer of Manufacturing Technology and for assistance to State technology extension services, there is authorized to be appropriated to the Secretary to carry out the industrial technology extension activities to the Institute for fiscal year 1990, $4,000,000, of which $2,000,000 shall be available for the Technology Evaluation Program and $2,000,000 shall be available for the Institute's management of its industrial technology extension activities.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (b), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 per centum of the amount authorized for that line item in such subsection; and

(B) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item exceeding 10 per centum of the amount authorized for the line item in subsection (b), but such proposed transfer may not be made—

(A) unless a full explanation of any such proposed transfer and the reasons therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) until the expiration of the thirty-day period following the transmission of such written explanation.

(e) INTERNATIONAL STANDARDS PILOT PROGRAM.—(1) In addition to sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for each of the fiscal years 1990, 1991, and 1992, up to $250,000 for use in paying the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of two or more years to provide such assistance.

(2) Of the moneys appropriated pursuant to the authorization under paragraph (1) for any such fiscal year, the aggregate amounts made available for such fiscal year from such moneys for purposes of establishing and carrying out the pilot program under paragraph (1) shall not exceed the aggregate amounts made available for such purposes for such fiscal year from non-Federal sources.

(f) OFFICE OF INDUSTRIAL TECHNOLOGY SERVICES.—Section 26 of the Act of March 3, 1901 (15 U.S.C. 278l), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Industrial Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary, Under Secretary, or Director may specify.".

ADVANCED TECHNOLOGY PROGRAM

SEC. 5. (a) FINDINGS AND STATEMENT OF POLICY.—Congress finds and declares the following:

(1) It is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology. Further, both joint research and development ventures (hereafter in this section referred to as "joint ventures") and selected research assistance to small firms are established and effective ways to create economically-valuable new technology. Joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation.

(2) In accordance wtih existing national policy, both the technology developed by any joint venture supported by the Department of Commerce as well as the resulting products should be made available, on a license and royalty basis and subject to the terms and conditions listed in this section, to nonparticipants.

(b) AUTHORIZATIONS FOR ASSISTANCE TO INDUSTRY-LED RESEARCH PROJECTS.—In addition to sums otherwise authorized by this Act, there is authorized to be appropriated to the Secretary, pursuant to section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and subject to the terms specified in subsections (c) and (d) of this section, $100,000,000 for fiscal year 1990, which shall be available for the following line items:

(1) Assistance to industry-led joint ventures to create and test generic enabling technologies, $75,000,000, which shall be available to support joint ventures in—

(A) advanced imaging electronics, including advanced television;

(B) advanced manufacturing;

(C) applications of high-temperature superconducting materials;

(D) advanced ceramic and composite materials; and

(E) semiconductor production equipment, for the development of x-ray lithography as a method of producing semiconductor chips.

(2) Assistance to industry-led joint ventures in other areas of technology which the Secretary and Director believe are of great economic importance to the United States, $13,000,000.

(3) Assistance to United States small businesses which have held Small Business Innovation Research Program Phase II awards from other Federal agencies and which the Institute judges to have promising technologies in economically important technical fields, $10,000,000.

(4) Program management, analyses, and workshops, $2,000,000.

(c) GENERAL TERMS AND CONDITIONS FOR AID TO JOINT VENTURES.—(1) Subsequent to any appropriation made pursuant to the authorizations in subsection (b) (1) or (2) of this section, the Secretary shall invite requests for financial assistance from existing or proposed joint ventures in the designated technical areas. If requests are made, the Secretary, after an appropriate review of the technical and economic merits of each request, shall judge which individual requests or combination thereof, if any, merit assistance and shall decide what type and level of assistance each such meritorious proposal shall receive, except that in addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901, as amended by section 7 of this Act, the Secretary shall make no award of any funds appropriated pursuant to an authorization contained in subsection (b)(1) of this section unless and until—

(A) the joint venture is led by at least two North American companies;

(B) the joint venture demonstrates that it has raised, or has firm commitments for, private funds which exceed the level of Federal funds that the joint venture has requested from the Secretary;

(C) the joint venture has developed and submitted to the Secretary a business plan which, in the judgment of the Secretary, adequately—

(i) states a clear and focused research and development agenda, including the prototype products and production processes to be created and how that agenda complements a related research project or projects already being funded by Federal departments or agencies;

(ii) provides assurance that the joint venture will have a sound management team;

(iii) demonstrates that a party to the joint venture, acting on the joint venture's behalf, has filed a written notification with the Attorney General and the Federal Trade Commission, as required under section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305);

(iv) provides, as appropriate, for participation in the joint venture by small businesses owned by United States citizens;

(v) considers metrology needs, and as appropriate, draws upon the technology, expertise, and facilities in the Institute's laboratories;

(vi) sets forth provisions regarding the disposition of intellectual property resulting from the joint venture, including the rapid transfer of that intellectual property to members of the joint venture; the licensing, as appropriate, of the intellectual property to other North American companies and to foreign companies; and, as appropriate, requirements for royalties which will return funds to the investors in the joint venture, including the United States Government; and

(vii) sets forth reporting and auditing procedures; and

(D) the Secretary, after an appropriate review of the business plan, judges that the proposed research and development agenda and the proposed management team have high technical merit.

(2) The Secretary may not make an award to a joint venture for the performance of research and development, or for the construction of any research or other facility, unless the award is made using competitive or other merit-based procedures.

(d) PARTICIPATION BY FOREIGN COMPANIES.—(1) In addition to the terms and conditions set forth in section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), as amended by section 7 of this Act, and in subsection (c) of this section, the terms and conditions set forth in paragraph (2) of this subsection also shall apply to any joint venture which receives any financial assistance from the Secretary pursuant to the authorizations provided in subsection (b) (1) or (2).

(2)(A) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary, unless—

(i) the foreign company is prepared to make material contributions to the joint venture and the Secretary, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(ii) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(iii) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those authorized under this Act; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(iv) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(B) In the event the Secretary certifies a foreign company under subparagraph (A)(i) of this paragraph and certifies that the foreign company meets the requirements set forth under subparagraph (A) (ii) through (iv) of this paragraph, the Secretary shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary may specify.

(C) The Secretary shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subparagraph (A) (i) through (iv) of this paragraph or any of the terms and conditions the Secretary may set under subparagraph (B) of this paragraph.

(3) The Secretary shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in paragraph (2) of this subsection.

(e) COORDINATION.—(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

(2) As appropriate, the Secretary shall coordinate Advanced Technology Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

(f) ADVICE AND REVIEW.—In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures for which North American companies request the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds or loan guarantees pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director of the Institute may—

(1) organize and seek advice from such industry advisory committees as they consider useful and appropriate;

(2) organize an Advanced Electronics Advisory Board for the purpose of bringing industry and government leaders together to explore options for research and development in advanced electronics, including advanced television; and

(3) commission studies or reviews by the National Research Council.

(g) DEFINITIONS.—As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada.

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

REPORT ON HIGH DEFINITION TELEVISION

SEC. 6. (a) IN GENERAL.—On or before the expiration of the ninety-day period following the date of enactment of this Act, the Secretary shall submit to the President and Congress a report concerning the establishment, as a domestically based industry within the United States, of a high definition television enterprise or enterprises, together with ancillary products and services.

(b) ISSUES TO BE ADDRESSED.—The report required under subsection (a) shall identify the requirements for establishing in the United States a viable industry for the production of high definition television, the components of such television, and production and transmission equipment relating to programming for such television, and the development and manufacture of derivative and hybrid products relating to the computer and telecommunications industries.

(c) SCOPE; RECOMMENDATIONS.—The report required under subsection (a) shall—

(1) be comprehensive, including not only issues such as the encouragement of technologies, but issues pertaining to licensing, regulations, international standards, international trade, and specialized financing problems; and

(2) separately specify the recommendations of the Secretary for the role of the Federal Government in the development of such enterprise, including missions for individual elements of the executive branch, timelines and methods for attaining full coordination, requirements for legislative action necessary to the development of such enterprise, and anticipated funding needs.

(d) DEFINITION.—As used in this section, the term "enterprise" means—

(1) an entity—

(A) formed in the United States;

(B) operating its productive facilities in the United States; and

(C) owned in its entirety by citizens of the United States; or

(2) a foreign owned entity if—

(A) such entity establishes and operates research facilities in the United States for the purpose of developing and producing high definition television in the United States;

(B) all personnel of such entity engaged in such research in connection with high definition television in the United States are citizens of the United States;

(C) the research product of such entity is available for licensing without bias to any public and private entity or agency within the United States, and on an equal footing with any foreign entity or agency;

(D) such entity establishes and operates production facilities in the United States for the purpose of manufacturing finished components, components and subcomponents relating to high definition television, and ancillary equipment and spinoff products relating to high definition television; and

(E) all personnel of such entity engaged in the establishment and operation of such production facility are citizens of the United States.

AMENDMENT TO ADVANCED TECHNOLOGY PROGRAM PROVISIONS

SEC. 7. Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n), is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting immediately after subsection (d) the following new subsection:

"(e)(1) The Secretary may, for the purpose of managing the Program, employ at the Institute such technical and professional personnel and fix their compensation without regard to the provisions of title 5, United States Code, as the Secretary may deem necessary for the discharge of responsibilities under this section.

"(2) The Secretary may, under the authority provided by paragraph (1) of this subsection, appoint for a limited term or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from industrial, academic, research, or State institutions to work for the Program.

"(3) The Secretary may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Secretary may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Secretary may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Program. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Secretary.".

SALARY ADJUSTMENTS

SEC. 8. In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal year 1990 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 9. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ANNUAL INDUSTRIAL TECHNOLOGY REPORT

SEC. 10. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following new subsection:

"(f) ANNUAL INDUSTRIAL TECHNOLOGY REPORT.—(1) By February 15 of each year following the date of enactment of this subsection, the Secretary, through the Under Secretary, shall submit to Congress a report on the state of United States industrial technology. Each such report shall include, but not be limited to—

"(A) a list of what the Secretary and Department of Commerce technical experts consider to be the most economically important technologies and the estimated current and future size of domestic and international markets for products derived from these technologies;

"(B) a list of the technologies and markets targeted by major trading partners for development or capture;

"(C) an assessment of the current state of United States product technology, process technology, and manufacturing capability in the fields of technology and the markets identified under subparagraph (A), as compared with the current levels of such technologies and manufacturing capability achieved, or future levels likely to be achieved, by major trading partners;

"(D) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners;

"(E) an analysis of private and public investments in the United States in research and development, including Federal research and development investments, by department and agency, in the specific fields of technology and the markets identified under subparagraph (A); a summary of Federal policies, including research policies, to promote United States industrial competitiveness in those fields of technology and markets; and an analysis of what additional private and Federal actions are needed to close gaps between the civilian technology base of the United States and the technology bases of major trading partners, including what steps are necessary to ensure that the Institute can provide North American companies with the support technologies needed to remain competitive in those fields of technology and markets;

"(F) an evaluation of flows of industrial technology between the United States and major trading partners, including flows of technology through licenses and patent-sharing or cross-licensing, corporate investments and acquisitions, investments in universities and government laboratories, technical literature, and personnel exchanges, and a summary and analysis of annual foreign investments in, and acquisitions of, high-technology firms or organizations within the United States; and

"(G) a statement concerning any policies, regulatory obstacles, or other institutional problems which, in the judgment of the Secretary, adversely affect the creation and use of industrial technology in the United States or limit the contribution that Federal research and development makes to United States leadership in industrial technology.

"(2) The Secretary may, to the extent permitted by other Acts, collect such information as may be necessary to prepare the annual report required by this subsection.

"(3) The Directors of the Office of Science and Technology Policy, the Office of Management and Budget, and the National Science Foundation, as well as the heads of other Federal departments and agencies, shall provide such information and assistance in the preparation of the annual report as the Secretary may request.".

REPORT ON STRATEGY FOR REDUCING THE COST OF CAPITAL

SEC. 11. (a) IN GENERAL.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a report detailing options and a strategy for equalizing the real cost of capital, including interest rates, paid by manufacturing and electronics companies in the United States with the real cost of capital in Japan.

(b) TOPICS REQUIRED FOR REPORT.—The report shall include, but not necessarily be limited to, a discussion of the following topics:

(1) Such costs of capital paid by corporate borrowers in the United States and Japan during the ten-year period ending on the date of enactment of this Act, including such costs of capital under loan programs backed by the Government of Japan;

(2) the payback periods typically associated with such costs of capital and the effect of these costs and payback periods on the ability and willingness of companies in the two countries to make long-term investments in new research and development, products, and manufacturing plants;

(3) the consequences for the economic competitiveness and trade balance of the United States if United States companies are unable to invest substantially in new areas such as advanced television and related products, superconductivity, and advanced semiconductor production facilities;

(4) the expected levels of such costs of capital in the United States under various levels of United States budget deficits, trade deficits, and savings rates;

(5) the benefits and limitations of tax credits and other tax-based measures to reduce such costs of capital for United States companies, including their benefits and limitations in situations where initial investment costs of a company are high and the company initially generates little or no profit for which taxes are assessed;

(6) an analysis of the effect of other options for reducing such costs of capital for United States companies, including low-cost loans and loan guarantees, and the feasibility of using these options to reduce the costs of capital for United States companies to levels that are near or at effective Japanese levels; and

(7) a proposed strategy for reducing such costs of capital for United States companies to levels that are near or at effective Japanese levels.

(c) ASSISTANCE; CONSULTATION.—Other Federal departments and agencies shall provide the Secretary with such information and assistance as the Secretary considers necessary to prepare the report required by this section. The Secretary is encouraged to consult with private sector officials and experts during the preparation of the report.

REPORT ON CREATION AND COMMERCIALIZATION OF COLLEGE AND UNIVERSITY RESEARCH

SEC. 12. Not later than six months after the date of enactment of this Act, the Secretary, with the participation of the Director of the National Science Foundation, shall submit to Congress a program plan, including any necessary proposed regulations, to establish and implement collaborative programs between the two agencies to—

(1) stimulate the transfer of federally supported research to the private sector through steps to encourage and assist United States small businesses to develop and commercialize basic technologies created at colleges and universities; and

(2) assist academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive large amounts of Federal research funds, to pursue high-quality research of economic potential and to transfer that research to the private sector.

REPORTS ON MANUFACTURING

SEC. 13. Not later than one hundred and twenty days after the date of enactment of

this Act, the Secretary shall submit to Congress the following two reports:

(1) A report on the feasibility and advisability of establishing, in affiliation with the Institute, a Quality Institute and a privately funded foundation to support that Quality Institute, the purpose of which would be—

(A) to conduct workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing organization, quality, and productivity, including team-oriented organizational approaches to managing production technology and corporate research and development; and

(B) to help develop and disseminate model curricula in advanced manufacturing which might be used by technical colleges and other educational institutions to provide training to students and manufacturing company employees.

(2) A report analyzing the advantages and disadvantages of small manufacturing firms in the United States participating in new multi-company manufacturing centers, either on a local or regional scale, and what steps, if any, in the judgment of the Secretary, the Federal Government can and should take to encourage the development of such new organizations for manufacturing.

REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH

SEC. 14. (a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include, but not necessarily be limited to, an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new programs to stimulate competitive research in the National Aeronautics and Space Administration; the Departments of Defense, Energy, Agriculture, Health and Human Services, and the Interior; and the Environmental Protection Agency.

MOTION OFFERED BY MR. ROE

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

The Clerk read as follows:

Mr. ROE moves to strike all after the enacting clause of the Senate bill, S. 1191, and to insert in lieu thereof the text of the bill, H.R. 4329, as passed by the House, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Technology Preeminence Act".

(b) TABLE OF CONTENTS.—

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1990".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that in order to help United States industries speed the development of new products and processes in order to maintain the economic competitiveness of the Nation, a strengthening of the programs and activities of the Department of Commerce's Technology Administration and the National Institutes of Standards and Technology is necessary.

SEC. 103. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) FISCAL YEAR 1990.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary") for fiscal year 1990, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $41,666,000.

(B) Materials Science and Engineering, $23,157,000.

(C) Engineering Measurements and Standards, $39,300,000.

(D) Computer Science and Technology, $9,440,000.

(E) Research Support Activities, $17,859,000.

(F) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $26,000,000).

(G) Technology Services, $7,379,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized under subparagraph (C) of paragraph (1)—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $5,589,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $150,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-

680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1990.

(b) FISCAL YEAR 1991.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1991, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $50,769,000.

(B) Materials Science and Engineering, $27,295,000.

(C) Engineering Measurements and Standards, $54,947,000.

(D) Computer Science and Technology, $13,419,000.

(E) Research Support Activities, $23,047,000.

(F) Cold Neutron Source Facility, $6,545,000 (for a total authorization of $32,545,000).

(G) Technology Services, $7,636,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $7,223,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (G) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1991.

(c) FISCAL YEAR 1992.—

(1) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992, to carry out activities performed by the National Institute of Standards and Technology the sums set forth in the following line items:

(A) Measurement Research and Standards, $57,100,000.

(B) Materials Science and Engineering, including the Cold Neutron Source Facility, $36,200,000.

(C) Engineering Measurements and Standards, $61,100,000.

(D) Computer Science and Technology, $16,400,000.

(E) Research Support Activities, $30,000,000.

(F) Technology Services, $8,200,000.

(2) LIMITATIONS.—

(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the total amount authorized for the National Institute of Standards and Technology under subparagraph (C) of paragraph (1) and the Earthquake Hazards Reduction Act of 1977—

(i) $4,000,000 are authorized only for the Center for Building Technology; and

(ii) $6,000,000 are authorized only for the Center for Fire Research,

and the two Centers shall not be merged.

(C) Of the total amount authorized under subparagraph (E) of paragraph (1), $8,000,000 are authorized only for the technical competence fund.

(D) Of the amount authorized under subparagraph (F) of paragraph (1), $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities.

(3) TRANSFERS.—(A) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(B) The Secretary may propose transfers to or from any line item listed in paragraph (1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made—

(i) unless a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(ii) 30 calendar days have passed following the transmission of such written explanation.

(4) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680), this Act contains the complete authorizations of appropriations for the National Institute of Standards and Technology for fiscal year 1992.

SEC. 104. PILOT PROGRAM.

Of the amounts authorized under section 103 (a)(1), (b)(1), or (c)(1) and section 201(f), up to $250,000 in each of the fiscal years 1990, 1991, and 1992 may be used to pay the Federal share of the cost of establishing and carrying out a pilot program, under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note), to assist in the development of comprehensive industrial standards for a country or countries that have requested such assistance from the United States and will require the continuous presence of United States personnel for a period of 2 or more years to provide such assistance. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

SEC. 105. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Office of the Under Secretary of Commerce for Technology—

(1) $3,470,000 for fiscal year 1990;

(2) $4,000,000 for fiscal year 1991; and

(3) $5,000,000 for fiscal year 1992.

SEC. 106. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary to carry out the Japanese Technical Literature Act of 1986 (Public Law 99-382)—

(1) $1,000,000 for fiscal year 1990;

(2) $1,000,000 for fiscal year 1991; and

(3) $1,500,000 for fiscal year 1992.

SEC. 107. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for modernization plans of the National Technical Information Service described in section 212(f)(3)(D) of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989—

(1) $500,000 for fiscal year 1991; and

(2) $1,500,000 for fiscal year 1992.

(b) OPERATING COSTS.—Operating costs of the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered through the collection of fees.

(c) REPORT AND CERTIFICATION TO CONGRESS.—No funds appropriated pursuant to subsection (a)(2) shall be obligated before the Secretary of Commerce submits a report to the Congress which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan which includes a profit and loss analysis for each product, service, and market component; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in re-

sponse to the Inspector General's report described in paragraph (1).

SEC. 108. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for the activities of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation—

(1) $1,000,000 for fiscal year 1991; and

(2) $1,000,000 for fiscal year 1992.

SEC. 109. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary for fiscal years 1990, 1991, and 1992 such sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 110. CONSTRUCTION OF FACILITIES.

Section 14 of the Act of March 3, 1901 (15 U.S.C. 278d), is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

SEC. 111. TECHNOLOGY TRANSFER PROGRAMS.

(a) Section 25(d) of the Act of March 3, 1901 (15 U.S.C. 278k(d)), is amended by striking "and 1990" and inserting in lieu thereof "through 1992".

(b) Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(1) in paragraph (4)—

(A) by striking "and"; and

(B) by inserting ", and 1992" after "1991"; and

(2) by striking paragraph (5).

SEC. 112. OFFICE OF TECHNOLOGY SERVICES.

Section 26 of the Act of March 3, 1901 (15 U.S.C. 2781), is amended by adding at the end the following new subsection:

"(c) There is established within the Institute an Office of Technology Services, which shall supervise the Centers program, the Institute's assistance to State technology programs, and such other activities or programs as the Secretary or Director may specify.".

SEC. 113. UNAUTHORIZED APPROPRIATIONS.

No funds appropriated for fiscal year 1991 or 1992 for activities of the National Institute of Standards and Technology shall be expended unless such activities have been specifically authorized by law.

SEC. 114. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may be awarded a contract or subcontract made with funds authorized under this Act if that government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreement Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

SEC. 115. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS

If the Secretary determines that any person intentionally affixes a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall declare that person ineligible to receive any contract or subcontract from the Department of Commerce for a period of not less than three years and not more than five years.

SEC. 116. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY.—The Secretary is authorized to award to a domestic firm a contract for the purchase of goods, that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(2) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(3) the Secretary, in consultation with the United States Trade Representative, determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made for which—

(1) amounts are authorized by this Act to be made available; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this section—

(1) entered into with foreign firms pursuant to a determination made under subsection (b); and

(2) awarded to domestic firms pursuant to subsection (a),

in fiscal years 1991 and 1992.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technology Research and Development Act of 1990".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the United States ability to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) foreign companies have become more successful in new product development and product improvement using a variety of emerging technologies and have made the world market for high technology products increasingly competitive;

(D) since the mid-1960s, a large percentage of United States Government assistance in technology development has been funded through the Defense Department;

(E) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(F) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no one company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(G) materials research is transforming our physical world through breakthrough advances in ceramics, polymers, and composites, and other advances such as high temperature superconductivity may permit materials technologies to revolutionize such diverse industries as transportation, computing, and electrical transmission;

(H) United States overall leadership has diminished in the design, development, and manufacture of consumer electronic products and processes;

(I) high resolution information systems have the potential to revolutionize image transmission and by the 21st century to become the most significant consumer electronics product and have diverse applications, in areas such as semiconductors, flat screen displays, manufacturing, telecommunications, microprocessing, and software;

(J) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacture in fields such as advanced materials and high resolution information systems and related technologies; and

(K) the Advanced Technology Program, established under section 28 of the Act of March 3, 1901, is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as advanced materials and high resolution information systems, and can help encourage United States industry to work together on problems of mutual concern.

(2) PURPOSES.—The purposes of this section are—

(A) to generally promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(B) to improve the competitive position of United States industry by supporting research and development by businesses and academic institutions into emerging technologies including high resolution information systems and advanced materials which have substantial potential to advance the economic well-being and national security of the United States;

(C) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation; and

(D) to reduce the marginal cost of capital by leveraging the funding of United States based, industry-led joint ventures for emerging technologies through the Advanced Technology Program at the Department of Commerce.

(c) EMERGING TECHNOLOGY PROGRAM.—Section 28 of the Act of March 3, 1901, is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "The Secretary, acting through the Director, may provide assistance as necessary under this section to identify and solve generic technology and manufacturing problems in emerging technology fields including high resolution information systems and advanced materials research and development so as to speed commercialization of products and services based on these technologies, and to establish procedures for technology sharing and technology transfer among members of a joint venture while protecting against transfer of intellectual properties, trade secrets, or proprietary data overseas.";

(2) in subsection (b)(1)(B), by inserting "through grants, cooperative agreements, or contracts" after "such joint ventures";

(3) in subsection (b)(2), by inserting "provide grants to and" before "enter into contracts";

(4) by adding at the end of subsection (d)(1) the following new sentence: "In selecting among proposals of relatively equal merit, preference shall be given to proposals requiring the lowest percentage of Federal funds.";

(5) in subsection (d)(3), by striking "cooperative agreement" both places it appears and inserting in lieu thereof "award";

(6) by amending subsection (d)(7) to read as follows:

"(7) The Secretary, acting through the Director, shall negotiate an agreement with each recipient of assistance under this section. In the case of a recipient which is a joint venture, such agreement shall delineate the activities and responsibilities of each participant of the joint venture as required by this section. Each agreement with any recipient under this section shall specify a period of time during which the Federal Government shall receive payments from any profits of the recipient, with respect to any technology developed by the recipient and arising from assistance provided under this section, in proportion to the percentage of the Federal share of the total investment cost of the recipient. Each agreement shall also provide the recipient with the option of paying to the Secretary, in lieu of payments required pursuant to the previous sentence, an amount determined by the Secretary to be equal to the full Federal investment in the recipient plus a reasonable return on such investment calculated as of the time such option is exercised. Funds received by the Secretary pursuant to an agreement described in this paragraph shall, to the extent provided in appropriations Acts, be available for carrying out this section. In the case of an agreement with a recipient receiving an award in an amount greater than $500,000, each such agreement shall be delivered to the appropriate committees of Congress within 180 days after the selection of the recipient.";

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

"(f) Each joint venture receiving assistance under this section shall submit an annual report and operating plan to the Secretary, the appropriate committees of Congress, and the Comptroller General of the United States which—

"(1) describes, and modifies or proposes modifications to, as appropriate, the short- and long-term goals of the joint venture, and the allocation of resources to accomplish those goals;

"(2) describes the financial reporting and auditing procedures to be implemented by the members of the joint venture;

"(3) summarizes the technology accomplishments and applications of research results within the preceding year toward the short- and long-term goals described under paragraph (1);

"(4) summarizes the technology transfer agreements among members of the joint venture; and

"(5) summarizes the results of any audit of the joint venture conducted during the preceding year.";

(8) by adding at the end of subsection (d) the following new paragraphs:

"(10) A company shall be considered a United States business under this section and shall be eligible to participate in any joint venture receiving financial assistance from the Secretary only if—

"(A) the Secretary finds that the company's participation in the Program would be in the interests of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology, to procure parts and materials from competitive suppliers, and to support a United States and Canadian supplier infrastructure; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the company has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords local investment opportunities for United States-owned companies that are comparable to investment opportunities for foreign-owned companies in the United States; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(11) Grants, contracts, and cooperative agreements under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary significant and substantial experience in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(12)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States or in Canada. The United States may reserve a nonexclusive, nontransferable, irrevocable paid up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States or Canada, until the expiration of a first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

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

"(e) The Secretary may, 30 days after notice to the Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to honor the agreement described in subsection (d)(7) or to satisfy any of the criteria set forth in subsection (d)(10), and that it is in the national interest of the United States to do so."; and

(10) by inserting after subsection (f) the following new subsections:

"(g)(1) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(2) As appropriate, the Secretary shall coordinate Program policies and activities with the economic, trade, and security policies of the Department of Commerce so as to promote the economic competitiveness of United States industries and shall, when so instructed by the President, coordinate these policies with the science, technology, economic, trade, and security policies of other Federal departments and agencies.

"(h) In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures requesting the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds pursuant to the authorizations contained in this section, the Secretary, the Under Secretary of Commerce for Technology, and the Director may organize and seek advice from such industry advisory committees as they consider useful and appropriate.

"(i) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development activities by the Institute in support of the purposes of this section.

"(j) As used in this section—

"(1) the term 'high resolution information systems' means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high resolution images and accompanying sound material;

"(2) the term 'advanced materials' means a field of research including study of composites, ceramics, metals, polymers, superconducting materials, and materials production processing technologies, including coated systems, that provide the potential for significant advantages over existing materials;

"(3) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(4) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(5) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) COMPREHENSIVE REPORT.—The Secretary of Commerce shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the emerging technology program established under section 28 of the Act of March 3, 1901, including an evaluation of the general applicability of any high resolution information systems or advanced materials research and development program results to other advanced technologies.

(e) FEDERAL REGISTER NOTICE.—The Secretary of Commerce shall, within 120 days after the date of appropriation of funds pursuant to subsection (f) of this section, publish notice in the Federal Register stating that the Department of Commerce is prepared to accept applications for assistance under section 28 of the Act of March 3, 1901, as amended by this section. Such notice shall include a description of eligibility requirements for assistance under such section 28, and maximum assistance levels expected to be available for such assistance.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for carrying out section 28 of the Act of March 3, 1901, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, and $250,000,000 for fiscal year 1992.

TITLE III—AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

Section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)) is amended—

(1) in subparagraph (A), by striking "a fiscal year referred to in subparagraph (B)(ii)" and inserting in lieu thereof "any fiscal year"; and

(2) by amending subparagraph (B) to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 304. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out his responsibilities under this Act.".

TITLE IV—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 401. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The Director of the Office of Science and Technology Policy shall monitor and report annually to the Congress, on all major science and technology proposals involving more than one country and having a total estimated cost greater than $1,000,000,000.

SEC. 402. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PROGRAM

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'National High Performance Computer Technology Program Act of 1990'.

"SEC. 702. FINDINGS.

"Congress finds and declares the following:

"(1) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high performance computer technology. In particular, the Federal Government should support the development of a high capacity, national research and education network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research; and provide for the training of computer scientists and computational scientists.

"(2) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

"(3) A report, 'The Federal High Performance Computing Program,' by the Office of Science and Technology Policy, dated September 8, 1989, outlining a research and development strategy for high performance computing, provides a framework for a multiagency computer technology program.

"SEC. 703. NATIONAL HIGH PERFORMANCE COMPUTER TECHNOLOGY PLAN.

"(a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall develop a National High Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with this title and consistent with the framework established in the report referred to in section 702(3). The Plan shall contain recommendations for a five-year national effort, to be submitted to Congress within one year after the date of enactment of this title.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high performance computer technology program for the fiscal year in which the Plan is submitted and the succeeding four fiscal years;

"(B) describe the levels of Federal funding and specific activities of each Federal agency and department required to implement the Plan, including educational activities, research activities, hardware development, software development, and acquisition and operating expenses for computers and computer networks; and

"(C) consider and use, as appropriate, the views of the advisory board described in subsection (b)(4), as well as reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) The National Science Foundation.

"(B) The Department of Commerce, particularly the National Institute of Standards and Technology and the National Oceanic and Atmospheric Administration.

"(C) The National Aeronautics and Space Administration.

"(D) The Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency.

"(E) The Department of Energy.

"(F) The Department of Health and Human Services, particularly the National Institutes of Health.

"(G) Such other executive branch agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4)(A) The Plan shall include the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network.

"(B) The National Research and Education Network established under this paragraph shall—

"(i) link government, industry, and the higher education community;

"(ii) provide computer users with access to supercomputers, computer data bases, and other research facilities;

"(iii) be developed in close cooperation with the computer and telecommunications industries;

"(iv) be designed and developed with the advice of potential users in government, industry, and the higher education community;

"(v) be established in a manner which fosters and maintains competition in high speed data networking within the telecommunications industry;

"(vi) have accounting mechanisms which allow users or groups of users to be charged for their usage of the network, where appropriate; and

"(vii) be phased out when commercial networks can meet the networking needs of American researchers.

"(C) The Plan shall define the organization arrangement to be used for managing the operation of the National Research and Education Network.

"(5) The Plan shall facilitate collaboration among agencies and departments with respect to—

"(A) ensuring interoperability among computer networks run by the agencies and departments;

"(B) increasing software productivity, capability, and reliability;

"(C) promoting interoperability of software;

"(D) distributing software among the agencies and departments; and

"(E) distributing federally funded, unclassified software to industry and universities.

"(b) The Council shall—

"(1) develop the Plan;

"(2) coordinate the high performance computing research and development activities of Federal agencies and departments; and

"(3) establish an advisory board, which shall include representatives from universities and industry who are involved in research and development activities in high performance computing.

The function of the advisory board shall be to provide the Council with an independent assessment of the balance among components of the Plan and the effectiveness of the Plan in maintaining American leadership in computing and networking.

"(c) Each Federal agency and department involved in high performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high performance computing activities.

"SEC. 704. REPORT.

"The Chairman of the Council shall prepare and submit to the President and Congress, not later than March 1 of the year following the year in which this section is enacted, a report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high performance computing research and development efforts during that preceding fiscal year;

"(2) a copy or summary of the Plan; and

"(3) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 403. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in creating technology that is vital to our future economic growth;

(2) United States industry's ability to commercialize innovations in advanced technology is diminishing relative to other countries, and many innovations first made in the United States are marketed by foreign companies;

(3) satisfactory rates of savings and of investment in new plant and equipment are not now occurring; and

(4) relatively high interest rates make it difficult for corporate managers to plan long-term strategies and still satisfy the desires of investors.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by section 402 of this Act, is further amended by adding at the end the following:

"TITLE VIII—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

"SEC. 801. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investment in quality, product and process improvements, and new product development and marketing.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) What statutory changes are needed to provide incentives for rapid commercialization of technical innovations vital to improving United States industrial competitiveness and capitalizing on our world leading research efforts?

"(2) To what extent, relative to other nations, does the cost of capital in the United States inhibit domestic long-term planning for and the development and commercialization of new technology?

"(3) What statutory changes related to investment capital formation are needed to stimulate investment in advanced technology development?

"(4) What statutory changes, if any, should be made to reduce the foreign acquisition of strategic United States-based companies?

"(5) What legislative changes are needed to aid companies exporting United States-made products, to advance the United States economy, and to eliminate our Nation's trade deficit?

"(6) How can Federal policy stimulate quality improvements and product enhancements necessary to advance United States competitiveness?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 20 members, 11 of whom shall constitute a quorum.

"(2) The Vice President, the Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers shall serve as members of the Commission.

"(3)(A) The President pro tempore of the Senate—

"(i) on the recommendation of the majority leader of the Senate, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the Senate, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(B) The Speaker of the House of Representatives—

"(i) on the recommendation of the majority leader of the House of Representatives, shall appoint as members of the Commission five individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development; and

"(ii) on the recommendation of the minority leader of the House of Representatives, shall appoint as members of the Commission two individuals who are eminent in advanced technology, manufacturing, service industries, or international economic development.

"(C) Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner by which the original appointment was made.

"(4) The Vice President shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) Recommendations of the Commission shall require the approval of two-thirds of the members of the Commission.

"(7) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(8) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Procurement and Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.".

SEC. 404. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the United States is a world leader in inventing technology that is vital to our future economic growth, but the mass market for inventions made in the United States is often lost to overseas companies;

(2) corporate managers are not able to plan long-term strategies and still satisfy the desires of investors;

(3) the United States ability to commercialize innovations in emerging technology is diminishing relative to other countries, because United States industry is less likely than overseas competitors to market the highest quality and most advanced version of existing technologies;

(4) the Federal Government is the largest purchaser in the world of many products incorporating advanced technology;

(5) Federal Government procurement based on product specifications rewards certainty rather than innovation and is not able to take advantage of the latest technical advances; and

(6) an updated Federal Government procurement system based on performance specifications holds the promise of allowing United States companies to improve prod-

ucts and be more competitive in world commercial markets.

(b) AMENDMENT.—The National Science and Technology Policy, Organization, and Priorities Act of 1976, as amended by sections 402 and 403 of this Act, is further amended by adding at the end the following:

"TITLE IX—RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY

"SEC. 901. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

"(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a Commission on Procurement and Technology (hereafter in this section referred to as the 'Commission'), for the purpose of developing recommendations for changes to Federal Government procurement laws, procedures, and policies with respect to the development of advanced technologies.

"(b) ISSUES.—The function of the Commission shall be to address the following issues:

"(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

"(2) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

"(3) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

"(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Balridge National Quality Award?

"(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

"(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the National Institute of Standards and Technology in such an effort?

"(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

"(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 14 members, 7 of whom shall constitute a quorum.

"(2) The Director of the Office of Science and Technology Policy, the Secretary of Commerce, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, as such term is defined in section 5311(b)(2) of title 5, United States Code, shall serve as members of the Commission.

"(3) The Director of the Office of Science and Technology Policy shall appoint as members of the Commission—

"(A) four members, from among individuals not employed by the Federal Government, who are eminent in advanced technology businesses representing manufacturing and services industries;

"(B) three members, from among individuals not employed by the Federal Government, who are eminent in the fields of technology and international economic development; and

"(C) three members eminent in the field of Federal Government procurement.

"(4) The Director of the Office of Science and Technology Policy shall be chairman of the Commission.

"(5) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this section.

"(6) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

"(7) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(d) REPORTS.—(1) The Commission shall, within one year after the date of enactment of this section, submit to the President and the Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

"(2) The Commission shall, within two years after the date of enactment of this section, submit to the President and the Congress a final report containing final recommendations with respect to the issues addressed under subsection (b). Such final report shall be a blueprint for Federal Government procurement reform, and shall include specific legislative and administrative changes needed to enable Federal Government procurement activities to take full advantage of emerging technologies.

"(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

"(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991, 1992, and 1993.".

TITLE V—INFORMATION COLLECTION AND DISSEMINATION

SEC. 501. INFORMATION COLLECTION AND DISSEMINATION.

Within 270 days after the date of enactment of this Act, the Secretary of Commerce shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the National Institute of Standards and Technology, and with representatives of the public, for their views on optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for the establishment and operation of FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

SEC. 502. ELECTRONIC FORMAT.

Section 212(e)(5) of the National Technical Information Act of 1988 is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

TITLE VI—HIGH RESOLUTION INFORMATION SYSTEMS

SEC. 601. FINDINGS.

The Congress finds that—

(1) in order for United States-incorporated companies to compete successfully in high resolution information systems markets, the traditional relationship between Government and industry must be adjusted to accommodate modern global economic competition;

(2) joint ventures will be a cornerstone of a comprehensive strategy to build a strong United States base in high resolution information systems; and

(3) an organization is required to ensure that such strategy is integrated into a comprehensive effort to establish a high resolution information systems industry in the United States.

SEC. 602. DEFINITIONS.

As used in this title—

(1) the term "high resolution information systems" includes high definition television and related advanced electronics products and components; and

(2) the term "joint venture" has the meaning given such term in section 28(j)(3) of the Act of March 3, 1901.

SEC. 603. HIGH RESOLUTION INFORMATION SYSTEMS BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High Resolution Information Systems Board (hereafter in this section referred to as the "Board") to foster and monitor the development of United States based high resolution information systems industries.

(b) FUNCTIONS.—The Board shall—

(1) provide guidance for the cooperation of Government and industry as necessary to establish United States based high resolution information systems industries;

(2) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies into commercial products;

(3) develop a high resolution information systems plan to guide the activities of relevant executive branch Federal agencies;

(4) establish guidelines to ensure that industry participation in any joint Government/industry high resolution information

systems initiatives strengthens the capability in the United States to manufacture high resolution information systems equipment and materials;

(5) monitor high resolution information systems industries and promptly alert appropriate Federal agencies of any unfair pricing of foreign high resolution information systems goods;

(6) make recommendations to Federal agencies and the Congress to ensure that the procurement by the United States of advanced electronics products as a general rule aids the development in the United States of advanced electronics capabilities; and

(7) establish a mechanism to coordinate Federal Government procurement of high resolution information systems technology in order to (A) secure lower unit costs by mass purchase offers, and (B) provide high resolution information systems manufacturers an initial market to induce investment in research and development.

(c) MEMBERSHIP AND PROCEDURES.—(1) The Secretary of Commerce, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(2) The Director of the Office of Science and Technology Policy shall, within 90 days after the date of enactment of this Act, appoint, from among individuals with knowledge of the advanced electronics industry, as members of the Board—

(A) nine members from the private manufacturing sector, with at least one representative each from the semiconductor, production equipment, computer display, computer, consumer electronics, and telecommunications industries;

(B) seven members from the private nonmanufacturing sector, including—

(i) four from the transmission delivery systems sector, one each from the terrestrial broadcasters, cable, fiber, and satellite industries; and

(ii) one each from the software industry, the entertainment industry, and the investment community;

(C) one member representing labor; and

(D) one member representing academia.

At least one member appointed under this paragraph shall be from small business.

(3) The Director of the Office of Science and Technology Policy or his designee shall be chairman of the Board.

(4) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(5) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(6) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(7) The Board shall submit to the President and the Congress a report of its activities once every year after its establishment.

TITLE VII—REPORTS

SEC. 701. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redsignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 702. REPORT ON ADVANCED MANUFACTURING AND QUALITY.

Within one year after the date of enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the feasibility and advisability of establishing, in affiliation with the National Institute of Standards and Technology, a Quality Institute and a privately-funded foundation to support that Quality Institute. As part of such report, the Secretary of Commerce shall consider the feasibility and advisability of such Institute—

(1) conducting workshops and company tours to share with managers, engineers, and production employees in the United States advanced techniques for improving manufacturing and service organization, quality, and productivity, including team-oriented organizational approaches to managing production and service technology and corporate research and development;

(2) helping develop and disseminate model curricula in quality which might be used by educational institutions to provide training to students and manufacturing and service company employees; and

(3) carrying out such other purposes as the Secretary of Commerce may recommend.

SEC. 703. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than February 1, 1990, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 704. STANDARDS METHODOLOGY.

(a) DEVELOPMENT.—The Director of the National Science Foundation shall enter into a contract with the International Institute for Applied Systems Analysis for the development of a methodology or approach that can be used in the establishment of international product standards.

(b) REPORT.—The Director of the National Science Foundation shall report to the Congress and the President on the results of the contract entered into under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized for fiscal year 1991 under the National Science Foundation Authorization Act of 1988 (Public Law 100-570), $500,000 are authorized to be used to carry out this section.

SEC. 705. INTERGOVERNMENTAL COORDINATION.

The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high resolution information systems including research and development activities.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4329) was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to revise and extend their remarks, and to include extraneous matter, on the Senate bill, S. 1191, as amended by the text of H.R. 4329.

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

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 216 and No. 221 and "nay" on rollcall No. 218, No. 219 and No. 220.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 219, the Horton amendment to the American Technology Preeminence Act, and rollcall No. 221, final passage of the American Technology Preeminence Act. Had I been here, I would have cast the following votes: "no," and "aye."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-587) on the resolution (H. Res. 429) waiving certain points of order during consideration of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5115, EQUITY AND EXCELLENCE IN EDUCATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-588) on the resolution (H. Res. 430) providing for the consideration of the bill (H.R. 5115) to improve education in the United States, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON PROPOSED AMENDMENT TO THE CONSTITUTION REGARDING A BALANCED BUDGET

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

Mr. MOAKLEY. Mr. Speaker, the Rules Committee may meet as early as this Friday, July 13, 1990, on the matter of a proposed amendment to the Constitution regarding a balanced budget. In order to provide for an orderly process in the consideration of this matter, the Rules Committee is requesting that Members submit 55 copies of their amendments to a proposed constitutional amendment, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol, by 6 p.m., Thursday, July 12, 1990.

REPORT ON H.R. 5241, TREASURY, POST OFFICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1991

Mr. ROYBAL, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-589) on the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the Union Calendar and ordered to the printed.

Mr. SKEEN reserved all points of order on the bill.

THE CONTINUING STRUGGLE OF THE LITHUANIAN PEOPLE

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

Mrs. MARTIN of Illinois. Mr. Speaker, in a year crowded with events and developments of truly historic proportion, the struggle of the Lithuanian people to regain their independence and their right to national self-determination has nonetheless taken on a special significance.

While freedom has swept over Eastern Europe like a great wave, Lithuania's struggle, unfortunately, is one that continues. While the East European States have celebrated their return to the fold of democratic, free market nations, Lithuania has suffered under the weight of an economic embargo that put 50,000 men and women out of work, cleared the nation's shelves of food, and, perhaps most cruelly of all, created a shortage of medical supplies that halted the delivery of even the most rudimentary health care services to the Lithuanian people.

On July 2, Soviet President Gorbachev announced that the embargo would be lifted and that the Soviet leadership would retreat from its intransigent position and sit down with Lithuania's chosen leaders to explore avenues to independence.

Though the Soviet decision to lift the embargo has come as welcome news, it has not meant an end to Lithuanian suffering. The economic damage that the embargo of oil and gas caused will be slow to heal. Of greatest concern, however, are the immediate questions of life and death associated with the critical shortages of medical supplies that continue to exist in Lithuania.

There have been very disturbing reports suggesting that efforts to redress the effects of the embargo on Lithuania's health care system have been slow, and that the price in human suffering has been high. This need not be so. International organizations such as the Red Cross, for example, have attempted to step into the breach and provide needed emergency medical supplies. The Soviets, regrettably, have restricted these efforts.

At a time when Western leaders are negotiating economic and technical assistance for the Soviet Union, this situation is especially intolerable. With a loud and a unified voice we must demand that the Soviets redress this situation immediately. It is unconscionable, Mr. Speaker, that the leaders of the free world should be considering economic band-aids for the Soviets while sutures and scalpels are being withheld from Lithuania.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4831

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that my name be removed from cosponsorship of the bill, H.R. 4831, the American Jobs Stability Act.

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

There was no objection.

□ 1830

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following communication from the chairman of the Committee on Public Works and Transportation which was read and without objection, referred to the Committee on Appropriations and ordered to be printed:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, HOUSE OF REPRESENTATIVES,
Washington, DC, July 2, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the House Committee on Public Works and Transportation approved the following resolutions on June 28, 1990:

Construction Resolutions:

U.S. Geological Survey, Laboratory-Office Building, Menlo Park, California.

Federal Building—U.S. Courthouse (amendment), Monterey, California.

John E. Moss Federal Building—U.S. Courthouse, Sacramento, California.

U.S. Courthouse, Shreveport, Louisiana.

U.S. Courthouse, Prince George's County, Maryland.

Internal Revenue Service, Prince George's County, Maryland.

U.S. Courthouse, Boston, Massachusetts.

U.S. Courthouse or Annex, Minneapolis, Minnesota.

U.S. Courthouse Annex (amendment), Camden, New Jersey.

U.S. Courthouse, White Plains, New York.

U.S. Courthouse, Annex, Portland, Oregon.

Social Security Administration, (amendment), Wilkes-Barre Area, Pennsylvania.

U.S. Courthouse, Knoxville, Tennessee.

U.S. Courthouse Annex, Charlotte Amalie, St. Thomas, Virgin Islands.

U.S. Courthouse, Alexandria, Virginia.

Department of Defense, Naval Systems Commands, Northern Virginia.

Southeast Federal Center, Washington, D.C.

Repair and alteration resolutions:

Federal Building—U.S. Courthouse, San Diego, California.

Appraisers Building, San Francisco, California.

U.S. Custom House, San Francisco, California.
Building 56, Denver Federal Center, Lakewood, Colorado.
Hubert H. Humphrey Building, Washington, D.C.
Veterans Administration Building, Washington, D.C.
Elevators—Various Buildings, Washington, D.C.
Richard B. Russell Federal Building and U.S. Courthouse, Atlanta, Georgia.
Everett M. Dirksen Federal Building, Chicago, Illinois.
Federal Building, (amended prospectus), 536 S. Clark Street, Chicago, Illinois.
Federal Building and U.S. Courthouse, Indianapolis, Indiana.
Warren E. Burger Federal Building and U.S. Courthouse, St. Paul, Minnesota.
Peter W. Rodino, Jr. Federal Building, Newark, New Jersey.
Jacob K. Javits Federal Building, New York, New York.
Kenneth B. Keating Federal Building and Courthouse, Rochester, New York.
Post Office and U.S. Courthouse, Oklahoma City, Oklahoma.
U.S. Custom House, Philadelphia, Pennsylvania.
U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania.
Estes Kefauver Federal Building and Courthouse Annex, Nashville, Tennessee.
Federal Building (Terminal Annex), Dallas, Texas.
Pentagon Federal Office Building, Arlington, Virginia.
Federal Building, Portsmouth, Virginia.
Federal Building, Seattle, Washington.
Federal Building and U.S. Post Office, Spokane, Washington.
Design Resolution:
Design 19 projects in Fiscal Year 1991.
Southern border stations resolution:
Calexico, California and Ysleta, Texas.
Alterations to leased space resolutions:
1900 Half Street, S.W., Washington, D.C.
J.W. Powell Building, Reston, Virginia.
Lease resolutions:
Department of Labor, San Francisco, California.
Pershing Point Plaza, Atlanta, Georgia.
Center Building One, Hyattsville, Maryland.
Corps of Engineers, Vicksburg, Mississippi.
IRS Service Center, Brookhaven, New York.
U.S. Customs Service, New York, New York.
Multiple Agencies, Philadelphia, Pennsylvania.
Department of State, Northern Virginia.
Patent and Trademark Office, Crystal City, Virginia.
Skyline VI, Falls Church, Virginia.
Internal Revenue Service, Fresno, California.
Judiciary Plaza, Washington, D.C.
State Department, One McPherson Square, Washington, D.C.
Department of Veterans Affairs, One McPherson Square, Washington, D.C.
Patrick Henry Building, 601 D Street, N.W., Washington, D.C.
Transpoint Building, Washington, D.C.
601 Pennsylvania Avenue, Washington, D.C.
Internal Revenue Service, Philadelphia, Pennsylvania.
Internal Revenue Service, Martinsburg, West Virginia.
11(b) resolutions:
Laredo, Texas.
Riverside and San Bernardino Counties, California.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

SUPPORT FREEDOM OF THE PRESS IN ROMANIA

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

Mr. ATKINS. Mr. Speaker, Benjamin Franklin and Thomas Jefferson both argued that a free, unencumbered press was the truest test of a democracy. Apparently, that piece of political wisdom has not yet found its way to the Government of Romania's new President, Ion Iliescu. Today in Romania the Government requires all newspapers to be printed on Government presses, and distributed by the Government's own agents—just as in the dark days of Nicolae Ceausescu.

The leading opposition newspaper, Romania Libera, is directly challenging President Iliescu by seeking to acquire its own printing press from the West and using it to publish its daily editions in Bucharest. Petre Bacanu, the paper's publisher, was in Washington last week seeking help from Americans in his efforts to obtain just such a printing press.

Mr. Speaker, Americans can do no better service to the cause of freedom than to help Mr. Bacanu create the possibility of a truly free press in Romania. Franklin and Jefferson may never have been to the corner of the world now known as Romania, but their test of true freedom has never been more relevant than in this struggling nation today.

Mr. Speaker, I will insert a Washington Post article on this subject.

[From the Washington Post, June 25, 1990]

PRESS FREEDOM IN ROMANIA

The United States shunned the inauguration of post-Ceausescu Romania's first elected president the other day. This jarring note was struck for the necessary purpose of conveying American repugnance at President Ion Iliescu's use of the miners to break up an anti-government demonstration. Mr. Iliescu, a former Communist who has found it difficult to break with Communist ways, conceded that excesses had taken place in the "public order restoration process" but, unconvincingly, "unequivocally disassociated" himself from these excesses and had the effrontery to say he would not hesitate to call up the miners again.

The company of 24 Western nations that have banded together to ease the democratic transformation of Eastern Europe has suspended major aid and cooperation with Romania until the situation there looks up. Perhaps this will help concentrate the attention of President Iliescu and others in the National Salvation Front and of the elements in the army and police that have yet to commit themselves to new ways. There is a striking contrast between the openness expected of a democracy and the secrecy in which large public decisions in Romania are still being made. There is a further, appalling contrast between the respect expected for dissent and the violent crushing of opposition, outside the law, that has been seen in the streets of Bucharest.

One feature of public life in Romania that cries to be clarified is the state of the press and particularly Romania Libera, the single independent opposition newspaper. Its editor, Petra Bacanu, had been condemned to death by the old regime for trying to start an unauthorized paper. Under the new regime, the paper is being published but on a government press. This had made it easy for the government to interrupt publication and distribution; the miners, while they were in town, shut the paper down.

To be truly independent, Romania Libera needs its own press. That means the Romanian government must grant it the right to own one. It also means that Americans should respond to editor Bacanu, who has been in Washington seeking the means to acquire one. It is one thing to call for Romania to make the political space for press freedom. It is another to help provide the resources to make press freedom real.

GUIDING LAWRENCE LIVERMORE LABORATORY TOWARD NEW FRONTIERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I am introducing today the National Research Facility Act of 1990.

The purpose of the bill is to use the expertise of the Lawrence Livermore National Laboratory's [LLNL] outstanding staff and facilities to help meet the Nation's pressing civilian research needs.

This legislation establishes a commission of experts able to examine the Laboratory and determine what specific resources it offers. The commission will also review areas of research that would most benefit the Nation in regaining its economic preeminence. The next and most crucial responsibility it will have is matching up these national priorities with the Laboratory's strongest resources to create a new mission for Lawrence Livermore Laboratory.

Selecting a new mission for one of the Nation's weapons laboratories will of course require consideration of the work done at all Federal weapons laboratories. The work of the commission is to be completed by January 1, 1992, at which time it will submit a report to the President and to the Congress.

The LLNL and the Nation's other weapons labs have worked through the years of the cold war to ensure—successfully—the safety and security of our nuclear deterrent. But with the lessening of world tensions, the exposure of fundamental problems in the Soviet economy, and our own budget problems, it is clear that there will be changes in the weapons labs. This discussion of new directions for LLNL has already begun within the Laboratory itself, as well as by the Department of Energy. Secretary Watkins himself stated that, "* * * with

changes in the defense picture * * * some defense labs can migrate into other areas."

One celebrates the beating of swords into plowshares as an opportunity to improve the quality of life for humankind. In my lifetime, we have never had the opportunity we have today to break through the tensions among nations and move into an era of peace. To paraphrase Churchill, this is the chance for the world to move into the broad sunlift uplands of peace.

At the same time, our Nation has invested billions in pulling together the scientists, engineers, and laboratories that have made our national weapons labs a true scientific treasure. I would not want to see these teams of experts disbanded and these outstanding facilities mothballed if there were another national mission for them.

I believe there is.

In our sacrifice to protect the world against Communist aggression, we have neglected huge areas of civilian, peacetime needs. We have concentrated the best minds of our Nation on weapons research, while our Japanese and European competitors have concentrated on civilian research needs and the application of technologies to manufacturing processes.

The result is that we won the cold war for the democracies—and are losing the economic race to our allies. Japan and Germany are outresearching and outproducing us, and the result is a lower than necessary standard of living, stagnation in wages and opportunities, and neglected infrastructures.

Let us use the collapse of the Soviet bloc creatively, and convert the Lawrence Livermore National Laboratory from being largely a weapons lab to being a center for research on domestic, civilian needs.

There are clearly huge research needs that the private sector is unable to manage by itself—which need the resources and management teamwork of a public, national laboratory. It is interesting that the Atomic Energy Commission Act, which is the legal authority for national laboratories, stressed that one of the goals of the labs would be "* * * the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs."

LLNL, which is funded by the Department of Energy and operated through a contract with the University of California is an ideal center for major research projects, such as:

First, fusion energy research. This energy research is at a critical point in its development for civilian and defense uses. This program is an opportunity for a relatively clean and safe energy resource. The necessity of this project requires a steady source of funding over the next 20 years, at least.

Second, material research: This area is now transforming our physical world through breakthrough advances in ceramics, polymers, and composites. By refusing to invest now, we not only fall further behind technologically, but will find it all the more difficult to maintain any credibility as a Superpower.

At the LLNL new materials have already been developed. Cermet, for example, is material that is part metal and part ceramic. It's as strong as steel but lighter than aluminum. The commercial potential for this product, as you can imagine, is unbelievable.

Third, environmental research: we face increasing environmental crises such as the greenhouse effect, acid rain, and a depleting ozone layer, along with nuclear wastes which no one seems able to dispose.

Fourth, biomedical research: LLNL, for instance, developed an antibody, now being used commercially, to track the growth rate of cancer cells at a rate that is 10 times faster than any previous antibody. Evidence of technology transfer successes already abound at LLNL and could be expanded through programs of this sort. Systemix, a California based firm, will be using biomedical instrumentation developed by the lab in research to combat AIDS and leukemia. The Labs instrumentation is five to ten times faster than previous commerically developed instrumentation.

Fifth, supercomputer research: LLNL has already made historic break-throughs. The "parallel supercomputers" project at LLNL will technologically advance science and industry alike. These parallel supercomputers running together will achieve super speeds.

LLNL has also created the Energy Sciences Network, a high speed link between the Lab, other labs, and universities in the United States, as well as research facilities in Japan, West Germany, and Switzerland.

Other supercomputer technology at Lawrence Livermore was used to analyze and repair the State of California's quake damaged freeways and will have a direct bearing on the design of the new support that will be added to double-deck freeways in San Francisco.

Our goal in the 1990's must be to restore our Nation's economic leadership. Lawrence Livermore National Laboratory, a national facility, already possesses many of the resources necessary to meet this national objective.

SOVIET BLOCKADE OF MEDICAL SUPPLIES TO LITHUANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, it has been exactly 4 months now since the brave people of the Republic of Lithuania announced their free and democratic decision to be independent of the Soviet Union. In this time we have witnessed the aggressive actions of the Soviet Government as it attempts to retain its grip on this small nation of people who have no desire to be under Soviet control.

On April 9, the Soviet Presidential Council declared that "political, economic and other measures" would be used against Lithuania for its "anticonstitutional" behavior. The political and economic measures taken by the Soviet Union are well known. The Soviet blockade has severely restricted energy, fuel, and food supplies. Such actions have damaged Lithuanian industry, reduced employment and increased the rate of inflation to 20–24 percent. But an even more severe but less publicized attack by the Soviet Union has been its restriction of desperately needed medical supplies to Lithuania.

The Soviet blockade has diminished Lithuania's most elemental medical supplies with harmful results. Since the blockade began, Lithuania has received 5 percent of needed syringes, one seventh of the number of scalpels that it needs, 10 percent of its needed x ray film and sutures, and an incredibly low amount of insulin required by diabetics in Lithuania for their very survival. The list of scarce medical supplies continues—antibiotics and all forms of intravenous solutions are in critically short supply. The harmful effects of the blockade threaten dialysis treatments, neonatal care, and emergency ambulatory service as hospitals are forced to restrict operations. According to the Lithuanian Information Center, the blockade has also affected drinking water and the food processing industry which cannot apply proper sanitation due to energy shortages and lack of purifying agents. In fact, a considerable rise in the incidence of intestinal diseases is expected and these conditions may also have a negative effect on the implementation of health measures normally used in the prevention of epidemics.

Attempts to aid the people of Lithuania with needed medical supplies have already been made by the public and private sources from countries such as Poland, Denmark, and Czechoslovakia. Although several shipments of aid have reached Lithuania, all such attempts have been met with resistance by Soviet forces which have prevented outside aid from entering the country.

Mr. Speaker, it is frigthfully clear that the actions of the Soviet Union are a direct and inexcusable violation of the most fundamental human rights. The Soviet blockade of medical supplies has endangered the health, safety and even the lives of the people of Lithuania in their attempt to be free. The lives of the innocent people of Lithuania are much too important to allow this injustice to continue.

The people of Lithuania also require our support for their brave struggle toward freedom and independence. The unanimous declaration

to reestablish independence made by the Lithuanian Parliament on March 11 should remind all Americans of another unanimous Declaration of Independence made over two centuries ago. We should stand with the people of Lithuania and do all in our power to lessen their suffering.

Mr. Speaker, the struggle for independence is sweeping across Eastern Europe. The Soviet Union's restrictive blockade of Lithuania is a painful but senseless effort to prevent yet another group of people from achieving their inalienable rights. Lithuania's fight for independence began officially 4 months ago, but its search for freedom began when it was absorbed into the Soviet Union during World War II.

We as Americans have a duty to uphold the ideals fought for by our forefathers by supporting the people of Lithuania in their current struggle. The most effective means of support that we can offer at this time is to fulfill our moral obligation to the Lithuanian people by encouraging the Soviets to repeal the blockade and allow for the transport of desperately needed medical supplies. The present situation calls for such action, and our democracy and humanity demand it.

HEALTH WASTE AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the health care system in the United States, especially for the elderly, is critically ill. Waste, fraud, and mismanagement in the $100 billion Medicare Program are major symptoms of the illness. The reason can be found in the Reagan and Bush administrations for the lack of oversight of the program by their regulators.

Testimony at a recent congressional hearing indicated that the Medicare Program will overpay up to $1.5 billion next year because insufficient funds are being provided to audit doctor and hospital bills and monitor service patterns.

Vernon R. Loucks, Jr., chairman and chief executive officer of Illinois-based Baxter International which makes and markets health care products and services, said in a recent article in the Chicago Tribune that projections made by his company show a dangerous gap between growth in demand for health care and resources likely to be available to meet it.

Mr. Loucks said demand is likely to grow 65 percent by the year 2000 and 160 percent because of increased population growth and aging, some expanded access and new technologies. He said the crunch between demand and resources is already painful, not just for the health care system but for those it is supposed to serve: 422 U.S. hospitals have closed in the last 5 years, 80 of them last year; 13 have closed in Chicago.

Mr. Loucks said the economy and effectiveness of the health care system can be improved in numerous ways. As an example, he said cutting one-third of diagnostic tests that are probably unnecessary would save as much as $10 billion.

For those reasons, I heartily support Chairman PETE STARK of the House Ways and Means Subcommittee on Health who has held hearings on fiscal year 1991 budget issues relating to waste and abuse in the Medicare Program.

Medicare is the fourth largest category of Federal spending after defense, Social Security and interest payments on the national debt. During the current fiscal year ending September 30, Medicare is expected to provide health coverage for over 33 million aged and disabled persons at a cost of $109 billion. Of this amount, $1.9 billion, or 1.7 percent, represents administrative costs. However, funding cutbacks have caused a deterioration in Medicare's ability to ensure the accuracy of program payments.

In my 26 years in Congress, I have supported all legislation to improve benefits and programs to protect the rights of senior citizens. They include the Older Americans Act of 1965, the Age Discrimination in Employment Act of 1967, the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977, and the Health Insurance for the Aged Act, which created the Medicare Program in 1965.

Mr. Speaker, we must increase health services for the elderly, not costs.

THE POLITICAL CRISIS IN ALBANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I rise today to bring to the attention of the House several articles from this past weekend's newspapers regarding the present political crisis in Albania, where thousands of asylum seekers are still holed up in foreign embassies in that nation's capital of Tirana.

In the Saturday, July 7 issue of the New York Times, the Times picked up a story from the Reuters news service titled, "Albanians Reportedly Stream Into Embassies in the Capital."

The article begins, and I quote, "About 3,000 Albanians crowded into Western embassies in the Albanian capital today, and the Austrian news agency reported that 10,000 jammed the streets, some of them fleeing police beatings in Europe's last Stalinist state."

On Sunday the New York Times carried another story on this worsening crisis. This article reports that, and again I quote, "About 5,000 Albanians have poured into the embassies in Tirana over the last week in a bid to escape Europe's last outpost of Stalinism."

I would like to draw attention to how the Albanian Government is handling this crisis. On one hand they are offering passports to anyone who would leave the embassies to go claim one.

Actions speak louder than words. This article in the New York Times quotes a West German Foreign Ministry spokesman as saying that Tirana's hard-line Communist rulers were still refusing to permit a plane carrying food and medical supplies to land. And another report a day or two later said that a plane loaded with food and medical supplies and en route to Tirana was refused permission to land.

The article also quotes western diplomats as saying that police opened fire on Albanian citizens as they first began to flee into the embassies Monday a week ago.

One final article I would like to bring to the attention of the House appeared also on Sunday, July 8, in the Washington Post. The author of the article, Mary Battiata, of the Post's foreign service bureau, reported that, and again I am quoting from the article, "Other Albanians, some believed to be members of the feared secret police, the Sigurimi, stood near the embassy fences today trying to persuade refugees to leave embassy grounds."

The article also goes on to say that, "The Albanian crisis followed street protests over the government's failure to make good on promises made in May that all citizens would be granted the right to passports and foreign travel."

I would ask my colleagues, "What conclusion can we draw from this collection of articles about the crisis in Albania?" I think the most significant point is that Albania is indeed the last Stalinist outpost in Europe.

The Albanian Government has failed to carry through on even the

smallest promises it made toward increased human rights standards, and when the Albanian people dared criticize the government, through peaceful means, they were chased with bullets into foreign embassies.

As if that were not bad enough, the Government of Albania has refused Western nations permission to fly in food and medical supplies to care for the people holed up in these embassies.

While none of what I have just shared with my colleagues is news, I would ask my colleagues to keep it in mind as I bring some additional facts to the situation.

In February of this year, in an ad dated exactly 5 months ago yesterday, February 9, 1990, in the New York Times, the Albanian-American Community and the American Friends of Albania paid to have printed a public service message, and I use that term very loosely.

What did this public service message consist of you may ask: It was the text of an address by Ramiz Alia, President of the People's Socialist Republic of Albania, the leader of Europe's last Stalinist state.

What did Mr. Alia have to say that was so gripping that the Albanian-American Community wanted it printed in the New York Times?

Let me read directly from this ad and share it with my colleagues in the House and perhaps in the other body. I am quoting now directly from the text of this ad:

"The Albanian people have never bothered anyone. Neither have they ever allowed anyone else to dictate to them. Our people have chosen their own way of development and preservation of their national identity * * *"

This ad gets better Mr. Speaker. Another paragraph states, "The social order we have built recognizes no exploration (SIC)—probably meant exploitation)—of man by man. In our country there are no rich people to live at the expense of the workers and peasants * * *. Everyone lives by his own labor."

□ 1840

Now, Mr. Speaker, for the grand finale of this gem of Communist propaganda.

> The people of Albania are masters of their own destiny, determined to march forward on the socialist road, to preserve their freedom and independence. For 45 years Albanians have been attacked, insulted, criticized and pressured to abandon the road of our revolution, freedom, independence and social justice. Let the enemies of Albania bark as much as they can—the Albanian caravan will always continue to march forward. The anti-Albanian campaign which is being blown up by reactionary forces and some Western journalistic circles will end up like a soap bubble, because it is based on lies and falsehoods.

Mr. Speaker, if this ad had been taken out by the Communist rulers of Albania in an attempt to garner favorable world opinion, it could be looked on as ludicrous and pathetic.

However, this ad proclaiming the joys of life in Albania was bought and paid for as a public service message by the Albanian-American Community and the American Friends of Albania.

I would point out to my colleagues that these are the same groups who are agitating in this country for the United States to denounce Yugoslavia and its Serbian Republic for keeping control of territory that constitutionally belongs to that nation and Republic in response to illegal attempts at secession.

These are the same groups which have put our former colleague, Mr. Joe DioGuardi, on the payroll to advocate their truth about the crisis in Kosovo.

I might add that this same advertisement lays out the Albanian Government's position on the Kosovo crisis. Wouldn't you know, it's not one word, not one iota, different than the one the same groups, led by Mr. DioGuardi, have brought to Capitol Hill.

I would ask my colleagues to take note of this advertisement publishing the remarks of Ramiz Alia paid for by the Albanian-American Community. If you believe its assessment of the great freedoms and independence that can be found in the Socialist Republic of Albania, I won't waste one ounce of breath trying to convince you how offbase the Albanian position on Kosovo is.

But if you also question the assessment of Ramiz Alia about the Albanian political climate, you should also be asking yourselves some other questions.

First, if the assessment of the Albanian situation is so far off the mark as to be ludicrous, what does this say as far as the credibility of the assessment of the Kosovo crisis, which appears in the very same advertisement?

Second, do those who had this ad printed as a public service message, namely the Albanian-American Community and the American Friends of Albania, really buy Ramiz Alia's assessment of the situation in Albania.

They certainly buy Mr. Alia's assessment of the Kosovo crisis, because they have not stopped pushing it up here on Capitol Hill, and I might add they have been successful in selling their cause to more that one of our Members.

If the Albanian-American groups who saw fit to print this ad, which I urge each of my colleagues to read, and I will be happy to provide any Member who wishes a copy, are the same ones who are lobbying for the cause of the ethnic Albanians of Kosovo, and who have hired Mr. DioGuardi as their lobbyist, I think their entire case has a very serious credibility problem.

I think this very sad episode that is underway right now in Albania should highlight the background of that entire region of the world, and cast the Kosovo crisis in a more realistic light than the partisans of the ethnic Albanian cause have done so far.

UNDERPAYMENT OF INCOME TAXES BY U.S. FOREIGN-OWNED SUBSIDIARIES

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order today.

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

There was no objection.

Mr. PICKLE. Mr. Speaker, for the past 9 months the Subcommittee on Oversight of the Committee on Ways and Means has been investigating whether U.S. subsidiaries of foreign-owned companies are underpaying Federal income taxes in the United States. As part of the investigation, the subcommittee reviewed corporate income tax returns, studied IRS case histories, and spoke with Internal Revenue Service examiners, attorneys, and economists. The subcommittee focused primarily on companies engaged in the automobile, the motorcycle, and the electronic equipment industries.

Yesterday the subcommittee held a hearing to release the results of this investigation. I am offering some of those facts presented yesterday and may be joined by members of my subcommittee.

We are taking this special order to point out to the American people and to Members of this body the very serious problem we have in respect to the underpaying of Federal income tax by foreign-owned subsidiaries.

U.S. companies controlled by foreign parents supplied billions of dollars in products annually that are ultimately purchased by American consumers. The Internal Revenue reports that over a 5-year period of time total receipts of United States subsidiaries of Japanese companies exceeded $644 billion, and receipts of subsidiaries of the United Kingdom companies exceeded $400 billion.

The Commissioner of the IRS yesterday testified that total receipts of foreign-controlled companies from a 1979 to 1987 period of time increased by 183 percent; that is, from $242 million to $685 million, while at the same

time receipts of all other U.S. corporations grew only by 52 percent. In other words, U.S.-owned corporation receipts increased 52 percent. In this same period of time, the income and receipts of foreign corporations increased by 183 percent, which tells a story in itself.

The Internal Revenue Service Commissioner noticed that this growth manifests the increasing importance of this area of the tax law.

Now, the subcommittee staff reviewed portions of over 200 returns filed over the last decade for 36 companies. We went back 10 years to look at some of the tax returns.

□ 1850

These 36 companies encompassed by this review accounted for more than $35 billion in sales during 1986, according to the Internal Revenue Service. A significant number of these companies improperly reduced their U.S. taxes through transfer pricing schemes and other methods. It is a common practice for foreign subsidiaries to send over products from their countries to their subsidiaries here and put too high a price on the goods so that they avoid U.S. taxes.

The Internal Revenue Service can prevent the improper shifting of income within multinational corporations by using section 482 of the Internal Revenue Code. Under section 482 of the Internal Revenue Code, the IRS has the authority to change some of these figures. At least, this provision 482 authorizes the Internal Revenue Service to allocate income, deductions, or credits among related corporations when such allocation is necessary to prevent tax evasion or to clearly reflect the income of each of the related companies.

Regrettably, the Internal Revenue Service has fallen short in effectively using its authority in this area, and the results have been a loss of Federal revenue. How much loss has been lost because of this approach? It was difficult yesterday to nail down a figure. Different estimates have been discussed. We have tried our best to get a statement from the Internal Revenue Service, and tomorrow we will hear Assistant Secretary of the Treasury Mr. Gideon, and try to get a better figure. It was estimated in that hearing yesterday that this loss would be somewhere between $13 billion and as much as $50 billion, all other factors being considered. We have attempted to make the best estimate we could, and it well may be that the U.S. Government is losing somewhere in the neighborhood of $30 billion to $35 billion in revenue by virtue of these price transfer schemes and the making of excessive deductions, interest, freight, and other charges.

Mr. Speaker, if that is anywhere near correct, obviously this is a very serious problem for our Internal Revenue Service and for our Federal Government. One of our Members, the cochairman on the Republican side, stated yesterday that before we increase the taxes of any American citizen we ought to first be certain that foreign corporations are at least paying their fair share.

I simply say again to the Members that while we do not want to issue a figure that would alarm or could not be substantiated, it would appear to us that the loss of revenue is enormous and that this is a game and a scheme that is being practiced by these corporations. Mr. Speaker, it well may be a problem area with many U.S.-owned corporations, too.

Some companies investigated have been operating in the United States for years and have never paid Uncle Sam one thin dime in corporate income taxes despite billions of dollars in U.S. sales of cars, motorcycles, stereos, televisions, VCR's, and other products to the American consumer. Many of the companies that initially paid the taxes subsequently incurred substantial losses that not only allowed them to reduce their current year's taxes but also enabled them to recoup the prior years of tax payments. Year after year these companies, and we are talking about foreign-owned subsidiaries, would show that they were making no profits or were taking a big tax loss. Others would, for several years show a profit. The following year they showed that they had a great loss, and they claimed a carryback for the three prior years, which meant that they did not pay any taxes and really got rebates from the U.S. Government.

In those instances where that is happening, that is abominable and atrocious and ought not be allowed.

Many corporations are setting the transfer prices of goods and services purchased by the U.S. subsidiaries at too high a price. This is how they do it, by charging unrealistic or non-arm's-length prices for goods and services, that are dictated by the foreign parent to the U.S. corporations. As a result, a multinational can transfer taxable profits from one country to another. Artificially high transfer prices of goods and services purchased from a foreign parent reduces the subsidiary's profits and, thus, the taxes paid to the U.S. Government.

Consistently whether it is in the automobile industry or whether it is in the motorcycle or electronics industries, the VCR and others, many of the products sent from a foreign nation are sent to a U.S. subsidiary, and they will set a high price. Nearly always they are a much higher price than the same product that they sent into an uncontrolled subsidiary.

As a consequence, with such a high price, that money paid by that subsidiary goes back to Japan or to Germany or to England or to Korea, and consequently the profits, as such, go to a foreign nation and are not given to the United States, whereas, on the other hand, if a lower price is set, the profit naturally is going to be larger and consequently that American corporation is going to be paying a higher tax. It is a practice, or it is a game, that has been taking place, and it must be addressed. We must do something quick.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I am very, very interested in what the gentleman has been talking about, because these are some of the suspicions that some of us have been having as we have been exporting our jobs overseas, and then we have been encouraging so-called investment in this country because it is supposed to be very good, and I remember the first time I saw a news article on this that something like this was happening.

I want to commend the gentleman and his committee for getting into this, because I think it is extremely vital.

Was the gentleman saying millions of dollars or billions of dollars are being bypassed from our Treasury by these foreign corporations?

Mr. PICKLE. Clearly billions—the question is how many billions. I would agree with the gentlewoman that that is happening. One Member commented to our group that if we did not do something about it and the trend did not stop, then foreign corporations coming over here will be taking our jobs, they will be running our factories, and American industry is going to be at a very definite disadvantage because their competitors are not paying taxes.

Somewhere this practice has to be stopped. So I agree with the gentlewoman that it affects jobs as well as money to the Treasury.

Mrs. BENTLEY. The irony is that not only are they doing it this way, getting away from paying off the IRS funds, but in many of these cases these foreign companies have been given tremendous tax breaks to come in and build in this country, so they are really getting it in every way, and there is no way that an American company can compete.

Mr. PICKLE. They have not only been getting tax breaks, but they will come in and they will claim certain deductions and/or show no profit, and then if they are taken to task, and the Internal Revenue Service examines them, they may ultimately pay tax and interest, but for the next 2 or 3 years they will deduct that interest and zero out any tax due.

We found yesterday in our hearing that there has been no penalty ever paid to the Internal Revenue Service by any of these corporations on their income tax underpayments.

It may be that IRS assessed a penalty, but we tried to look back as far as the eye can see, and we have no record of where these penalties have been finally imposed and paid. It is a practice that has not been addressed, and that is the truth of the matter. We have to do something about it.

Mrs. BENTLEY. Mr. Speaker, I want to commend you and your committee for getting into this, and I just think it is something the American taxpayers are very concerned about, and the more they learn about it, the more concerned they are going to be.

When we get into losing millions and billions of dollars by people who are ripping off the system, then something has to be done, and again I commend the gentleman.

Mr. PICKLE. I thank the gentlewoman. I remind her that tomorrow we hold another day's hearing on this subject in the Ways and Means room and invite any Members to come by.

Mrs. BENTLEY. I thank the gentleman.

Mr. PICKLE. Many foreign multinational corporations are setting the transfer price of goods purchased by their subsidiaries at too high a level, as I stated, and in addition, many foreign-controlled subsidiaries are claiming excessive insurance, interest, freight costs, and expenses for promotional activities which are not correctly reflected in the transfer price.

□ 1900

This appears to be a common practice, Mr. Speaker, allowing many of the companies reviewed to reduce their U.S. taxes to little or to nothing.

Let me now describe one actual case that the subcommittee investigated which illustrates the transfer pricing issue. Members may provide additional examples, either this evening or by insertion.

There is a foreign-owned company which has been operating in the United States for decades, selling goods worth hundreds of millions of dollars each year. The subcommittee looked at this corporation's Federal income tax returns for the past 10 years and found, although the company sold more than $3.5 billion of goods in the United States and had gross profits of almost $600 million, it paid only $500 in Federal income tax to the United States Treasury.

I have a feeling that the one year where it showed a $500 tax, that the second or third year after that they claimed a loss carryback.

Mr. Speaker, how could a company owned by a profitable foreign multinational, which has been successful in marketing its products in this country, continue, year after year, to report losses in the United States and still stay in business? It does defy the imagination, does it not?

The subcommittee also learned of cases where foreign-owned corporations improperly shifted income from the United States through schemes set up to avoid Customs import duties. Some companies have been caught by Customs illegally reducing their duty payments through fraudulent shipping and insurance charges, through kickbacks, and by manipulation of prices for products traded between subsidiaries operating in the United States and other countries.

The practice of setting up transactions ship in products to be undervalued at Customs is growing at an enormous rate. Yesterday they estimated it might be as much as 200 or more companies that are actually illegally practicing these undervaluations through Customs imports.

I was bothered yesterday to hear testimony that often Federal agencies of our own do not even share information of mutual benefit. There certainly is a common interest in good and efficiently managed government. These agencies need to work together.

Mr. Speaker, I was appalled to realize that in many instances Customs, who relies and can see firsthand the excessive charges being made in freight or in interest for the undervaluation of imports, do not report that information to the Internal Revenue Service. If the Internal Revenue Service establishes that this scheme or pricing game is going on. They do not notify the Customs Office.

Quite often the Department of Commerce is left in the dark about what is happening. They are not talking to each other. Valuable information that should be shared by each of our Federal agencies simply is just not being accounted for.

Mr. Speaker, it would seen to me if that practice is as bad as it appears to be, that we ought to do something about that.

Mr. Speaker, at this point I want to emphasize there there are foreign-owned companies operating in the United States which do comply with United States tax laws and which do pay substantial Federal corporate income taxes. I do not want the impression to be left at this special order that most of the corporations are paying very little taxes. But of the 36 companies we reviewed, going back over a period of 10 years time, approximately one-half of them did not pay any substantial Federal income tax, or paid no income tax, or had substantial loss carryovers. At least half of them.

But in making that statement, we do want to say there are some foreign-owned corporations, both on the Atlantic and the Pacific side, who do pay taxes and who do comply with our tax laws. I think we ought to recognize that.

I do not give the names of some of those companies, just as I do not give the names tonight of those people who are not paying income tax, because tax information is not permitted and is not allowed under our laws.

But the subcommittee found that several of the foreign-owned companies investigated did in fact pay a significant level of U.S. taxes year after year, and that the Internal Revenue Service had examined their transfer pricing structure and found no problem. So we must be straightforward in saying some of the companies are correctly practicing this, but many of them do not.

Finally, I do not believe that the Internal Revenue Service is equipped or able to effectively protect this country's tax system against section 482 transfer pricing abuse. The misallocation of profits among foreign multinationals and their subsidiaries will continue to present monumental problems, unless the Internal Revenue Service has an effective international enforcement program.

Mr. Speaker, we asked the Internal Revenue Commissioner yesterday whether section 482 is strong enough, sufficient in itself, to allow the Internal Revenue Service to carry out its orders as authorized, to prevent this misallocation of income and expenses or transfer pricing schemes overall.

His reply was yes, it could be handled, if the Internal Revenue Service and the Congress and the administration makes a concerted agreement and effort to carry it out.

Well, now that was not much of an answer, although that was correct. But it does point out the fact that we have not agreed among ourselves what to do and how to go about making these corrections. That commitment must be made.

Yesterday we heard from the Internal Revenue Service field agents, about a dozen of them, who were called in from all across the United States and gave us example after example after example of how these multinational corporations were doctoring their transfer prices, and how they would end up year after year paying very little tax, if no tax.

In many instances they would not cooperate with the Internal Revenue Service if they were being asked to furnish the information. In some instances they actually made it difficult. In one instance they actually said that the IRS inspectors and examiners would have to operate out of a guardhouse. This was on a hot summer day. In other instances they said well, put them over into this room, and then you go break the air-conditioning. Or if they said they would furnish the

records, in one case they brought in about 30 different boxes, huge cardboard boxes, and just dumped them in a room and said here are your records. In many instances when the records are furnished, they are furnished in a foreign language.

That is hard for our agents to figure out what is being said. That sounds like a horror story, does it not, but that is actually taking place. Of course, that cannot be permitted.

We heard yesterday from these 12 agents, and I might say, Mr. Speaker, they were some of the brightest and ablest men and women in the U.S. Internal Revenue Service. They gave us these examples of how this practice has been taking place. So for the record we know it is a fact, and we can show specifically how this practice is taking place.

Now the question is, what will the Internal Revenue Service do about it and what will the Congress say to the Internal Revenue Service that is our clear indication or instruction that we want something done about it? And that remains to be seen.

But these agents did point out what was happening, and they did not paint a pretty picture of what they called life in the trenches.

Among other things, the Internal Revenue Service has a few economists on staff to assist them with complicated tax issues. We are having a hard time competing against the money of the big corporations. To settle a tax case in many instances we will need a nationally recognized economist.

The Internal Revenue Service in many instances has about 40 economists throughout the United States. Any one of the large corporations who have clients with international companies, these multinationals, they will have 40 economists of their own that they can hire and they can use. For every expert tax witness we have got, they have got dozens, highly paid, and it really is not a fair fight in many respects.

What happens is that IRS will have an examination, and the case will go on year after year after year, and there are delays and delays, and the U.S. Government does not get the information. Then the statute of limitation runs. And they will say, "so sorry," and consequently then our chances for effective tax collection is gone. So we are short-handed.

□ 1910

We asked the question yesterday of the IRS Commissioner: "Mr. Commissioner, are you or your IRS agents outgunned?" And the answer was yes. They have increased their enforcement field on an international basis. They have more than doubled or tripled it over a period of 10 years' time, but they are woefully short in having the manpower to compete in this area where there is such an enormous amount of funds that are being siphoned off or at least not being paid to the Treasury.

It seems that the games played by some corporations include hiring all of the experts so that the Internal Revenue Service cannot hire them. At first blush when one hears that they think that cannot be possible because they cannot hire up all of the experts, and thank goodness they cannot, because we have many fine, dedicated IRS agents who refuse to leave even though they could go out into private industry and get jobs at much higher rates. They refuse to do it because they think it is important to the Government, and because they like their jobs, and they are respected and work hard at it, and we must pay a compliment to those types of Internal Revenue Service people who are so dedicated. But in many instances they simply cannot resist, and they leave the Service and go out and work for these corporations, and we have lost another good public servant and the Treasury then loses a lot of money.

But there is a great deal of just delay, delay, delay, and then after that the companies involved refuse to extend the statute of limitations. The complexity of the issues, the attrition of experienced personnel, the lack of resource and the failure of these corporations to cooperate all have delayed the Internal Revenue Service's examination on these returns.

Clearly all of this begs the question of whether the IRS is outgunned, and just throws up their hands accordingly.

In the final analysis, information from these companies needs to be made more timely and readily available to the Federal Government. Recent congressional efforts to strengthen the ability of the Internal Revenue Service to obtain critical information from these foreign-owned entities will undoubtedly help.

Section 482 and the section last year which we added to the Code, Section 6038, gives the Internal Revenue Service more authority than ever before to go out and ask for the information. We will be looking in the Committee on Ways and Means at ways to strengthen section 6038.

There are many things we are looking at as a committee that we can specifically put into place to improve our picture. The Internal Revenue Service, the U.S. Customs Service, the Department of Commerce, and other Federal agencies need to better coordinate their efforts to enforce U.S. law. The facts presented at this hearing yesterday have focused attention on these problems. The subcommittee intends to continue their hearings on Thursday, and we look forward to additional ideas for improvements in this effort.

I would summarize my statement at this point by saying that many of our multinational corporations, and I am not just talking about the Japanese, I am talking about Korea and other Pacific Rim countries; I am talking about the United Kingdom, Germany, France, and other European countries who have been engaged over a period of years of sending their goods to the United States. We are the big bread basket of the world as far as market sales are concerned. Everybody wants to sell their goods to us. They not only are selling their goods now, they are coming over and they are establishing their own U.S. corporations, and competing here, and that is part of the international trade. We cannot complain about that in some respects. But in many respects if they do that and are not paying their taxes to the U.S. Government, that is unacceptable and we have to do something about it.

How much is being lost? Again, we will try to get a figure that we can have some general agreement on. That figure may come out tomorrow. But it is somewhere in the neighborhood we think of at least $30 billion. Can you imagine what that will do for our budget if we could just collect those funds from those corporations, and then if it was broader including some of the American corporations we can see what would also happen.

I think the fact we have to admit is we have not made a national commitment to do something about this transfer pricing scheme. We have not really given it full manpower to the Internal Revenue Service to do something about these companies. The IRS is doing the best they can under the circumstances. Many of the cases they have under examination now have been on file for 5 or even 10 years, up to the time of the statute of limitations is running out, but the cases just go on and on. So they are active in the field, but they are really underpowered, and I guess it comes down to this point, Mr. Speaker: Any corporations and any individuals ought to pay their fair share of taxes. We asked the Commissioner yesterday what is a fair share of taxes, and that is an answer that is very difficult to define, and I accept that. But everybody in America I believe is willing to pay voluntarily their share of taxes if they think the other person or the other corporation, American or domestic, international or whatever is doing the same thing.

What we can agree on is that if we have difficulty defining what is a fair share of taxes, we can agree that if they say they are paying no taxes or they are eliminating taxes year after year with net operating loss carrybacks, that is not a fair share of taxes.

So Mr. Speaker, I ask the Members of the House to be mindful of these

hearings. They will resume again tomorrow. It is likely that we will receive statements for the record from other corporations at a later date if they wish to submit testimony, because every person has a right or every corporation has a right to either present such information to our committee or to the Congress that they wish.

I specifically do not mention names, but I conclude by saying that this transfer pricing scheme is being practices almost without abandon throughout the world, and we in the United States are paying for it. Something should be done about it, and I call the attention of the Members to it, and ask for their suggestions and their advice.

Mr. Speaker, before I yield back the balance of my time let me point out how interesting it was to discover this afternoon that a subcommittee of the House made an amendment to an appropriation bill that goes directly to this very subject. It was not sought by the committee except in very general terms earlier, and some of us felt it might be that the time had elapsed, but an amendment was put onto the Treasury, Postal Service, and General Government appropriation bill this afternoon. It was offered by our colleague, the gentleman from Virginia, Mr. WOLF, and supported by MARCY KAPTUR of Ohio.

The amendment simply says: "* * * and of which not less than $10 million above fiscal year 1990 levels shall be available for the purpose of enforcement activities relating to United States subsidiaries of foreign-owned corporations that are in noncompliance with United States tax law." And they put language in the report to show why this is important.

Here is a committee on its own, because they recognize the seriousness of the problem, who actually made a motion and carried it today to put $10 million in, specifically earmarked for the work of foreign-controlled subsidiaries. I find that very interesting, that just voluntarily this committee would take some action. I am hoping that the Treasury Department will support this and that the Internal Revenue Service will support it, and they can double or triple or even make a larger amount of money available so that they can properly carry out the law, because it is obvious that the Congress is going to request that this is done.

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

Mr. FLIPPO. Mr. Speaker, yesterday the Oversight Subcommittee of the Committee on Ways and Means held the first of two hearings on the level of tax payments by foreign-owned U.S. companies. At that hearing, subcommittee staff presented the results of a 9-month investigation which focused on tax payments over the past 10 years by 36 foreign-owned U.S. distributors of automobiles, motorcycles, and electronics equipment.

These corporations sold millions of high-priced consumer products like automobiles, trucks, motorcycles, televisions, stereos, VCR's, and fax machines. But more than half of the companies paid little or no Federal income tax. The problem was not that these companies were poorly managed; in fact, they had billions of dollars in sales. The problem is that the foreign parent corporation inflated the prices of their goods sold to the U.S. subsidiary so that little, if any, profits were earned in the United States. In other words, these multinational corporations took their profits abroad, and there was nothing to tax in this country.

How have they been able to avoid U.S. taxes? For the most part, it is through improper transfer pricing. And, it appears to be a deliberate scheme of tax avoidance. It is intolerable. It is outrageous.

Our staff reviewed 106 income tax returns for 18 electronic distributors. On these returns, the companies reported $116 billion in gross receipts. They paid only $654 million in U.S. taxes. This in only one-half of 1 percent. Moreover, only 9 of the 18 companies reported positive taxable income. For 1987 alone, 14 of the 18 electronics companies reported $20 billion in gross receipts, but paid only $38 million in taxes. This is less than two-tenths of 1 percent. Eight of these companies reported almost $14 billion in gross receipts and paid no Federal income tax whatever. Had these companies paid a mere 1 percent of gross receipts in taxes the Federal Treasury would have collected $140 million.

Even when the companies do pay U.S. tax, it appears that they are subsequently able to recoup their taxes by later generating a loss, and the loss carryback would wipe out the taxes they paid in previous years. The subcommittee looked at the tax returns of one electronics firm that over 7 years had reported gross receipts of almost $4 billion. For those years, the company reported only $15 million in U.S. tax liabilities. Moreover, the company was even able to wipe out these taxes by the use of net operating loss carrybacks. So over 10 years, this company ultimately paid no Federal income tax.

The staff also reviewed 116 returns for 18 automobile and motorcycle companies. All but two of these companies paid some Federal taxes, but with the use of net operating loss carrybacks, only 12 of the companies actually paid money. For 1987, 10 automobile and motorcycle companies reported $38 billion in gross receipts and paid $366 million in Federal income taxes. This is slightly less than 1 percent, but when net operating loss carrybacks are factored in, the amount they actually paid is much less than 1 percent.

Mr. Speaker, this is unacceptable. America has opened its doors to foreign companies. And they earn billions of dolllars here. But those billions of dollars haven't translated into a proportionate amount of taxes paid to the United States. Mr. Speaker, one of the conditions of doing business in this country is being subject to U.S. laws, and those laws include the Internal Revenue Code.

Mr. McGRATH. Mr. Speaker, during the Ways and Means Oversight Subcommittee staff investigation into the level of taxes paid by U.S. subsidiaries of foreign corporations, I'm afraid we found that the Internal Revenue Service is being bowled over in its efforts to assure that these companies pay their fair share of U.S. taxes.

The IRS employees we interviewed were both dedicated and competent, but IRS staffing levels just aren't sufficient to cope with the increased activity in the United States of foreign corporations. From 1980 to 1990, the number of international examiners increased from 200 to almost 500, but the number of foreign-owned corporate income tax returns filed increased from 25,000 to 45,000 during the first 7 years of that decade.

The successful development, resolution and litigation of tax cases involving transfer pricing issues requires a complex and thorough economic analysis of the transactions. The IRS has only 40 economists worldwide. A single major accounting firm usually has at least that many on its staff. Most IRS economists do not have Ph.D.'s, have not published extensively in their field, and have not had much, if any, experience testifying in court. Courts often see them as biased in favor of the IRS.

Economists hired by the U.S. subsidiaries involved in transfer pricing cases usually have litigation experience, are widely published, and are frequently considered to be leaders in their fields. They are paid up to $450 an hour, while IRS economists get about $20 an hour. The IRS has difficulty retaining experienced economists; nevertheless, it recently downgraded its economists' salaries.

As one IRS agent put it, "The agency is out-gunned." In one case, it took 8 months for an IRS examination team to get an economist assigned to help it. And once he was assigned, his budget didn't allow for any travel. The IRS has to go through a time-consuming procurement process to hire outside experts, but corporations can hire them instantly. The companies might even hire an expert just to keep the IRS away. In one case, we were told that an American university discouraged its professor from working with the IRS for fear of losing corporate contributions.

While the IRS has to cut corners, the U.S. subsidiaries lavish big bucks on their attorneys and accountants. International tax audits mean millions in fees to the accounting and law firms representing foreign-owned subsidiaries. These firms are constantly filling their ranks with former IRS international attorneys and examiners, who are attractive to the companies because of their experience with international issues, and who are attracted by the companies' salaries, which are, in comparison to their IRS salaries, astronomical.

The companies talk to each other to keep apprised of IRS audit techniques and issues raised. According to the IRS, if one company begins to take advantage of a tax issue, the entire industry begins to do likewise. The corporate community has developed what IRS agents term "combat strategies." The subcommittee obtained a document revealing that corporations are instructed to avoid retaining nonprivileged documents that do not support, or that might contradict, tax positions taken, or that could serve as a road map for audit if obtained by the IRS. The document goes on to recommend to companies when they should refuse an IRS request to extend the statute of limitations and how they should re-

spond—or refuse to respond—to IRS requests for information.

Our subcommittee staff found that it usually takes 10 years to complete an automobile audit, and from 4 to 6 years for an audit in a motorcycle or electronics equipment case. IRS agents reported that the difficulties encountered in obtaining information from the taxpayers makes for a long, drawn-out process. In many instances, the attorneys representing these companies prolong the resolution of these tax disputes by spoon feeding the IRS information. Delay results in fewer audits and ineffective enforcement. The IRS has had to close examinations because it could not get crucial information. In one case the company refused to provide foreign-based information claiming, "We aren't required to keep such records by law in our home country." In another case, the company took a different approach, providing the IRS with 40 boxes of documentation with no index, burying the critical data in a mountain of useless paper.

The IRS does not effectively coordinate the handling of international tax issues. Each case involving the transfer pricing issue is handled separately. International examiners do not share data about industries with transfer pricing problems or communicate with each other regarding the development of common issues. Many of the transfer pricing schemes are similar in nature, but IRS personnel across the country must re-invent the wheel each time an examination is conducted.

In summary, the IRS' international enforcement program suffers from the lack of resources and coordination. The Commissioner reported today that the IRS' budget is a critical first step to maintaining and enhancing the health of our tax system. It will permit expansion of our enforcement efforts in a variety of areas, including transfer pricing by foreign-controlled corporations. The Commissioner has also suggested that Congress authorize the retention of outside experts on a sole source basis. Finally, he has endorsed changes in the law that would make it easier for the IRS to get information about foreign-controlled corporations. As these hearings continue tomorrow, I look forward to more suggestions as to how we can better assure that foreign-controlled corporations pay their fair share of U.S. taxes.

Mr. SCHULZE. Mr. Speaker, as you have heard, the Oversight Subcommittee of the Committee on Ways and Means is holding hearings on the issue of the level of U.S. tax payments made by U.S. incorporated companies that distribute foreign-made products to U.S. wholesalers and retailers. As you have also heard, these companies haven't been forking a lot over to Uncle Sam in the form of tax payments.

How have they been able to avoid U.S. taxes? For the most part, it is through the improper transfer pricing policies. Typically, what happens is this. A U.S. corporation is organized to sell foreign-made goods in the United States. The U.S. corporation purchases goods from its parent, which the U.S. corporation then sells in the United States. But the foreign parent corporation controls the U.S. corporation, so the price paid by the sub to the parent isn't subject to negotiation. And the price is often a lot higher than prices set during arms-length negotiations that do not involve related corporations. A higher cost of goods sold translates into lower profits, which means less taxes.

In one case, for example, a foreign parent had sold televisions to an unrelated corporation for $150. Its subsidiary, however, was charged $250 for the same set. In another case, an automobile manufacturer shipped trucks to its U.S. subsidiary; it shipped identical trucks to an unrelated U.S. distributor. The unrelated distributor paid less for the trucks than did the U.S. subsidiary. And in yet another instance, one foreign automobile manufacturer sold cars to its U.S. distributor at prices averaging $800 more than identical cars sold to its Canadian distributor.

In addition, the price paid by many U.S. subsidiaries often does not reflect the cost of rebates. Rebates are generally utilized by automobile manufacturers to help dealers sell new cars. U.S. subsidiaries may also have to bear expenses for advertising and warranties, with no corresponding price concession from the foreign parent. In one case, the advertising expenses exceeded 50 percent of the company's gross profit, whereas, others in the industry spent between 3 and 5 percent of gross profits for advertising. In an arm's length transaction, a distributor would negotiate an adjustment in the cost of the goods to reflect these additional expenses. The distributor would not bear the burden of extra costs where such a burden places him at a competitive disadvantage.

Mr. Speaker, the Internal Revenue Code requires that these U.S. corporations pay their parents an arm's length price for the goods they purchase. But these companies haven't been paying an arm's length price. When these distributors are able to circumvent the arm's length transfer pricing rules, they can reduce the profits they pay to the United States. And that means less taxes paid to this country, despite billions in dollars of sales made here.

Mr. CHANDLER. Mr. Speaker, during the course of the Oversight Subcommittee's investigation, it became clear that transactions between a foreign parents and foreign controlled U.S. subsidiaries also involve issues relating to the payment of important duties as well as Federal taxes. One case evidenced how the overstatement of freight and insurance costs on imported products was used to avoid both tax and duty.

Let me share an example costs which can affect both the duty and tax liability incurred. Freight charges and insurance costs of an importer are nondutiable charges. Therefore, an overstatement of these nondutiable charges fraudulently decreases the dutiable value of imported products and, therefore, the amount of duty paid to U.S. Customs. Since freight and insurance charges are also deductible business expenses, and increase in these costs decreases the amount of taxes paid.

Customs testified that its Operaton RAP [Rebate and Adjustment Program] that freight and insurance is being charged on paper only to the importing subsidiaries, and then the international freight and insurance companies are paying kickbacks to the firms in the form of cash or money orders. The foreign controlled U.S. subsidiary, upon import, files an invoice with the U.S. Customs Service which shows higher charges for certain shipping-related charges, and, needless-to-say, does not reflect the kickback, decreasing the duty owed.

One Customs investigation involved a freight company and a U.S. distributor which were all subsidiaries of the foreign Japanese automobile manufacturer. This company did agree to pay Customs over $6 million in additional duties and penalties, and, since then, $3 million in additional duties and penalties have been collected.

The Deputy Commissioner of U.S. Customs testified that while Customs continues to audit companies which operate on an unrelated basis, an expanded dimension to related party audits has come about because of the increase of foreign firms with subsidiaries in the United States. Custom's increased activity in this area is necessary in order to ensure all importers that these corporations are not getting the competitive edge by violating our trade laws.

GENERAL LEAVE

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and exend their remarks on the subject of my special order today.

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

There was no objection.

□ 1920

THE EMBARGO OF LITHUANIA BY THE SOVIET UNION

The SPEAKER pro tempore (Mr. NEAL of North Carolina). Under a previous order of the House, the gentleman from Florida [Mr. LEWIS] is recognized for 60 minutes.

Mr. LEWIS of Florida. Mr. Speaker, while we all are aware of the recent embargo of Lithuania by the Soviet Union, I find it unfortunate that many Americans, and indeed many of my colleagues do not know the extent and human consequences of this same blockade.

In addition, many of us are under the impression that this embargo has been lifted. However, according to the Lithuanian foreign minister just today, the blockade has only been lifted where it was harming the entire Soviet economy.

For example, Lithuania is being permitted supplies that will help their agriculture community, because the Soviet economy as a whole needs these agricultural supplies.

Mr. Gorbachev has also stated that they have signed a protocol with Lithuania and have appointed a negotiating team. Neither of these is true.

We are all familiar with the stoppage of oil and other supplies that can be sold for hard currency abroad. The apparent emphasis on these products

has led this blockade to be rather benignly called an economic blockade.

Unfortunately, this so-called economic blockade has also included another, much less humane, aspect. That is the virtual elimination of imports of medical supplies to Lithuania.

As we all know, due to the failure of their Communist system, the Soviet Union has not been able to give its own people anything approaching adequate medical care.

Therefore, when these supplies were cut off from Lithuania, there was no backup supply. When the incoming supply stopped, the medical supplies dried up. It is just that simple.

As a diabetic myself, I have a special place in my heart for those who have this disease. For this reason, I was horrified to learn that, of the almost 600,000 vials of insulin needed by Lithuanians each year, only 200 have been received, only 200 when 600,000 are needed.

A blockade of this type is clearly not meant to be an economic tool. It is meant as a method of bringing the Lithuanian people to their knees, people to their knees starting with the most infirm.

What a crying shame.

And also they want to bring to their knees those who are infirm, the elderly, and the children.

Mr. Speaker, while the Soviets claim that they are only blockading medical supplies that can be sold for capital, this is simply not true as evidenced by the items that are being embargoed.

The embargoed items include: syringes, less than a quarter million of the 100 million needed have been delivered. Scalpels, less than 15 percent of the scalpels needed have been released.

In addition, only 10 percent of the allotted supplies of sutures and x ray film have been supplied.

Mr. Speaker, I hardly think that syringes, scalpels, x ray film, sutures, and insulin could be exported and sold by Lithuanians so that they could keep up their struggle against the Soviet tyranny.

Even in times of war, the United States, and even many of our enemies, do not deny their prisoners medical care. This includes caring for soldiers who had killed the comrades of those who were now treating them.

Even hostile soldiers get care in wartime. But, if you are an old, infirm woman in Lithuania, you are probably being denied basic medical care because the supplies are being withheld. This is unacceptable and immoral.

Mr. Gorbachev, if you are truly going to convince the civilized world that you are a great leader, you must end the use of these types of ruthless embargoes.

In addition, not only will you resume a constant flow of adequate medical supplies to Lithuania, you will bring in enough supplies to make up for the supplies that your embargo has denied these brave people.

This is not a matter of politics. It is truly a matter of life and, yes, even death. The affect this is having on people in Lithuania is real, Mr. Gorbachev.

A very sad and touching example of this effect is shown in a letter to a Lithuanian Catholic religious aide from the mother of an 11-year-old boy. The letter, Mr. Gorbachev, reads:

> My son is eleven years old and has suffered from diabetes for a year. Already, we are not receiving the prescription medication he needs, and will not receive it in the future. This is a question of his life or death.

Mr. Gorbachev, I call on you to lift this blockade completely, restock the supply levels currently depleted because of your embargo, and never again use this ruthless and immoral tool on an innocent people.

Finally, I would like to thank the Lithuanian-American community in my district, especially Mr. John Strasdas and other members within my district, for bringing this matter to my attention, and the Lithuanian community nationwide for refusing to let us forget the Lithuanian's sad circumstance.

As I mentioned in my opening comments, the Lithuanian Ambassador has brought forth that this supply, this blockade of supplies has not terminated as indicated. We are talking about medicine, we are talking about energy and fuel, the staples of life that the Lithuanians need. We are talking about a 25- to 30-percent cutback in production of electricity. We are talking about no gasoline or diesel fuel being delivered or reserves on hand that will last even until today. Natural gas needed is 18 million cubic meters per day. They do not have that much gas today.

Unemployment is suffering in Lithuania, suffering because enterprises must close. Production losses since the beginning of the blockade amount to approximately 335.2 million rubles' worth of goods. Profit losses due to shortage of energy, fuel, and other material resources amount to approximately 81.3 million rubles.

Mr. Gorbachev, how do you expect these people to exist if you take away their life's blood, their businesses, their medicines, their food, their natural resources?

What really strikes me as funny, Mr. Gorbachev, we have heard so often over the past few weeks that you talk about a constitution and that it will take 3 to 5 years for you, Mr. Gorbachev, and your congress to allow Lithuania to have its freedom. Did you, Mr. Gorbachev, think about that, did you, Mr. Gorbachev, you and your friends talk about that? For just a short time ago it only took you 9 hours to overrun Lithuania. I do not think you talked about that, Mr. Gorbachev.

I am very much concerned about these people. I am very much concerned that the humane aspects of medical supplies not being brought forth. This country and other countries throughout the world stepped forward at Chernobyl. They came forth with medical personnel, medical equipment, without any equivocation, Mr. Gorbachev. And now today you spread words upon us and have us believe we have to wait for a constitutional change before you can allow Lithuania to have its independence.

Shame on you, Mr. Gorbachev. I think if you want to be a respectful leader in this world, then you should step forward and give Lithuania its independence and you, Mr. Gorbachev, have the power to do that and elevate yourself to a world leader who will gain the respect of the entire world.

Mr. Speaker, I yield to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend my colleague from Florida, Mr. LEWIS, for his efforts in organizing this special order detailing the dire need for medical supplies that the struggling Republic of Lithuania is currently experiencing.

On May 3, the Lithuanian Minister of Health and the Medical Association of Lithuania issued an urgent call for medical assistance to the Republic. In their statement, they declared that their entire health system is in total jeopardy and experiencing a deep and serious crisis. In their plea for help they stated, "We are in great need of all types of medications, supplies and medical equipment. Please, extend your hands and hearts toward Lithuania."

Although medical supplies have always been in short supply, the economic blockade instigated by the Soviet Union slashed even the most basic medical supplies, such as surgical gloves and antibiotics.

The State Department, the American Diabetes Association, the International Diabetes Federation, and the American College of Physicians have all expressed concern over the shortage of medications in Lithuania.

As an example of the critical need for aid, of 287,000 vials of short-acting and 300,000 vials of intermediate-acting insulin required annually, less than 2 percent have been delivered since the blockade.

The list of medical supplies that are in crucial demand is extensive. Some of the most essential include insulin, syringes, antibiotics, sutures, and sterilizing solutions. Although humanitarian and medical aid is being received

from several Soviet republics, including the Ukraine, Georgia, and Russia, the supplies are still insufficient to meet the medical needs of this suppressed nation.

The problem is so grave that patients are having to bring their own medication to hospitals when they check in. This is not an example of glasnost, but an example of premeditated murder.

Mr. Gorbachev is the champion of glasnost. This is a changing world and Mr. Gorbachev, you have expressed your desire to be openminded. The need for medical supplies in Lithuania is critical and you are turning your head the other way. Please look. Please listen. Help is needed now.

□ 1930

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentlewoman from Florida for her kind words. I am sure those people that are still behind that partial Iron Curtain and the blockade of the Soviet Union in Lithuania appreciate her kind words as well.

I have three statements from Members that I would like to enter into the RECORD regarding Lithuania, and I do appreciate the time afforded me to speak for the problems of Lithuania. I also want to go back and say again to Mr. Gorbachev, if he wants to show the people of this world that he truly means to, and it is true that he means glasnost and perestroika, then set Lithuania free and set them free now.

Mrs. BENTLEY. Mr. Speaker, I rise this afternoon to express my deep concern over reports that continue to be received from Lithuania regarding the Soviet imposed blockade of that country. The cordon that was thrown around that defenseless nation state which boasts no military, no waves of armored personnel carries and who's very crime was the desire for independence, has barely been loosened—contrary to some press reports currently circulating. In a nutshell, negotiations between the Soviets and the Lithuanians regarding independence, and the 100 day moratorium, are scheduled to begin after—and I repeat after—a special protocol has been signed. There is every reason to believe that the Soviets will not sign this protocol because to do so would be to recognize Lithuania as a sovereign nation.

The restriction of fuel and medicinal products has imposed a great hardship on the Lithuanian people—hardship that has been the rule rather than the exception for 50 years and running. The full extent of the damage not only to the Lithuanian economy proper but to individual citizens that are denied critical medicines, will provide the grist for yet another dark chapter in the chronology of orchestrated Soviet abuses. It is my hope that the Soviet Union will abstain from playing work games and end this campaign of intimidation once and for all.

Mrs. MARTIN of Illinois. Mr. Speaker, in a year crowded with events and developments of truly historic proportion, the struggle of the Lithuanian people to regain their independence and their right to national self-determination has nonetheless taken on a special significance.

While freedom has swept over Eastern Europe like a great wave, Lithuania's struggle, unfortunately, is one that continues. While the East European States have celebrated their return to the fold of democratic, free market nations, Lithuania has suffered under the weight of an economic embargo that put 50,000 men and women out of work, cleared the Nation's shelves of food, and, perhaps most cruelly of all, created a shortage of medical supplies that halted the delivery of even the most rudimentary health care services to the Lithuanian people.

On July 2, Soviet President Gorbachev announced that the embargo would be lifted and that the Soviet leadership would retreat from its intransigent position and sit down with Lithuania's chosen leaders to explore avenues to independence.

Though the Soviet decision to lift the embargo has come as welcome news, it has not meant an end to Lithuanian suffering. The economic damage that the embargo of oil and gas caused will be slow to heal. Of greatest concern, however, are the immediate questions of life and death associated with the critical shortages of medical supplies that continue to exist in Lithuania.

There have been very disturbing reports suggesting that efforts to redress the effects of the embargo on Lithuania's health care system have been slow, and that the price in human suffering has been high. This need not be so. International organizations such as the Red Cross, for example, have attempted to step into the breach and provide needed emergency medical supplies. The Soviets, regrettably, have restricted these efforts.

At a time when Western leaders are negotiating economic and technical assistance for the Soviet Union, this situation is especially intolerable. With a loud and a unified voice we must demand that the Soviets redress this situation immediately. It's unconscionable, Mr. Speaker, that the leaders of the free world should be considering economic Band-Aids for the Soviets while sutures and scalpels are being withheld from Lithuania.

Mr. ATKINS. Mr. Speaker, scarcely a week ago we Americans proudly celebrated the 214th anniversary of our Declaration of Independence from the British Empire. With that fateful declaration, we as a people assumed the rewards and responsibilities linked with self-government.

Similarly, on March 11, 1990, Lithuania declared herself independent of the Soviet Union. The leaders of this Baltic republic are under no delusions that independence and self-determination will come easily, nor do they expect that once achieved, that self-government will not render its share of trying obligations. The Soviet Union is currently strangling the Lithuanians with an economic blockade in an effort to deny them a realization of their national aspirations, and this is only the first of many difficult moments for the Lithuanians in their quest for self-determination.

Mr. Speaker, as Americans we must admire the bravery and courage of the Lithuanians for their revolution. There is little that is as rewarding as the freedom associated with independence. However, accomplishing this independence, and the maintenance of such a condition, demands the greatest of stamina and fortitude from any nation.

And so, Mr. Speaker, as we reflect on our own independence, we must also rise to support the Lithuanians in the cause they are pursuing. For we, who have struggled for and achieved the previous state of independence, can appreciate the honor of the Lithuanian crusade.

Mr. ANNUNZIO. Mr. Speaker, I am glad to have this opportunity to join with my colleagues in the House of Representatives in expressing my concern about the lack of medical supplies in Lithuania, and in urging the Soviet Union to lift its blockade on these supplies.

Although the Soviet Union has stated that this blockade has been lifted, there is no tangible proof this has yet occurred. Instead, what is clear is that there is a critical shortage of medical supplies, and most international groups which have attempted to provide medical supplies have been unsuccessful in their efforts to enter Lithuania.

Because of this blockade, the most basic health care needs in Lithuania are not being met, and this situation cannot be tolerated. We must continue to let the Soviet Union know that their continuing harassment and attempted coercion of the people in the Republic of Lithuania is unacceptable, and will not succeed. The will of the people of Lithuania has never been crushed by these tactics in the past, and the Soviet Union cannot fight the tide of freedom now.

Mr. Speaker, I urge the Soviet Union to take immediate steps to see that adequate medical supplies are allowed to enter Lithuania, and I call on President Bush to pressure the Soviets to stop these intolerable actions toward the Lithuanian people, and recognize, the independence of the Republic of Lithuania.

Mr. RUSSO. Mr. Speaker, while we in the United States as well as Lithuania are pleased by the Soviet Union's stated intention to lift its economic blockade over Lithuania, we have seen little practical evidence that they have taken any concrete steps to do so. The amount of oil and gas that the Soviet Union has allowed into Lithuania has been minimal and the attempts of several international groups to provide Lithuania with medical supplies have been all but denied.

It is well known that the state of medical care within the Soviet Union leaves much to be desired and their blockade of the most basic medical supplies exacerbates an already inadequate system. During the blockage Lithuania received only one-seventh of their allocated number of scalpels, 10 percent of their x-ray film, 0.5 percent of their syringes and roughly a third of their insulin. With necessary items in short supply, even the most routine medical procedures became impossible as resources had to be restricted to the most serious of cases. The severe restrictions on gas and oil served to compound the problem through reduction in ambulance service, and travel restrictions on medical personnel serving housebound and rural area patients.

Medical supplies are likely to be even more necessary as the side effects of the embargo

take shape. The lack of fuel to heat houses as well as the drinking water and food processing industries' inability to use sanitation technology are likely to produce a rise in the overall disease rate. Many of the steps that would normally be taken to prevent an epidemic are not viable without proper medical supplies and energy technology.

In addition to suffering from the lack of liberty and self-rule over the last 50 years, the Lithuanian people must now confront the results of the Soviet Union's economic warfare. The Lithuanian people have paid a spiritual and ideological price for the illegal annexation, this physicial deprivation of the very basic element of life must be stopped. Through their moratorium, the Lithuanian people have demonstrated their willingness to compromise. It is now time for the Soviet Union to keep their end of the bargain and open the doors of commerce to Lithuania. Lithuania has suffered long enough.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JAMES) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes each day, on July 12, 17, 24, 25, 26, 31, and August 1 and 2.

Mr. DELAY, for 60 minutes each day, on July 11, 12, 17, 18, 19, 24, 25, 26, 31, and August 1 and 2.

(The following Members (at the request of Mr. HOCHBRUECKNER) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. LANTOS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. JAMES) and to include extraneous matter:)

Mrs. MORELLA.
Mr. PURSELL.
Mr. MICHEL.
Mr. GUNDERSON.
Mr. VANDER JAGT.
Mr. SOLOMON.
Mr. RINALDO in two instances.
Mr. GILMAN.
Mr. HENRY.
Mr. CLINGER.
Mr. GINGRICH in two instances.
Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. HOCHBRUECKNER) and to include extraneous matter:)

Mr. FOGLIETTA in two instances.
Mr. KILDEE.
Mr. SOLARZ.
Mr. LAFALCE.
Mr. HAMILTON.
Mr. TALLON.
Mr. BONIOR.
Mr. ROE.
Mr. RANGEL.
Mr. WAXMAN.
Mr. MAZZOLI.
Mr. NELSON of Florida.
Mr. JACOBS.
Mr. PALLONE.
Mr. HOYER in two instances.
Mr. MARKEY.
Mr. TORRES.
Mr. HERTEL.
Mr. LANTOS.
Mr. FEIGHAN.
Mr. HOCHBRUECKNER.
Mr. MANTON.
Mr. EDWARDS of California.
Mr. ENGEL.
Mr. RICHARDSON.

ADJOURNMENT

Mr. LEWIS of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, July 12, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3526. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of July 1, 1990, pursuant to U.S.C. 685(e) (H. Doc. No. 101-213); to the Committee on Appropriations and ordered to be printed.

3527. A letter from the Board of Governors, Federal Reserve System, transmitting a report entitled, "Deposits of Nonproprietary Automated Teller Machines," pursuant to Public Law 100-86, section 603(e)(4) (101 Stat. 641); to the Committee on Banking, Finance and Urban Affairs.

3528. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 8-223, "District of Columbia Real Property Tax Reclassification Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3529. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-224, "Uniform Classification and Commercial Driver's License Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3530. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-225, "Food Delivery Insurance Requirements Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3531. A letter from the Chairman, of the District of Columbia, transmitting a copy of D.C. Act 8-227, "Office of Zoning Independence Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3532. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Czechoslovakia in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3533. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Hungary in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3534. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the antiterrorism training courses to be offered to the Government of Poland in the areas of air transport security and antiterrorist police operations and organization, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3535. A letter from the Fourth District Farm Credit Institutions, transmitting the Farm Credit Institutions in the Fourth District amended retirement plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3536. A letter from the Vice President—Human Resources, Western Farm Credit Bank, transmitting the 11th Farm Credit District employee's retirement plan 1989 annual pension report, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3537. A letter from the Secretary of the Interior, transmitting certification that adequate soil survey and land classification studies have been accomplished on the Tohono O' Odham Nation, Papago Water Supply Project—Central Arizona Project [CAP], Arizona (Land Classification), pursuant to the Southern Arizona Water Rights Settlement Act of 1988; to the Committee on Interior and Insular Affairs.

3538. A letter from the Acting Chairman, U.S. International Trade Commission, transmitting a copy of a report entitled "Investigation With Respect to the Operation of the Harmonized System Subtitle of the Omnibus Trade and Competitiveness Act of 1988"; to the Committee on Ways and Means.

3539. A letter from the Deputy Under Secretary for Policy, Planning and Analysis, Department of Energy, transmitting notification that the "Carbon Dioxide Emissions Study" will not be finished for transmittal until December 1990; jointly, to the Committees on Energy and Commerce and Appropriations.

3540. A letter from the Acting Chairman, U.S. Nuclear Regulatory Commission, transmitting notification that the Commission has agreed to a phaseout of the Atomic Safety and Licensing Appeal Panel; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

3541. A letter from the Administrator, Federal Aviation Administration, transmitting the progress report on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS] Airborne Equipment, TCAS II covering the months January through April 1990, pursuant to Public Law 100-223, section 204(b) (101 Stat. 1518); jointly, to the Committees on Public Works

and Transportation and Science, Space, and Technology.

3542. A letter from the Acting Director, Office of Energy Research, Department of Energy, transmitting notification that the Interagency Coordinating Group is completing its annual report and that it will be submitted in the near future; jointly, to the Committees on Science, Space, and Technology and Interior and Insular Affairs.

3543. A letter from the Deputy Under Secretary for Policy, Planning and Analysis, Department of Energy, transmitting notification that the four studies of climate policy issues conducted by the National Academy of Sciences will not be finished until September 1, 1990; jointly, to the Committees on Science, Space, and Technology and Appropriations.

3544. A letter from the Railroad Retirement Board, transmitting the 1990 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

3545. A letter from the Secretary of Energy, transmitting a copy of a report entitled, "ENCOAL Mild Coal Gasification Project"; jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

3546. A letter from the Chairman, U.S. Nuclear Waste Technical Review Board, transmitting a draft of proposed legislation to amend the Nuclear Waste Policy Act of 1982, as amended, to enable the Nuclear Waste Technical Review Board to pay staff salaries that are competitive with other agencies of the Federal Government and to enable the Board to attract and hire the quality of employee necessary for the Board to carry out its statutory mission; jointly, to the Committees on Post Office and Civil Service, Interior and Insular Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries.

H.R. 3338. A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina; with amendments (Rept. No. 101-586). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. H. Res. 429. A resolution waiving certain points of order during consideration of the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-587). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. H. Res. 430. A resolution providing for the consideration of H.R. 5115, a bill to improve education in the United States. (Rept. 101-588). Referred to the House Calendar.

Mr. ROYBAL: Committee on Appropriations. H.R. 5241. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-589). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 5153. A bill to authorize the participation of the United States in the ninth replenishment of the International Development Association, to authorize the participation of the United States in the European Bank for Reconstruction and Development, to exempt the International Finance Corporation from Securities Exchange Commission reporting requirements, and for other purposes; with an amendment (Rept. 101-590). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 5239. A bill to establish the Congressional Advisory Commission on Amateur Boxing and to amend title 18, United States Code, to prohibit the participation in and promotion of professional boxing; jointly, in the Committees on the Judiciary, Energy and Commerce, and Education and Labor.

By Mr. STOKES (for himself, Mr. HAWKINS, Mrs. BOGGS, Mr. LEWIS of California, Mr. DYMALLY, and Mr. MFUME):

H.R. 5240. A bill to establish Summer Science Academics for talented students, particularly economically disadvantaged, minority participants, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. ROYBAL:

H.R. 5241. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. BEILENSON:

H.R. 5242. A bill to amend the Harmonized Tariff Schedule of the United States to correct the classification of certain house slippers; to the Committee on Ways and Means.

By Mrs. BENTLEY:

H.R. 5243. A bill to exempt certain historic liberty and victory ships from inspection requirements under title 46, United States Code; to the Committee on Merchant Marine and Fisheries.

By Mr. DYSON:

H.R. 5244. A bill to amend title 28, United States Code, to make amounts from the Department of Justice Assets Forfeiture Fund available to rural law enforcement agencies for use in their efforts to combat drug-related crime and to maintain law enforcement drug abuse prevention programs; to the Committee on the Judiciary.

By Mr. HOCHBRUECKNER (for himself, Mr. MRAZEK, Mr. DOWNEY, Mrs. LOWEY of New York, Mr. FISH, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. LENT, Mr. GEJDENSON, Mr. DWYER of New Jersey, Mr. MCHUGH, Mr. MCGRATH, Mr. HORTON, Mr. BOSCO, Mrs. BENTLEY, Mr. GILMAN, Mr. MCNULTY, and Mr. MORRISON of Connecticut):

H.R. 5245. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. TOWNS, Mr. SCHEUER, Mrs. COLLINS, Mr. MOODY, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. HAYES of Illinois, Mrs. MORELLA, Mr. HORTON, Mr. RANGEL, Mr. SABO, Mr. FAUNTROY, Mr. WASHINGTON, Mr. LEVINE of California, Mr. DYMALLY, Mr. MFUME, Mr. EVANS, Mr. ACKERMAN, Mr. CROCKETT, Mr. WEISS, Mrs. LOWEY of New York, Mr. BOEHLERT, Mr. PURSELL, Mr. SHAYS, Mr. PORTER, and Mr. LEACH of Iowa):

H.R. 5246. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KANJORSKI (for himself, Mr. ANNUNZIO, Ms. OAKAR, Mr. FRANK, Mrs. PATTERSON, and Mr. MFUME):

H.R. 5247. A bill to authorize civil actions for certain violations involving depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVINE of California (for himself, Mr. PICKLE, Mr. BROOKS, Mr. GEPHARDT, Mr. RITTER, Mr. MINETA, Mr. CAMPBELL of California, Mr. SCHEUER, Mr. FROST, Mr. CHAPMAN, and Mr. BRYANT):

H.R. 5248. A bill to promote and enhance science and mathematics literacy by providing scholarships to individuals who agree to teach mathematics and science in elementary and secondary schools; to the Committee on Science, Space, and Technology.

By Mr. MILLER of Ohio (for himself, Mrs. COLLINS, Mr. DE LUGO, Mr. PETRI, Mr. TOWNS, and Mr. LANCASTER):

H.R. 5249. A bill to provide that certain limitations on the payment of unemployment compensation to former members of the Armed Forces shall not apply to individuals involuntarily discharged or released from the Armed Forces; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 5250. A bill to amend the National School Lunch Act to extend eligibility for the child care food program to children receiving day care services pursuant to a State's job opportunities and basic skills training program; to the Committee on Education and Labor.

By Mr. RICHARDSON (for himself and Mr. RHODES):

H.R. 5251. A bill to establish the Indian Finance Corporation; to the Committees on Interior and Insular Affairs.

By Mr. SOLARZ. (for himself and Mr. MILLER of Washington):

H.R. 5252. A bill imposing additional conditions on the extension of most-favored-nation treatment to the products of the People's Republic of China; jointly, to the Committee on Ways and Means and Foreign Affairs.

By Mr. STARK:

H.R. 5253. A bill to establish a commission to study the research needs of the United States that can be performed by the Lawrence Livermore National Laboratory and its conversion to a national research facility;

jointly, to the Committees on Science, Space, and Technology and Armed Services.

By Mr. STUDDS:

H.R. 5254. A bill to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. DAVIS, and Mr. YOUNG of Alaska);

H.R. 5255. A bill to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GONZALEZ:

H.J. Res. 619. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the dealth penalty; to the Committee on the Judiciary.

By Mr. HOYER (for himself, Mr. PORTER, Mr. FASCELL, Mr. MARKEY, Mr. FEIGHAN, Mr. RICHARDSON, Mr. WOLF, Mr. RITTER, Mr. SMITH of New Jersey, Mr. BLILEY, Mr. SCHUETTE, Mr. FUSTER, Mr. HORTON, Mr. COYNE, Mr. VALENTINE, Mr. KOLTER, Mr. GILMAN, Mrs. BOXER, Mr. PALLONE, Mr. MCNULTY, Mr. LENT, Mr. CONTE, Mr. ASPIN, Mr. FROST, Mr. LEHMAN of Florida, Mr. MOODY, Mr. MILLER of Washington, Ms. PELOSI, Mr. DIXON, Mr. NEAL of North Carolina, Mr. MADIGAN, Mrs. COLLINS, Mrs. MORELLA, Mr. MRAZEK, Mr. BUSTAMANTE, Mr. ACKERMAN, Mr. KILDEE, Mr. MCDERMOTT, Mr. DWYER of New Jersey, Mr. BROOMFIELD, Mr. GALLEGLY, Mr. FAZIO, Mr. LEVIN of Michigan, Mr. SCHEUER, Mr. HUGHES, Mr. ECKART, Mr. FOGLIETTA, and Mr. MCEWEN);

H.J. Res 620. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day"; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

464. By the SPEAKER: A memorial of the Senate of the State of Missouri, relative to support of H.R. 4480; to the Committee on Banking, Finance and Urban Affairs. July 11, 1990.

465. Also, memorial of the House of Delegates of West Virginia, relative to additional funding for the special supplemental food program for women, infants, and children; to the Committee on Education and Labor.

466. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to urging the Congress to repeal the employer sanctions provisions of the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

467. Also, memorial of the Senate of the State of Michigan, relative to asparagus; to the Committee on Ways and Means.

468. Also, memorial of the Senate of the State of Mississippi, relative to the classification and use of wetlands; jointly to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

469. Also, memorial of the Senate of the State of Mississippi, relative to the classification and use of wetlands; jointly to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 201: Mr. SCHIFF, Mr. HENRY, and Mr. RAVENEL.

H.R. 214: Mrs. UNSOELD.

H.R. 220: Mr. GORDON, Mr. SERRANO, Mr. QUILLEN, Mr. FISH, Mr. DWYER of New Jersey, Ms. PELOSI, and Ms. MOLINARI.

H.R. 446: Mr. HUNTER, Mr. LIGHTFOOT, and Mr. BALLENGER.

H.R. 844: Mr. COSTELLO.

H.R. 1092: Mr. CAMPBELL of California.

H.R. 1399: Mrs. SCHROEDER.

H.R. 1400: Mr. WHITTEN, Mr. GRAY, Mr. FEIGHAN, Mr. MCDERMOTT, Mr. AUCOIN, Ms. SNOWE, Mr. VISCLOSKY, Mr. BRENNAN, and Mr. TORRICELLI.

H.R. 2188: Mr. SANGMEISTER, Mr. FROST, Mr. TRAFICANT, Mr. GREEN of New York, Mr. FISH, Mr. PEASE, Mr. ENGLISH, Mr. JOHNSON of South Dakota, Mr. BONIOR, Mr. VALENTINE, Mr. SMITH of Vermont, Mr. OBERSTAR, Ms. KAPTUR, Mrs. BOXER, and Mr. HOCHBRUECKNER.

H.R. 2380: Mr. MOORHEAD, Mr. RUSSO, Mr. BILBRAY, and Mr. KOLTER.

H.R. 2870: Mr. BOSCO.

H.R. 3004: Mr. GAYDOS and Mr. SCHUETTE.

H.R. 3200: Mr. HAYES of Illinois, Mrs. MORELLA, Mr. HOCHBRUECKNER, Mr. FASCELL, and Mr. MACHTLEY.

H.R. 3251: Mr. AUCOIN, Mr. OWENS of New York, Mr. PARRIS, Mr. MAZZOLI, Mr. WOLF, Mr. HUGHES, and Mr. SERRANO.

H.R. 3252: Mrs. UNSOELD, Mr. SLATTERY, Mr. WALSH, Mr. APPLEGATE, Mr. CROCKETT, Mr. MCDERMOTT, and Mr. WHITTEN.

H.R. 3270: Mr. ROWLAND of Connecticut, Mr. MCEWEN, Mr. CARPER, Mr. HILER, Mr. YATRON, Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. FRANK, Mrs. BYRON, Mr. MATSUI, Mr. ARMEY, Mr. HOCHBRUECKNER, Mr. MAVROULES, Mr. SHUMWAY, Mr. TANNER, Mr. MCMILLEN of Maryland, Mrs. JOHNSON of Connecticut, Mrs. BENTLEY, and Mr. FAWELL.

H.R. 3297: Mr. OBERSTAR.

H.R. 3380: Mr. CLARKE.

H.R. 3420: Ms. SCHNEIDER and Mr. MRAZEK.

H.R. 3621: Mr. SOLOMON.

H.R. 3681: Mr. INHOFE.

H.R. 3684: Mr. BARNARD, Mr. BORSKI, Mr. MRAZEK, Mr. AUCOIN, Ms. SCHNEIDER, Mr. DOWNEY, and Mr. STAGGERS.

H.R. 3686: Mr. DELAY.

H.R. 3690: Mr. VALENTINE, Mr. AUCOIN, Mr. EMERSON, Mr. CAMPBELL of Colorado, and Mr. BRUCE.

H.R. 3852: Mr. WEISS.

H.R. 3864: Mr. MARTINEZ, Mr. TRAXLER, and Mr. DWYER of New Jersey.

H.R. 3880: Mr. PEASE.

H.R. 3914: Mr. DERRICK.

H.R. 4025: Mr. SERRANO.

H.R. 4026: Mr. MORRISON of Connecticut.

H.R. 4042: Mr. DWYER of New Jersey, Mr. STUDDS, and Mr. BATES.

H.R. 4125: Mr. OWENS of New York, Mr. SMITH of Iowa, Mr. VALENTINE, Mr. WAXMAN, Mr. MORRISON of Connecticut, Mr. ROE, Mr. TANNER, and Mr. SANGMEISTER.

H.R. 4153: Mr. MAVROULES, Mr. OWENS of New York, and Mr. WALSH.

H.R. 4248: Mr. HASTERT, Mr. INHOFE, Mr. MILLER of Washington, Mr. STUMP, and Mr. WOLF.

H.R. 4250: Mr. MAZZOLI and Mr. NIELSON of Utah.

H.R. 4298: Mr. WILSON.

H.R. 4300: Mr. ENGEL.

H.R. 4419: Mr. GEJDENSON and Mr. TOWNS.

H.R. 4433: Mr. THOMAS A. LUKEN, Mr. LAFALCE, Mr. NOWAK, Ms. MOLINARI, Ms. PELOSI, Mr. DEFAZIO, Mrs. COLLINS, Mr. RAVENEL, Mr. MACHTLEY, Mr. MARKEY, Mr. WOLPE, and Mr. TOWNS.

H.R. 4495: Mr. MILLER of Washington, Mr. COX, Mr. PRICE, Mr. HUCKABY, Mr. KOLTER, Mr. ESPY, Mr. BAKER, Mr. BILIRAKIS, Mr. GEKAS, Mr. TAYLOR, Mr. HEFNER, Mrs. BOXER, and Mrs. UNSOELD.

H.R. 4498: Mr. LEWIS of Georgia, Mr. WAXMAN, Mr. NEAL of Massachusetts, and Mr. SCHUMER.

H.R. 4512: Mr. IRELAND.

H.R. 4552: Mr. LEWIS of Georgia, Mr. TOWNS, and Mr. FORD of Tennessee.

H.R. 4555: Mr. TOWNS, Mr. FEIGHAN, Mr. VALENTINE, Mr. FRANK, Mrs. COLLINS, Mr. GEJDENSON, Mr. SCHEUER, and Mr. HORTON.

H.R. 4565: Mr. BLAZ, Mr. GILMAN, Mr. SOLOMON, and Mr. NAGLE.

H.R. 4574: Mr. OWENS of New York.

H.R. 4590: Mr. OWENS of New York and Mr. GAYDOS.

H.R. 4621: Mr. KASTENMEIER and Mr. MACHTLEY.

H.R. 4700: Mr. MARTINEZ.

H.R. 4729: Mr. EMERSON.

H.R. 4755: Mr. RITTER and Mr. BLAZ.

H.R. 4784: Mr. ROTH.

H.R. 4816: Mr. EMERSON and Mr. CHAPMAN.

H.R. 4851: Mr. ARCHER and Mrs. JOHNSON of Connecticut.

H.R. 4915: Mr. WALGREN and Mr. MOORHEAD.

H.R. 4981: Mr. ARMEY.

H.R. 5029: Mr. JONTZ.

H.R. 5050: Mr. BOEHLERT, Mrs. UNSOELD, Mr. BARTLETT, Mr. EMERSON, Mr. WALKER, Mr. HANCOCK, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. JOHNSON of South Dakota, Mr. BATES, Mr. MORRISON of Connecticut, Mr. MCEWEN, Mr. PORTER, Mr. COBLE, and Mr. CHANDLER.

H.R. 5053: Mr. ASPIN, Mr. BOSCO, Mr. BUNNING, Mr. CAMPBELL of Colorado, Mrs. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DURBIN, Mr. FASCELL, Mr. GEJDENSON, Mr. GUARINI, Mr. HANCOCK, Mr. HAYES of Louisiana, Mr. KENNEDY, Mr. LANCASTER, Mr. LEWIS of California, Mrs. LLOYD, Mrs. MARTIN of Illinois, Ms. MOLINARI, Mr. MURPHY, Mr. NAGLE, Mr. NELSON of Florida, Mr. PARKER, Mr. PENNY, Mr. QUILLEN, Mr. BATES, Mr. BRUCE, Mr. BURTON of Indiana, Mr. CLINGER, Mr. CONTE, Mr. DEFAZIO, Mr. DICKINSON, Mr. DWYER of New Jersey, Mr. GALLO, Mr. GRANT, Mr. HALL of Ohio, Mr. HARRIS, Mr. JONES of North Carolina, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. LEWIS of Florida, Mr. DONALD E. LUKENS, Mr. MAVROULES, Mr. MORRISON of Connecticut, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. OLIN, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. RHODES, Mr. RITTER, Mr. ROE, Mr. SABO, Mr. SAXTON, Mrs. SCHROEDER, Mr. SISISKY, Mr. SLATTERY, Mr. SMITH of New Hampshire, Mr. SPENCE, Mr. STUMP, Mr. TANNER, Mr. TOWNS, Mrs. VUCANOVICH, Mr. WALSH, Mr. WHITTEN, Mr. WYDEN, Mr. YOUNG of Alaska, Mr. MILLER of Washington, Mr. MADIGAN, Mr. COBLE, Mr. LEHMAN of Florida, Mr. LIGHTFOOT, Mr. MCCOLLUM, Mr. MCCRERY, Mrs. BOXER, Mr. ROBERTS, Mr. ROSE, Mr. SAVAGE, Mr. SCHEUER, Mr. SCHUETTE, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. ROBERT F. SMITH, Mr. STALLINGS, Mr. TALLON, Mr. TAUZIN, Mrs. UNSOELD, Mr. WALGREN, Mr. WEBER, Mr. WOLPE, Mr. YATRON, Mr. HOUGHTON, Mr. ROBINSON, Mr. TRAFICANT, Mr. HERTEL, and Mr. SLAUGHTER of Virginia.

H.R. 5080: Mr. TORRICELLI.

H.R. 5083: Mr. McMILLEN of Maryland, Mr. JOHNSTON of Florida, Mr. MRAZEK, Mr. BOSCO, and Mr. KILDEE.

H.R. 5101: Mr. JOHNSON of South Dakota and Mr. ASPIN.

H.R. 5121: Mrs. BOXER and Mr. THOMAS of Wyoming.

H.R. 5138: Mr. MRAZEK.

H.R. 5154: Mr. BATEMAN, Mr. RAVENEL, Mr. PICKETT, Mr. SISISKY, and Mr. TAYLOR.

H.R. 5155: Mr. BRUCE AND Mr. VOLKMER.

H.R. 5163: Mr. BEILENSON, Ms. PELOSI, Ms. SCHNEIDER, Mr. FRANK, Mr. NEAL of Massachusetts, and Mr. SCHEUER.

H.R. 5166: Mr. THOMAS A. LUKEN, Mr. THOMAS of Georgia, Mr. DE LUGO, and Mrs. COLLINS.

H.R. 5180: Mr. NIELSON of Utah, Mr. MCGRATH, Mr. DEFAZIO, Mr. CRAIG, and Mr. LEWIS of Florida.

H.R. 5185: Mr. GONZALEZ, Mr. RICHARDSON, and Mr. COLEMAN of Texas.

H.R. 5217: Mr. FAUNTROY, Mr. PARRIS, Mr. HORTON, Mrs. COLLINS, and Mr. GORDON.

H.J. Res. 439: Mr. BLAZ.

H.J. Res. 469: Mr. CONYERS, Mr. COURTER, Mr. GONZALEZ, Mr. GREEN of New York, Mr. HAMMERSCHMIDT, Mr. LEACH of Iowa, Mr. MRAZEK, Mr. PACKARD, Mr. ROBERTS, and Mr. YOUNG of Florida.

H.J. Res. 509: Mr. GRANT, Mr. HANCOCK, Mr. HENRY, Mr. HYDE, Mr. IRELAND, Mr. PASHAYAN, Mr. PURSELL, Mr. RINALDO, and Mr. RITTER.

H.J. 519: Mr. KLECZKA, Mr. DORNAN of California, Mr. MOAKLEY, Mr. PARRIS, and Mr. TORRES.

H.J. Res. 523: Mr. SABO, Mr. SLATTERY, Mr. RANGEL, Mr. FISH, Mr. WEISS, Mr. FORD of Michigan, Mr. ARCHER, Mr. LEVINE of California, and Mr. DELAY.

H.J. Res. 524: Mr. ROGERS, Mr. RICHARDSON, Mr. EMERSON, Mr. WHITTEN, and Mr. HAMMERSCHMIDT.

H.J. Res. 535: Mr. COURTER, Mr. WILSON, Mr. GALLO, Mr. BROOMFIELD, Mr. GRANT, Mrs. COLLINS, Mr. DORNAN of California, Mr. FRENZEL, Mr. HANSEN, Mr. MOAKLEY, Ms. PELOSI, Mr. ALEXANDER, Mr. TRAFICANT, Mr. SCHAEFER, Mr. VANDER JAGT, Mr. SHAYS, Mr. SOLOMON, Mr. WHITTAKER, Mr. TORRES, Mr. SHUMWAY, Mr. DYMALLY, Mr. GRAY, Mr. BOUCHER, and Mr. SHARP.

H.J. Res. 552: Mr. POSHARD, Mr. BROWDER, Ms. KAPTUR, Mr. MCDERMOTT, Mr. WAXMAN, Mr. FAZIO, and Mr. SOLOMON.

H.J. Res. 554: Mr. HUBBARD, Ms. SLAUGHTER of New York, Mr. DWYER of New Jersey, Mr. BATES, Mr. DONNELLY, Mr. DORNAN of California, Mr. MOODY, Mr. LEHMAN of Florida, Mr. COOPER, Mr. AUCOIN, Mr. BUECHNER, Mr. YOUNG of Alaska, Mr. ANNUNZIO, Mr. HUTTO, Mr. BENNETT, Mr. BILBRAY, Mr. SAXTON, Mr. MCCRERY, Mr. CALLAHAN, Mr. HANSEN, Mr. POSHARD, Mr. ROWLAND of Connecticut, Mr. DYMALLY, Mr. TANNER, Mr. WALSH, Mr. WELDON, and Mr. PARRIS.

H.J. Res. 561: Mr. LANCASTER, Mr. SAVAGE, Mr. HUGHES, Mr. HATCHER, Mr. GEJDENSON, and Mr. FISH.

H.J. Res. 565: Mr. DORGAN of North Dakota, Mr. SLATTERY, Mr. NATCHER, Mr. SOLOMON, Mr. RAVENEL, Mr. BRENNAN, and Mr. GUNDERSON.

H.J. Res. 578: Mr. BUSTAMANTE.

H.J. Res. 591: Mr. BILBRAY, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CARR, Mr. CRAIG, Mr. DEWINE, Mr. ENGEL, Mr. EVANS, Mr. FAWELL, Mr. FRANK, Mr. GREEN, Mr. HAWKINS, Mr. HEFNER, Mr. IRELAND, Mr. JAMES, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. KASTENMEIER, Mrs. LOWEY of New York, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MCCLOSKEY, Mr. DAVIS, Ms. LONG, Mr. MAVROULES, Mr. MILLER of Ohio, Mr. MORRISON of Connecticut, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. PAXON, Mr. RINALDO, Mr. ROYBAL, Mr. SABO, Mrs. SAIKI, Mr. SAWYER, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHUMER, Mr. SKELTON, Mr. SLATTERY, Mr. STOKES, Mr. STUDDS, Mr. TAUZIN, Mr. UDALL, Mrs. UNSOELD, Mr. WASHINGTON, Mr. WEBER, Mr. WISE, Mr. WILSON, Mr. WOLPE, Mr. YOUNG of Florida, Mr. YATRON, Mr. ATKINS, Mrs. BOGGS, Mr. WAXMAN, Mr. BROOKS, Mr. SMITH of New Jersey, Mr. MOODY, Mr. LEVINE of California, Mr. DORNAN of California, Mr. GINGRICH, Mr. ROTH, Mr. HUBBARD, Mr. CLINGER, Mr. GONZALEZ, Mr. WALGREN, Mrs. PATTERSON, Mr. DYSON, Mr. WELDON, Mr. SISISKY, and Mr. NEAL of Massachusetts.

H.J. Res. 595: Mr. PALLONE, Mr. GALLEGLY, Mr. WEBER, Mr. ERDREICH, Mr. THOMAS of Wyoming, Mr. MOORHEAD, Mr. BAKER, Mr. LAGOMARSINO, Mr. JONTZ, Mr. NEAL of North Carolina, Mr. DE LA GARZA, Mr. PARRIS, Mr. BLAZ, Mr. ARCHER, Mrs. BENTLEY, Mr. LANCASTER, Mr. FAZIO, and Mr. THOMAS A. LUKEN.

H.J. Res. 598: Mr. BRUCE and Mr. COSTELLO.

H.J. Res. 602: Mr. SCHUMER, Mr. FROST, Mr. THOMAS of Wyoming, Mr. GEREN of Texas, Mr. JONTZ, Mr. BUECHNER, Mr. ASPIN, Mr. FISH, Mr. GUNDERSON, and Mr. STAGGERS.

H.J. Res. 612: Mr. BALLENGER, Mr. STAGGERS, Mr. DEFAZIO, Mr. HORTON, and Mr. HUGHES.

H.J. Res. 616: Mr. SLATTERY, Mr. CONTE, Mr. HORTON, Mr. BOUCHER, Mr. KANJORSKI, Mr. STOKES, Mr. STANGELAND, Mr. TRAXLER, Mr. RICHARDSON, Mr. OWENS of New York, Ms. PELOSI, and Mr. HILER.

H. Con. Res. 265: Mr. FISH.

H. Con. Res. 276: Mr. GEREN of Texas, Mr. HOUGHTON, Mr. DAVIS, Mr. HOPKINS, Mr. LIPINSKI, Mr. LEVINE of California, Mr. NAGLE, Mr. MCCLOSKEY, Mr. NATCHER, Mr. PURSELL, Mr. TRAFICANT, Mr. GREEN of New York, Mr. WILSON, Mr. MFUME, Mr. DE LA GARZA, Mr. GALLO, Mr. MILLER of Washington, Mr. OBEY, Mr. JONES of Georgia, Mr. MACHTLEY, Mrs. KENNELLY, Mr. OWENS of New York, Mr. HOYER, Mr. TAUZIN, Mr. CARDIN, Mr. WOLF, Mr. HAWKINS, Mr. STALLINGS, Mr. SMITH of Texas, Mr. HERTEL, Mr. NOWAK, Ms. PELOSI, Mr. SANGMEISTER, Mr. STEARNS, Mr. SMITH of Iowa, Mr. BARNARD, Mr. VANDER JAGT, Mr. SCHUMER, and Mr. ANTHONY.

H. Con. Res. 291: Mr. BORSKI and Mr. KOSTMAYER.

H. Con. Res. 313: Mr. BOSCO and Mr. LEVINE of California.

H. Con. Res. 329: Mr. MCDERMOTT.

H. Con. Res. 330: Mr. HOLLOWAY, Mr. LAGOMARSINO, and Mr. CONTE.

H. Con. Res. 346: Mr. CONTE, Mr. CRAIG, Mr. DANNEMEYER, Mr. FAWELL, Mr. GALLEGLY, Mr. HENRY, Mr. KOSTMAYER, Mr. LENT, Mr. LOWERY of California, Mr. MCNULTY, Mr. PALLONE, Mr. PARRIS, Mr. STALLINGS, Mr. ROWLAND of Georgia, Mr. MADIGAN, Mr. HORTON, Mr. MILLER of Washington, Mr. DORNAN of California, Mrs. KENNELLY, and Mr. MARTINEZ.

H. Res. 380: Mr. MARKEY, Mr. WEISS, Mrs. COLLINS, and Mr. CONTE.

H. Res. 383: Mr. BATEMAN, Mr. BUNNING, Mr. DEWINE, Mr. JAMES, Mr. PACKARD, Mr. ROBERTS, and Mr. SMITH of Texas.

H. Res. 402: Mr. EMERSON, Mr. PALLONE, Mr. RICHARDSON, Mr. MCCOLLUM, Mrs. BOGGS, Mrs. MORELLA, Mr. WILLIAMS, and Mr. DWYER of New Jersey.

H. Res. 418: Mr. FALEOMAVAEGA, Mr. RUSSO, and Mr. SCHEUER.

H. Res. 419: Mr. HUGHES, Mr. ERDREICH, Mr. BATEMAN, Mr. COLEMAN of Missouri, Mr. COUGHLIN, Mr. DEWINE, Mr. GOODLING, Mr. GRANT, Mr. HENRY, Mrs. JOHNSON of Connecticut, Mr. KOLBE, Mr. MADIGAN, Mr. MICHEL, Mr. PETRI, Mr. QUILLEN, Mr. ROBERTS, Mrs. SAIKI, Mr. SCHIFF, Mr. SCHUETTE, Mr. SHAYS, Mr. SHUSTER, Mr. YOUNG of Florida, Mr. ANDERSON, Mr. ANDREWS, Mr. ANNUNZIO, Mrs. BOGGS, Mr. BOSCO, Mr. CLAY, Mr. CONDIT, Mr. DERRICK, Mr. DICKS, Mr. DURBIN, Mr. FAZIO, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HUCKABY, Mr. JONTZ, Mr. KANJORSKI, Mr. KILDEE, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. OWENS of Utah, Mr. PARKER, Mr. RANGEL, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROYBAL, Mr. RUSSO, Mr. SCHUMER, Mr. SIKORSKI Mr. STENHOLM Mr. TALLON, Mr. TAUZIN, Mr. TRAFICANT, Mr. VOLKMER, Mr. WILLIAMS, Mr. WYDEN, Mr. YATRON, Mr. CLEMENT, and Mr. SERRANO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4831: Mr. TOWNS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

200. By the SPEAKER: Petition of the Western Rural Telephone Association, relative to support of H.R. 3581; to the Committee on Agriculture.

201. Also, petition of the Western Rural Telephone Association, relative to the opposition of any reduction in REA/RTB telephone loan program lending levels from the existing levels; to the Committee on Agriculture.

202. Also, petition of the city council, city and county of Honolulu, HI, relative to the transportation of chemical weapons presently stored in Europe to Johnston Atoll (Kalama Island) for incineration; to the Committee on Armed Services.

203. Also, petition of the Western Rural Telephone Association, relative to the support of the proposed CATV legislation; to the Committee on Energy and Commerce.

204. Also, petition of the 30th Infantry Division Association, relative to the burning of the American flag, to the Committee on the Judiciary.

205. Also, petition of the legislature of Rockland County, NY, relative to urging the U.S. Postal Service to adopt a local postal rate; to the Committee on Post Office and Civil Service.

206. Also, petition of the 30th Infantry Division Association, relative to Social Security cuts; to the Committee on Ways and Means.

207. Also, petition of the Western Rural Telephone Association, relative to the repeal of section 2036(C) of S. 849 and H.R. 60; to the Committee on Ways and Means.

208. Also, petition of the city of Toledo, OH, relative to the removal of HIV from the U.S. Government's list of dangerous contagious diseases; jointly to the Committees on the Judiciary and Energy and Commerce.

209. Also, petition of the U.S. Conference of Mayors, relative to the Gramm-Rudman-Hollings Balanced Budget Act; jointly to the

Committee on Ways and Means, Government Operations, Banking, Finance and Urban Affairs, Public Works and Transportation, Energy and Commerce, and Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5170

By Mr. TORRICELLI:

—After the heading for title I of the bill, insert the following new section:

SEC. 101. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) 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 "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

Redesignate subsequent sections of title I of the bill accordingly.

H.J. RES. 268

By Mr. DOUGLAS:

—In section 7, on page 4 at line 6, strike "1993" and add in lieu thereof "1994".

SENATE—*Wednesday, July 11, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Richard C. Halverson.

PRAYER

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

Let us pray:

*The Lord is my shepherd; * * * Yea, though I walk through the valley of the shadow of death, I will fear no evil * * *.*—Psalm 23:1, 4.

Eternal God who created us to live forever, we thank Thee for the assurance Thou hast given the life everlasting. We pray for Barbara Videnieks and her family in the loss of her father, Emory N. Mick, that they will be comforted and encouraged in this assurance.

"Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and he shall direct thy paths."—Proverbs 3:5, 6.

We pray today for the leadership of the Senate as they pilot this ship of state through the rough waters of difficult legislation, under the pressure of impending elections and the relentless ticking of the clock. Grant to Your servants wisdom, discernment, strength, and the unequivocal favor of those they lead. Gracious God, work Your will here through these stressful days.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

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

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 9:30 this morning, the Senate will resume consideration of S. 1970, the crime bill, with the last remaining amendment, the bipartisan savings and loan amendment, to be debated for 30 minutes. Following the debate on that amendment, there will then be 30 minutes of debate only on the bill, the time to be controlled between the two managers, Senators BIDEN and THURMOND. The rollcall votes on the amendment and final passage of the crime bill will be stacked to occur beginning at 12:30 p.m. today. Those will be back-to-back votes.

The Senate will return to consideration of S. 2104, the civil rights bill, at 10:30 a.m. today, with the possibility of amendments being offered and rollcall votes occurring between the hours of 10:30 a.m. and 12:30 p.m. on that bill. This bill will then be resumed, following final disposition of the crime bill, around 1 p.m. today.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will not be a period for the transaction of morning business until 9:30 a.m. for Senators to speak for not to exceed 5 minutes each.

The Senator from Colorado [Mr. WIRTH] is recognized for not to exceed 5 minutes.

THE UNITED STATES REFUSES TO ACT

Mr. WIRTH. Mr. President, the news coming out of Houston, TX, where the President and other leaders of the major industrialized nations are meeting has been extraordinary. The events of the past 24 months seem more apparent than ever.

The economic order is changing and we see that with major discussions and disagreements about trade.

The Soviet Empire is in shambles and the collapse of the Berlin Wall has created divisions among the Western Democracies about how to proceed into a new era of East-West relations.

And the environment has emerged from the pages of obscure scientific journals to the negotiating table at the G-7 meeting.

Unhappily, on the environmental front, the United States stands isolated, alone and embarrassed, out in the cold on the issue of global warming. The West German Chancellor has been pressing his colleagues to accept international controls on carbon dioxide and other gases that scientists are now certain will warm the globe. It is not if global warming will happen, but how much how fast. In May, the internationally recognized body, known as the Intergovernmental Panel on Climate Change, issued a report on the science of global warming. Although a vocal minority of naysayers have raised doubts in the minds of some here in the United States, the IPCC found that we have a major problem on our hands.

Unfortunately, as it has done repeatedly over the past 18 months, the Bush administration has been an obstacle rather than a leader toward common efforts to protect the global environment. It has become fashionable in the press to paint this as one of John Sununu's favorite sports—battling scientists and environmentalists, and even his own colleagues like Bill Reilly. I am not aware, however, that anyone elected Mr. Sununu to represent us at the G-7 summit. Instead, the responsibility has been given to President Bush himself. Mr. Kohl came to the table ready to discuss global warming. Mrs Thatcher has been briefed and has committed Great Britain to a program of carbon dioxide control. Mr. Mitterand has been briefed and France is readying to undertake controls. Even Japan, which had aped the United States position, has stepped out and announced its support for international action to prevent global warming.

It is time for the President to come forward and address the global warming issue. It is no longer possible for us to overlook the good-cop, bad-cop routine that is taking place among Mr. Sununu and the President. President Bush is the environmental President, but Mr. Sununu is calling the shots on environmental issues. That is the impression one gets when reading the press accounts. This, Mr. President, is unacceptable.

Global warming is not the passing fancy of radical environmentalists. It is a fundamental question about the kind of social, economic, and environ-

mental structure we leave to our children.

For the past several years, evidence has been mounting about the seriousness of the global warming threat. I have personally listened as scores of the Nation's best scientists have laid out the scientific evidence with great cogency. We live in a greenhouse. Without the gases that surround this planet, we would be about 60 degrees colder. Human activities are spewing more and more of those gases into the atmosphere. Accumulations are rising sharply. If we continue on this path, the Earth will warm—probably very significantly. I have heard it over and over again.

And what is the response of our Government. At the White House, they do not believe it. At the EPA, they believe it but can't say anything. The President's science adviser knows the score but is afraid to play ball. So instead of engaging the issue, the age-old solution prevails—delay. And that is what we have done.

In the face of this urgent situation—where the health of our most important environmental systems are at stake—we sit on our hands. The President and White House prefer to take the course of denial. It is not a problem, or it is not our problem. I am reminded of the line in one of the songs by Dire Straits: "Denial is not just a river in Egypt." We know better.

In addressing these issues, we tend to grapple with value judgments about whether we can afford to take the necessary steps. Balancing the need for growth with the luxury of environmental protection has become the watchword of editorial pages. Should we wait for all of the answers in the face of strong evidence that what we are doing is anti-intellectual. Intuitively, we know that the environment is not benign. Indeed, human beings now have the collective capacity to fundamentally alter the natural world—one of the most startling discoveries in human history. Throughout our history, we have been able to influence thoughts, to conquer the world of intelligence. Now we are masters of the natural world, with the capability to alter the unwritten history that will be the life of our planet.

Coming to grips with this new-found power requires an examination of our moral obligations to this planet, to our children and their children. Shall we wait till we are unable to feed an overcrowded and resource depleted world? Shall we wait until our mighty rivers run like the poisoned streams of Eastern Europe? Shall we wait until the ground water supplies of the West are drawn down to irreplaceable levels? Shall we wait until the ozone layer is sufficiently depleted such that the incidence of skin cancer increases dramatically? Shall we wait till the great forests of the world, together with the unwritten history and unknown genius of the planet's biologic diversity are decimated? Shall we wait until the very climate upon which we have planned society has taken a sudden turn for the worse?

We could entrust the future to the historical genius of our species—presupposing that generations to come will be able to harness their creativity and adapt to the change.

To all of these points, of course, there is a higher call, a moral imperative that we cannot avoid. If future generations are unable to outsmart ecological decline, what will they do? If uncontrovertible evidence does not materialize until the problem is beyond containment, can we possibly adapt? Is it not possible, indeed, probable, that the costs of inaction are greater than the costs of action.

The time has come to raise this issue to the level of morality. The global environmental crisis is at the forefront of the great moral issues of our time. It is an issue of trangenerational justice—leaving our children a future that is more just, more secure, more prosperous than our present. It is an issue of spirituality—humanity living in companionship with the entirety of God's creation.

The decade of the 1990's will be a watershed in the fight to protect the planet. We find ourselves in much the same position as the civil rights movement faced at the beginning of the 1960's. The silent majority of Americans were on the side of justice and equal opportunity for all our citizens. Unfortunately, the loud voices of the few throttled the silent majority and vexed the battle for national justice. During the civil rights movement, it took the collective courage of all individuals of color to fight the calculated assault of fanatic racists.

Today, on the environmental issue, Mr. Sununu has taken up the vitriolic rhetoric of the naysayers. Mr. Sununu says that "some of the faceless bureacrats over at EPA want to stop this Nation from using coal and driving automobiles." In today's paper, Mr. Sununu says that "there seems to be some propensity to deal with the issue without putting all the data on the table." We have to ask ourselves, what data, what proposals is the President putting forward. I have heard none.

In today's Los Angeles Times, it is reported that a deal is in the works under which Chancellor Kohl will drop his calls for controls on greenhouse gases in exchange for U.S. acceptance of an agreement on protecting the world's tropical rain forests. Protecting forests in the tropics is something we should be doing anyway. What kind of an agreement is that?

In the face of mounting racial tensions during the early 1960's, President Kennedy spontaneously decided to make a major address to the Nation. In response to the enormous challenge of civil rights, in an attempt to calm the division and hostility in our Nation, the President took on the issue of civil rights. On the environment, nothing less is required of President Bush. It is time for our Government to assemble a comprehensive plan to reduce greenhouse gas emissions.

In conclusion, let me highlight the difference between the administration and this institution. In the face of the changing realities of our world, the administration seems at a loss—abdicating the historical role of our Nation as international leaders. Here in the Senate, the chairman of the Armed Services Committee, the Senator from Georgia, has launched an ambitious and foward looking proposal to redefine the national security mission of the Department of Defense. That is the kind of leadership we need, Mr. President. That is the kind of leadership the American people expect.

In summary, Mr. President, in the last couple of weeks there have been two very noteworthy meetings in which the United States has been engaged internationally. NATO met in Europe last week and recast the goals of the alliance, an alliance which has served us very well over the last 45 years.

It became very clear in these discussions of the membership of the NATO alliance that the cold war is over and that new challenges are being met. New challenges to our national security are out there, and those are challenges not of the Soviet Union, not of the Warsaw Pact, Mr. President. Those are challenges of economics and maybe most important, challenges of the environment.

This week, the G-7 group has been meeting in Texas to examine the role and cooperative efforts of the seven major industrialized nations in the world. There, Mr. President, the G-7 group discussed international trade, discussed cooperation in the world in which the United States is no longer the preeminent power but rather one of many, and discussed a whole new set of challenges, especially, once again, Mr. President, the environment.

In both of these major international forums, the United States and its major allies in the West worked together in an understanding of the redefinition of national security. Our national security, Mr. President, as outlined in those two meetings, is no longer defined by the superpower relationship between the United States and the Soviet Union, no longer defined by confrontation between NATO and the Warsaw Pact, but now a world of economic challenges, and a world of environmental challenges.

The challenges that we face are first, most important, national securi-

ty challenge is not our relationship to the Soviet Union but our relationship with the globe, man's relationship with the environment.

And where is the United States in facing this great challenge? It is instructive for us, I believe, Mr. President, to look back at where the United States has been at other times of international crisis and the need for international leadership. The last great time we faced a watershed like this today, the time following World War II, the United States was proudly out in front. We led in the establishment of NATO and were successful beyond our wildest dreams. We led in the establishment of the Marshall Plan and were successful beyond our wildest dreams. These were times of very proud leadership for the United States.

The President at that time took positions that were not necessarily popular, but they were the right thing to do. For example, right after the Second World War, at a time when the United States was war weary and eager for all kinds of consumer guides, this Nation undertook a course to invest, in today's dollars, $375 billion to rebuild Europe; a courageous and right position, not a position determined by polls, not a position determined by political popularity, but a position determined by doing the right thing.

That is in stark contrast to what is going on today and what we saw this week in Texas. On the crucial issue of global warming, Chancellor Kohl has been out leading the alliance and leading the G-7 group. The Germans are saying what they want to do is a dramatic reduction in carbon monoxide emissions by the year 2000. President Mitterrand has been doing precisely the same thing and has begun to lead the French Government to a determination and a reduction of carbon monoxide emissions. Margaret Thatcher, not known as a knee-jerk liberal, gave a great speech at the United Nations last year and has been out front leading Great Britain. And even the Japanese are moving along, out of step with the United States, in step with everybody else. But the United States refuses to act.

The White House Chief of Staff says, "There seems to be some propensity to deal with the issue without putting all the data on the table."

What is the data? The data could not be clearer. The White House is in receipt of a letter from almost every Nobel Prize winner in the United States saying, "Mr. President, act." The White House is in receipt of a letter from a majority of the members of the National Academy saying, "Mr. President, act." The evidence is overwhelming. But the White House says the data is not in. Who has briefed the President of the United States? Probably no one.

Mr. President, I ask unanimous consent to continue for 2 additional minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 2 additional minutes.

Mr. WIRTH. Thank you, Mr. President. I appreciate the forbearance of the distinguished Senator from Connecticut.

And where are others in this administration? If the White House Chief of Staff who works for the President says the data is not in, there are others who understand the data is in. In his first speech as Secretary of State, the distinguished current Secretary of State, Mr. Baker, made a very clear set of statements on the importance of moving on global warming. The distinguished head of the Environmental Protection Agency, Mr. Reilly, has made it very clear that we have to take steps, but he was not even taken to Texas. The President's distinguished science adviser has testified in front of the Budget Committee, in front of the Energy Committee, and many places, about the importance of this issue.

Where are these voices, Mr. President? Are they terrorized or are they muffled?

The United States said last year when the G-7 met that we were going to move very aggressively and move in line with the findings of the international panel on climate change. But the international panel on climate change came through with findings that apparently were contradictory to what the White House wanted them to say, so they ignored them.

We said last year we were going to move aggressively; this year are doing nothing.

There is a line in a Dire Straits song, Mr. President, that says "denial is more than a river in Egypt." We are denying, Mr. President, the basic facts that are out there, and it is for us becoming embarrassing as a nation. We should understand the contrast between how we operated 45 years ago. We operated at a time of very proud leadership. The world 45 years ago was at a time of very significant watershed. The United States moved over that watershed, moved into the vacuum, assumed the leadership and the results were successful beyond our wildest dreams.

We today are at another one of those times, Mr. President, and unhappily the leadership is not there. I think we all must ask the President of the United States to lead. We expect that of him. That is what he was elected to do.

The PRESIDENT pro tempore. The Senator from Connecticut [Mr. LIEBERMAN] is recognized for not to exceed 5 minutes.

RAISE THE FHA LOAN LIMIT

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am pleased to be an original cosponsor of the legislation which is being introduced this week by our distinguished colleague from Hawaii, Senator DANIEL AKAKA. This legislation would raise the FHA loan limit to a maximum amount of $149,960. For many moderate income Americans, the only way to purchase a home is with an FHA mortgage. Yet, in my State of Connecticut, moderate income Americans, working families, are unable to use FHA financing to purchase homes because there are so few homes available for $124,875, which is the current FHA ceiling.

In 1989 the median housing prices in Hartford, New Haven, and Fairfield counties ranged from $165,500 to $182,000, among the highest in the Nation. Many young, two-earner, first-time homebuyers in Connecticut are unable to purchase homes because they cannot qualify for a private mortgage. Only with access to FHA mortgages will they be able to purchase a home.

On June 6 Secretary Kemp testified before the Senate Banking Committee that "the FHA is intended to serve a social purpose of helping low- and moderate-income families become homeowners." I agree. However, the FHA is intended to help low- and moderate-income families in every State become homeowners, not just those who reside in States where housing prices are low. If the FHA is to fulfill its goals in Connecticut and in other States where housing prices are high, we simply have to raise the ceiling on FHA loans. If the Congress does not raise the cap on FHA mortgages, many worthy, financially responsible moderate-income Americans will not be able to buy homes.

I share the concern for the financial status of the FHA expressed by my colleagues and the administration during the recent debate on the National Affordable Housing Act. The FHA program will not help anyone buy a home if we cannot keep it financially sound. I am strongly supportive of reforms to ensure that the FHA program remains financially sound. However, it is evident from the numerous studies of the FHA which have been conducted in the past several years that raising the mortgage limit does not affect the financial stability of a properly administered FHA program.

Mr. President, it has long been part of the American dream to own a home but becoming a home owner is not just the fulfillment of a dream; it is an investment in the future, and an important factor in ensuring a family's economic well-being.

The "State of the Nation's Housing 1989," which is a report released by Harvard University's Joint Center for Housing Studies, illustrates very clearly the importance of home ownership in the ability of individuals to accumulate wealth. The report states that "for each age and race group, differences in owner and renter wealth are many times greater than differences in income."

Rising housing costs have prevented many households from improving their economic situation by purchasing a home. So the FHA is a critical program for these American families because it can provide them the opportunity to purchase a home but also to take a significant step toward securing their family's financial future.

Mr. President, today many Americans are being forced to leave their communities and, in some cases, their States, in order to purchase a home. I think we have to preserve the family's opportunity to purchase a home in the community where it works and where it wants to live, close to friends and family.

Raising the FHA limit will provide some additional assistance to those who need this program in order to be able to purchase a home. So I hope my colleagues will support raising the FHA mortgage limit as is included in the legislation introduced by the junior Senator from Hawaii, which would enable working families throughout this country in both high- and low-cost areas access to the American dream of buying and owning a home.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for not to exceed 5 minutes.

Mr. WIRTH. I thank the Chair.

S&L AMENDMENT TO THE CRIME BILL

Mr. WIRTH. Mr. President, later this morning at 9:30, in about 5 minutes, I will be joining Senators HEINZ, GRAHAM, DOLE, BIDEN, DIXON, RIEGLE, RUDMAN, DOMENICI, PELL, and others in offering a comprehensive amendment on the S&L crisis, an amendment to the crime bill.

A number of Senators have sponsored legislation to address S&L crime, making various suggestions to help investigators and prosecutors in their effort to bring those who loot our S&L's to justice. I am pleased that we were able to work out this comprehensive bipartisan package known as the Wirth-Heinz amendment incorporating many, if not most, of these proposals.

The Wirth-Heinz amendment includes a number of important provisions to attack fraud and other criminal activity in the S&L industry including stiffer penalties for S&L violators, a financial institution fraud unit, an increase in resources to combat S&L crime, an increase in recovery of losses, guarding against fraud related to the Resolution Trust Corporation, public disclosures and private action provisions, and a variety of other measures.

Mr. President, this all started about 6 weeks ago, maybe 2 months ago, when we had on the floor the emergency supplemental for Panama. At that time, as I was leafing through the justification for significant funds for Panama, I noted that we were being asked by the administration to spend $30 million to promote tourism in Panama.

It seemed to me that this was maybe not the best expenditure of public money and that maybe we ought to transfer that $30 million—incidentally, Mr. President, we only spent $14 million to promote tourism in all of the United States. If we were going to spend $30 million to promote tourism in Panama, then we ought to spend significant funds to enforce the law to remedy this S&L crisis. I offered an amendment to switch those funds over. On a procedural matter, we were beaten by a very small majority—not on the substance of it but on procedure. But we certainly got everybody's attention in thinking about the need for significantly greater resources and to take seriously the S&L crisis.

Over the last 6 weeks, we have seen a crescendo of bills, of proposals, and so on, come in, and some of that has received a partisan tinge to it, some of it has received a political tinge.

The President called in 95 U.S. attorneys from around the country for a major photo opportunity down at the Justice Department, and there were a variety of accusations and counter accusations. I think what we have done is put all of this into a bipartisan or nonpartisan package, Mr. President, understanding the absolute imperative of addressing the S&L issue on both sides, addressing it in a calm and comprehensive way.

As this amendment is accepted today, we will be giving the President of the United States the resources he should have requested from us to do the job. He will have these resources. They will be made available to him. I look forward to hearing of the successful resolution of so many of these issues.

Mr. President, I know the distinguished Republican leader is here and we are going to be moving to the crime bill. I will have more to say on this issue when we get to that bill. We have a brief period of time, 15 minutes on each side, under the previous agreement reached 10 days ago, but again I am very pleased that such a large number of people on both sides of the aisle are joining in cosponsoring this important package to the crime bill.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. By unanimous consent, the Republican leader's time was reserved. Does he wish to claim that time now?

Mr. DOLE. I wish to claim that time now.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. I thank the distinguished President pro tempore.

S&L AMENDMENTS

Mr. DOLE. I agree with the Senator from Colorado that this is a bipartisan effort on S&L amendments. I do not detect any bipartisanship in the rhetoric but I think the amendment is bipartisan. Perhaps one day the rhetoric can be bipartisan. But in any event, they are good amendments, and they will be adopted. They are the result of a lot of work by Members on each side of the aisle who want to get to the bottom of the S&L mess, notwithstanding the political impulses that many have.

NO DIRECT AID TO THE SOVIET UNION

Mr. DOLE. Mr. President, President Bush is providing outstanding leadership at the Houston economic summit, across the board.

I want to take particular note of the very sensible stand he has taken on the issue of aid to the Soviet Union.

The President has it just right. We ought to help the Soviet Union go down the path to free market-based economics. That means technical and advisory assistance.

It also makes sense for us to work aggressively to get our fair share of the export market in the Soviet Union. Until the Houston summit, or the GATT talks, or some other mechanism allows us to get a handle on export subsidies, particularly in the agricultural area, that means we are going to be—and in our own self-interest, should be—in the business of using mechanisms like the export enhancement program in the Soviet Union. If some care to call that aid, so be it—although it is really aid to America, not the Soviet Union.

But it makes no sense for us to provide direct aid—whether in the form

of grants or credits, to the Soviet state. It makes no sense because of our own daunting economic problems—our $3 trillion debt, much of it underwritten by foreign capital; our 12 digit budget deficit; our already stretched-to-the-breaking-point foreign aid budget.

And it makes no sense in terms of current Soviet policies, policies that include massive spending on a military machine, shipping billions of dollars overseas to prop up irresponsible and repressive clients, and still relying heavily on the bankrupt economic practices of the past 70 years.

Mr. President, if Mr. Gorbachev really needs a quick infusion of cash, perhaps he can get a rebate on the $4 billion he will ship to Castro this year; the $1 billion still flowing into Angola—life suport for the Communist MPLA regime, that until now has not even allowed desperately needed food aid to reach hungry people; the hundreds of millions of dollars that are sustaining the puppet regime in Afghanistan, and keeping that deadly war going.

In the longer run, if Mr. Gorbachev needs to stretch his budget, perhaps he ought to declare his own peace dividend—and make some real cuts in his defense budget, instead of the puny 4-percent cut the Soviets made this year.

Mr. President, it is in our interest that Mr. Gorbachev succeed in keeping the Soviet Union on a path toward political liberalization and economic sensibility.

But it is not in our interest to underwrite those still large areas of Soviet policy which are inimical to our interests, which are destabilizing in important areas of the world, and which make no economic sense.

I have no doubt that the American taxpayers, in overwhelming numbers, will understand all that, and will support President Bush's leadership on this issue. I am confident, too, that the vast majority in Congress will reject the appeals of a few, that we start signing over blank checks to the Kremlin.

Mr. President, I want to make one final observation.

It is obviously the right of our allies to spend their own money in any way they see fit. But if they start providing billions in aid to Mr. Gorbachev, the American taxpayer is going to question even more critically why it is that we are being asked to spend billions of our own, to support a major American military presence in Europe—the very military force, by the way, that has kept the peace for nearly a half century, and allowed those same allies to achieve the prosperity which permits their new-found largesse.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point two articles pertaining to this subject: one from the Wall Street Journal, and one from the New York Daily News.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

$15 BILLION FOR WHAT?

What would Mikhail Gorbachev's Soviet Union do with $15 billion? This is the amount of aid that West Germany and France would like their partners at the Houston economic summit to send to the Soviets. While opponents of aid are arguing, correctly, that the Soviet bureaucracy would surely waste the money, there is another dimension to this question. What reason is there to believe that most of this $15 billion would spend any time at all in the Soviet Union? Hard currency is fungible. It can go anywhere, buy anything.

According to figures cited in May by National Security Adviser Brent Scowcroft, Soviet transfers to some of its most prominent client states add up to something over $15 billion. The Rand Corp. breaks down the Soviet aid disbursements this way:

Cuba: $5 billion; Afghanistan: $3 billion; Vietnam: $2.5 billion; Syria: $1.5 billion; North Korea: $1 billion; Libya: $1 billion; Angola: $1 billion. The total is $15 billion.

To their credit, President Bush and Secretary of State Baker have pressed the Soviet leadership relentlessly on the question of its continuing aid to the Cubans. And Messrs. Gorbachev and Shevardnadze have been equally persistent in rebuffing these entreaties. This is no small matter.

Despite various reports that the Soviets are unhappy with Castro, there is little concrete evidence that the Soviet Union is prepared to step down from its relations with Cuba or, for that matter, with Afghanistan, Vietnam, Syria and Libya. In no sense is the behavior of these countries consonant with the reformist image that Mr. Gorbachev asks the West to accept as genuine.

Indeed at the risk of being sniffed at by our more credulous colleagues for "old thinking," it should be plain that the Soviet Union's relations with these states remains rooted in the Cold War. How come? Why is it that Mr. Shevardnadze simply cuts off Secretary Baker or Western reporters when asked about Cuba or his apparently bankrupt treasury's ability to keep sending aid to these other dictatorships?

The Soviet Union, of course, has a concrete military presence in both Cuba and Vietnam. And while the Red Army, on balance, may be out of Afghanistan, the Soviets continue to rely on that country's compliant communist government for natural gas. The Syrian relationship is predicated almost wholly on continuing purchases from the Soviet arms industry. Whatever the state of play in the external Soviet empire, there is absolutely no reason why a "helpful" West should now start transferring hard-currency aid or credits to a Moscow that can't and won't promise not to pass along the money to these pariah nations.

Fidel Castro to this day continues to throw into his dungeons opponents who dare to speak out for democratic reforms. Some of Mr. Gorbachev's former clients in Eastern Europe already have begun to wind down their long relationship with Fidel. Most recently, Czechoslovakia's Vaclav Havel sent Castro a stiff letter denouncing his continuing human-rights violations. Two days ago, seven Cuban dissidents sought asylum at the Czech Embassy in Havana; there is no expectation that Castro will give them exit visas.

The West Germans have been pressing the hardest in Houston for aid to the Soviets, and no doubt have an interest in linking aid to their unification drive and desire to rid East Germany of Soviet troops. But they have to understand we also have a special interest in the presence of an unreformed Stalinist state in our own back yard.

Most likely, the Houston summit will address the Soviet aid question in its communique later today. We hope that it shows some understanding that at this point in time, putting cash in the Kremlin's hands is not yet a policy that is either economically or morally defensible.

[From the Daily News]

DON'T THROW MONEY AT MOSCOW

As the leaders of seven top Western nations meet in Houston this week to discuss economic matters. Item No. 1 on the agenda is the question of whether to provide direct nation-to-nation financial aid to the Soviet Union. Soviet leaders desperately want it. West Germany and France are ready to provide it. But the U.S., Great Britain and Japan have wisely blocked any attempt on the part of the Big Seven to extend coordinated economic aid.

Such aid would be a costly mistake. Unless the Soviet Union embarks on precisely the kind of drastic free-market economic reforms that are beginning to take hold in countries like Poland, the Soviet Union will remain an economic basket case—no matter how much foreign aid is poured into its coffers. Why offer money to a country that doesn't recognize property rights? Or, as president Bush points out, continues to prop up Fidel Castro to the tune of millions of dollars each year?

Yes, profound changes are taking place in the Soviet Union. But there is still no clear indication that Gorbachev & Co. are willing to turn their country into a full free-market democracy. And outspoken Soviet reformers are fully aware of that fact. Anatoly Sobchak, chairman of the Leningrad City Council, has gone so far as to warn Western nations against propping up the faltering Gorbachev regime with direct aid: "There should under no circumstances be any large projects. No money should be given into the hands of the bureaucrats, and no money should be invested into any kind of middleman organization."

Western skills, Western technology, Western economic advice—all these things should be provided in abundance. Such "aid" will help the Soviets help themselves. But direct nation-to-nation economic aid, including the extension of credit, must be linked to:

Significant Soviet economic reform—including the establishment of genuine property rights.

Drastic Soviet military cuts—including withdrawal of Soviet conventional forces from Eastern Europe and termination of Soviet support for dictatorships in other countries.

Without these key conditions, aid to the Soviets will only serve to shore up the status quo—which means hardship and misery for the Soviet people.

ODD MEN OUT

Mr. DOLE. Mr. President, the democratic revolution that has swept over

much of the Communist world has so far been thwarted in Romania, Albania, and Yugoslavia—increasingly the three odd men out of Eastern Europe.

It is time to turn a bright spotlight of international attention on these increasingly anachronistic and oppressive regimes. It is time that their people, too, enjoy the right to freedom and self-determination.

In Romania, the promise of democratic elections proved illusory. The so-called National Salvation Front stage-managed a sham electoral process whose real purpose was not to measure the wishes of the people, but to paint a thin veneer of respectability on a regime made up largely of Ceaucescu retreads.

In Albania, long the backwater of Europe, demonstrations demanding democracy and free markets were forcibly repressed, and thousands of young men and women sought refuge in a dozen free world embassies. Though a few have begun to trickle out to Czechoslovakia, under a regime offer of safe passage, most still remain holed up—choosing the self-imposed confinement of embassy courtyards over the omnipresent tyranny of their own government.

In Yugoslavia, a confederation of disparate republics and ethnic groups, a Communist federal government continues to drag its feet in resistance to real change. Meanwhile, the government of the Republic of Serbia has turned a deaf ear to the demands of millions of ethnic Albanians, seeking some real say in their own affairs; has wiped out what little autonomy the Albanians have enjoyed; and has cracked down hard on the movement for Albanian self-determination—murdering, maiming, and imprisoning many.

Mr. President, I ask unanimous consent to include in the RECORD an article from the July 6 New York Times, describing some elements of the Serbian Government's crackdown.

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

SERBIA SUSPENDS GOVERNMENT OF ALBANIAN REGION

(By Chuck Sudetic)

BELGRADE, YUGOSLAVIA, July 5.—The Parliament of the Yugoslav republic of Serbia today suspended the Assembly and the Executive Council of the Kosovo region, which has a 90 percent ethnic Albanian population and has been the scene of ethnic disorders.

The Parliament also dismissed the editors of Kosovo's main Albanian-language newspapers and the managers of its radio and television stations.

The action extinguishes what remained of the Kosovo region's autonomy and it is certain to exacerbate already bitter relations between the region's ethnic Albanian majority and Serbian minority.

"The Albanian people are nervous but remaining calm," said Ibrahim Rugova, a leader of the ethnic Albanian opposition. "It is very dangerous now," he said by telephone from Kosovo.

Policemen seized the radio and television stations in Pristina, the regional capital, at 3 A.M., Belgrade television reported.

STATIONS GO OFF THE AIR

Mr. Rugova said Albanian-language radio and television broadcasts have gone off the air, and that the police were guarding the newspaper building and the radio and broadcast stations.

"The police even took over the headquarters of the Kosovo Writers Association at 4 o'clock this afternoon," Mr. Rugova said, referring to a building that the Albanian opposition used for meetings and news conferences. "There is no more Albanian authority in Kosovo now."

"Everything the Serbs say about democracy is now obviously exposed as demagoguery," he said. "They take care of themselves and repress us."

Mr. Rugova added that the ethnic Abanian opposition would continue even if outlawed.

The Serbia Parliament's action followed a vote last Monday by ethnic Albanian members of the Kosovo Legislature to declare the region a constituent territorial unit within the Yugoslav federation, with all the rights and powers of the country's six republics, said Aleksander Prija, the Serbian Secretary for Foreign Relations.

The ethnic Albanians' vote brought condemnation throughout Serbia. It was seen as evidence that the ethnic Albanians would eventually want to sever Kosovo, a center of ancient Serbia, from Yugoslavia and merge it with neighboring Albania.

Yugoslavia's republics have a vaguely defined right to secede from the federation, and newly elected non-Communist governments in the republics of Slovenia and Crotia are threatening to exercise that right.

Kosovo, which had de facto republican status under Yugoslavia's 1974 Constitution, lost most of its autonomy in March 1989 when the Serbian Government pushed through constitutional amendments. More than 50 ethnic Albanians have died in the last 18 months in clashes with the police.

"It is unthinkable that Kosovo's Assembly could declare a state within the Yugoslav federation," Mr. Prija said. "There is no room for a second Albanian state either in Serbia or in Yugoslavia. The sooner the Albanians shed their illusions that there could be the possibility of having a second state in Serbia, the better it will be for everybody."

SERBS ASSUME ALL POWERS

Serbia's Parliament and Executive Council have assumed all legislative and administrative powers in Kosovo. The Serbian police took control of law enforcement there three months ago.

Ethnic Albanian members of the Kosovo Assembly are reportedly traveling to Belgrade to consult with Yugoslav federal authorities.

Kosovo's legislature will not be reconvened until after the Serbian Parliament adopts a new republican constitution and free multiparty elections are held, Mr. Prija said.

Under the Constitution, the Kosovo Assembly appoints the region's Executive Committee and the managers of press and broadcasting organizations. Mr. Prija said that last year's amendments gave the Serbian Parliament the right to carry out the suspensions.

The move by Kosovo to declare equal status within Yugoslavia came in the wake of a hastily called referendum throughout Serbia last weekend, in which 90 percent of the voters opted to delay free, multiparty elections in the republic until after the Communist-controlled Parliament adopts a new constitution.

The ethnic Albanians boycotted and obstructed the referendum.

SIX-DAY NOTICE OF REFERENDUM

Faced with angry anti-Communist demonstrations in the streets of Belgrade twice in the last few months, calling for free multiparty elections, Serbia's hard-line leader, Slobodan Milosevic, announced the referendum only six days before it was held.

He originally characterized the referendum as a chance for Serbia's voters to indicate clearly whether they wanted free, multiparty elections before a new constitution.

It is expected that the referendum would result in a limited role for the Communists in setting up a constitutional framework, as had been the case elsewhere in Eastern Europe, or to have the elections come after leaving the constitutional work to the present party dominated legislature.

However, as drafted, the proposition linked endorsement of the present Parliament to the acceptance of a broad statement of national and territorial unity.

"This was a horse race with only one horse," said Vuk Draskovic, leader of the anti-Communist, nationalist Serbian National Renewal. "The opposition wasn't given the opportunity to campaign against it."

"There is no question that a new constitution is necessary but what is in question is who should draft and adopt it," said Kosta Cavoski, president of the opposition Democratic Party Executive Committee, who said he expected free elections to be delayed for a year or more.

"Must we allow the existing illegitimate, one-party, Communist Parliament to draft the constitution or do we want a legitimately elected constituent assembly?"

Mr. DOLE. Mr. President, while we celebrate freedom's great victories, and do everything we can to help the emerging democracies, we must not for a moment forget the millions still living under repressive Communist regimes in these three nations.

We should support the emerging democracies, but in my view we should not be in the business of providing aid to governments which are denying basic human rights to their own people.

We should not be assisting regimes which refuse to hold free and fair elections; which deny to their own people the right to self-determination.

We should not be providing aid to prop up socialist, statist economies—which subsidize failed and bankrupt economic policies and programs.

The democratic revolution in Eastern Europe has come a long way, but there is still a long way to go.

As we go forward, we must always make sure, and make clear, that the United States is on the right side, the side of the people, the side of political freedom and free enterprise.

Mr. President, I thank the Chair.

I reserve the remainder of my leader time.

THE FARM BILL

Mr. LEAHY. Mr. President, within the next day or two we are going to begin Senate floor debate on the 1990 farm bill, a 5-year farm bill. That bill is the result of some very hard work and, I must say, some tough bipartisan decisions.

During the hearing phase of the farm bill, the Senate Agriculture Committee traveled to 13 States to meet first hand with those most affected by the laws that we here in the Congress pass. In Washington, we set a rigorous schedule for ourselves. We had 33 hearings in an 8-week period. We had countless meetings among Senators and staff, weekends, evenings, sometimes all night long. We had 20 markups.

In the end, we passed a good bill. It was supported by the committee on a 15-to-4 vote. The bill had bipartisan broad support ranging from the senior Senator from Indiana [Mr. LUGAR] and the minority leader, to the Senator from Nebraska, and a whole lot of others.

The bill encompasses a host of complex issues, ranging from target prices to planting flexibility, from food safety to consumer protection, from forest management to wetlands conservation, and from foreign food aid to trade. When we begin floor consideration, I will discuss these and other farm bill issues in more detail.

The committee drafted a bill that makes fiscal sense. And between now and the conclusion of the budget summit, Senator LUGAR and I will work to assure that this bill meets our budget responsibilities.

I urge each and every Member to read the bill and the committee report.

I also urge all Members not to politicize the floor debate on the farm bill. With the November election fast approaching, some may be tempted to try to gain political advantage during the floor debate. I must say, Mr. President—and I base this on 16 years of experience and several of these 5-year farm bills—that is not going to serve anyone's purpose.

If the farm bill becomes a political football, the farmers and the consumers of this country are going to be the losers. It is not good for our farmers. It is not good for the country. It is a time to stand together.

We will have a farm bill on the floor as soon as the other matters are taken care of that are pending, a farm bill that we can support no matter what part of the country we come from. It makes good sense, good farm policy, and it is bipartisan.

I set two goals on this farm bill. Aside from the usual policy ones, I said, overriding all, it had to fit within the budget, it had to have a rational budget in it, and it had to have bipartisan support. This bill does both. I hope that the Senate will support it in that way because we still have a long way to go in conference.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time for morning business has expired. Morning business is closed.

OMNIBUS CRIME BILL

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of S. 1970 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. Under the previous order, the Senator from Colorado [Mr. WIRTH] is recognized to offer an amendment on behalf of himself and the Senator from Pennsylvania [Mr. HEINZ] on which there shall be 30 minutes of debate to be equally divided.

AMENDMENT NO. 2116

(Purpose: To provide for additional resources for the Department of Justice and others to facilitate the investigation and prosecution of criminal, civil, and administrative claims against officers, directors, and others in connection with depository institutions, to establish a Financial Institutions Fraud Unit in the Department of Justice, to provide for taxpayer recovery, and for other purposes)

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

The PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for himself, Mr. HEINZ, Mr. BIDEN, Mr. DOLE, Mr. RIEGLE, Mr. GARN, Mr. GRAHAM, Mr. DIXON, Mrs. KASSEBAUM, Mr. BRYAN, Mr. ROTH, Mr. SIMON, Mr. BOND, Mr. PRYOR, Mr. D'AMATO, Mr. KERRY, Mr. SARBANES, Mr. DODD, Mr. GRASSLEY, Mr. SASSER, Mr. CHAFEE, Mr. SANFORD, Mr. BURNS, Mr. LEVIN, Mr. COHEN, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KOHL, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, Mr. LEAHY, Mr. EXON, Mr. LAUTENBERG, Mr. ADAMS, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. PRESSLER, Mr. HARKIN, Mr. DURENBERGER, Mr. KASTEN, Mr. MCCONNELL, Mr. HATFIELD, Mr. HELMS, and Mr. HOLLINGS, proposes an amendment numbered 2116.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WIRTH. Mr. President, I ask unanimous consent that the 30 minutes that are made available to the author of the amendment be equally managed by the Senator from Colorado and the Senator from Pennsylvania [Mr. HEINZ].

The PRESIDENT pro tempore. Is there objection to the request?

Hearing no objection, it is so ordered.

Mr. WIRTH. Mr. President, I yield 3 minutes to the distinguished chairman of the Banking Committee, Senator RIEGLE.

Mr. RIEGLE. Mr. President, I thank the Senator from Colorado.

I rise as a cosponsor and strong supporter of the Wirth amendment because it represents a good bipartisan effort in dealing with a tough problem. The amendment incorporates the Biden-Cohen-Riegle bill dealing with criminal, civil and administrative actions combating fraud and insider abuse at financial institutions. It also incorporates the bankruptcy provisions from the Dole-Heinz bill. Fraud and insider abuse has been a significant problem in the failure of the deposit insurance fund for savings and loans. When the GAO studied a sample of large failed thrifts, 100 percent of those thrifts evidenced fraud or insider abuse.

The chairman of the Senate Judiciary Committee, Senator BIDEN, along with this Senator and my colleagues on the Banking Committee Senators TIM WIRTH, BOB GRAHAM, ALAN DIXON, JOHN KERRY, and RICHARD BRYAN, have worked together to create a comprehensive and tough legislative package on financial institution crime.

This amendment deals with every aspect of the Federal Government's response to fraud and insider abuse. It reforms the response of the criminal justice system by providing for stiffer sentences and more money for the investigation of cases, for the prosecution of cases, and for the judicial administration of cases. It increases the civil forfeiture powers of the Government and gives the RTC the ability to bring RICO claims on behalf of the Government. It eliminates the bankruptcy loophole for those who have agreed to put private capital into financial institutions and for those who have committed fraud and insider abuse at financial institutions. It opens up administrative enforcement proceedings to provide for public oversight of enforcement actions and requires the RTC to report to Congress on a semiannual basis on the combined efforts of all the relevant Federal agencies.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 took the important first steps in combating fraud and abuse at financial institutions. It extended the statute of limitations from 5 to 10 years to provide more time for investigations and prosecutions. It significantly increased the enforcement powers of the

Federal banking regulators. And, it provided more money for the investigation and prosecution of financial institutions fraud.

In FIRREA, the administration sought a $50 million authorization for investigation and prosecution of criminal and civil cases involving financial institutions fraud. Congress felt more resources were needed and increased the authorization to $75 million on an annual basis, plus $10 million to give the Federal judiciary additional resources to avoid a backlog of thrift fraud trials.

Money and resources are not the only answer, but here they are desperately needed.

There are 530 failed financial institutions with ongoing FBI investigations. The Associate Director of the FBI has testified before a House committee that the Bureau need hundreds of more FBI agents and accounting technicians and the Justice Department could use over a hundred U.S. attorneys. These positions are in addition to those positions created with the funds from FIRREA.

I think the most credible statement of need is from those who are on the front lines. The special agent in charge of the FBI's Denver office, which has pending investigations into 30 failed financial institutions, has stated he does not have nearly enough people to keep up with the cases. The Denver U.S. attorney states that he has a big backlog of thrift fraud cases. A U.S. attorney in Oklahoma has admitted that the thrift fraud cases were, until recently, stagnating because of lack of resources.

The administration is still putting its savings and loan strike force together. As of March 1990, the Department of Justice had hired 68 of the 118 new U.S. attorney positions. Attorney General Thornburgh has made this matter his top priority. I commend the administration for addressing this issue in a straight forward and open manner.

The President took the initiative on the savings and loan matter when he introduced the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 on February 22, 1989, and we worked very closely with the administration on a bipartisan basis to get it enacted.

The substance of this amendment is the best of any of the bills on this issue. This legislative package authorizes $203 million: $162 million for the Department of Justice to investigate and prosecute cases; $16 million for the IRS; and $25 million for the judiciary to process the additional cases that will be filed. No other proposal incorporates the Wirth, Graham, Dixon amendment requiring the Government to coordinate its actions by creating a Financial Institutions Fraud Unit within the Department of Justice. There is no other proposal for creating a Fraud and Enforcement Review Division at the RTC. There are no other bills that require the bank regulators to make their enforcement hearings and orders a matter of public record.

This bill contains an important provision regarding the disclosure of regulatory orders and proceedings. Generally, it reverses the traditional notion that regulatory proceedings and enforcement orders and settlements should not be disclosed to the public. The bill requires disclosure of enforcement orders or settlements, in whatever form the agency may use, including agreements, between the regulator and an institution or institution-affiliated party, for which a violation may be enforced by the appropriate agency with either a court order or administrative action. The regulators are required to publish all such enforcement orders and agreements within 30 days, unless publication would be contrary to the public interest.

The standard for withholding matters from publication requires the regulators to make a particularized finding about that specific party and the enforcement action taken. The regulators may not withhold information in reliance upon a general finding as to all institutions. For example, it would not be appropriate for the regulators to withhold disclosure of an enforcement action simply because the depository institution was open and the regulators had a general belief that any disclosure of negative information would create a severe liquidity problem at any open depository institution. In any event, such a finding generally would not be warranted because financial institutions that have publicly traded securities are currently disclosing the existence of bank and thrift regulatory orders pursuant to their obligation under Federal securities law to disclose material events. The standard in this bill requires a case-by-case approach, with the presumption now being the information should be disclosed unless there is a compelling reason not to disclose it. This applies to orders and agreements currently in effect, as well as new orders and agreements as they are issued.

I think an even-handed analysis will show that this is the most comprehensive and thoughtful bill on this topic. I am proud to have worked with Senator BIDEN, Senator WIRTH, and the other members of the Senate Banking Committee on this amendment.

It is very important that we go forward with the strong enforcement effort this bipartisan bill creates and I recommend it strongly to my colleagues.

I thank the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. HEINZ. Mr. President, I yield myself 5 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

Mr. HEINZ. Mr. President, I am pleased to sponsor, together with Senator WIRTH and other Senators, this comprehensive and bipartisan amendment to the crime bill. It is an amendment designed to recover funds for the American taxpayer and to punish those who have treated federally insured savings and loans like a personal piggy bank.

It is entirely fitting that these measures be a part of the crime bill, since the savings and loan crisis is far and away the largest theft and heist in American history. The American Treasury is going to be looted to the tune of hundreds of billions of dollars. It is a simple fact that the American taxpayer has had his wallet picked clean.

This bipartisan amendment is called the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990. That is a good title, because it combines many of the provisions in the Heinz-Dole-Garn amendment, endorsed by the President, with the provisions of the Graham-Wirth-Biden bill, an amendment to the crime bill.

Working with the distinguished minority leader, Senator DOLE, and the ranking member of the Banking Committee, Senator GARN, Senator WIRTH, Senator GRAHAM, Senator BIDEN, Senator RIEGLE, Senator SIMON, and other colleagues, as well as representatives from Justice, Treasury, the RTC, and other Federal banking agencies, we put together, we believe, legislation which provides the tools and resources needed to investigate and to prosecute rapidly and effectively savings and loan fraud and to enhance our efforts to get the money back.

Mr. President, I have to say at the same time that this is, as Yogi Berra might have said, déjà vu all over again, because just about a year ago, I stood in this Chamber to inform my colleagues that FIRREA, the S&L legislation which was passed, had only done half of the job. Today we are doing the other half. But a year ago I indicated that while the S&L bill had protected the American depositor, it had not protected the American taxpayer. I said that at the time because, in part, the House of Representatives insisted on stripping from the Senate bill a series of measures that I wrote and sponsored, and which our colleagues in the Senate agreed to put into the Senate bill, that were designed to maximize the recovery of funds from those who looted federally insured S&L's and to ensure that those crooks were put in jail.

Among those provisions, which are in this amendment and which I trust the House this time will accept and not remove from the bill, were giving

the RTC a priority on behalf of the American taxpayers to recover funds from those responsible for losses at insolvent S&L's; second, to take away the shield of bankruptcy protection from the officers, directors; or others who breached their fiduciary duties to federally insured institutions; and third, a provision to direct the courts to speed up the cases brought by the Government to recover funds on behalf of the American taxpayer; and also to provide prosecutors with the most potent legal weapon in our Federal arsenal against crime, RICO, to go after those who defrauded federally insured S&L's with the maximum effort.

I am pleased that those provisions are part of this amendment, Mr. President.

I must say that when the Resolution Trust Corporation reports that "more than 60 percent of insolvent S&L's were victimized by serious criminal activity"—and I quote them—when the Attorney General concludes there was an "epidemic of fraud"—and I quote him—in the savings and loan industry, it is high time that Congress declares savings and loan crooks public enemy No. 1. That is what this amendment does. With the cost of the savings and loan bailout in the hundreds of billions of dollars, with it being the largest financial crime, the largest financial scandal in history, it is time that Congress makes the recovery of funds for the American taxpayer job No. 1.

Last year, in FIRREA, we bailed out the S&L's to protect depositors.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. HEINZ. Mr. President, I yield myself 1 additional minute.

The PRESIDENT pro tempore. The Senator is recognized for 1 additional minute.

Mr. HEINZ. Mr. President, last year Congress bailed out the savings and loans to protect depositors. Today we seriously begin the job in earnest of rescuing the taxpayers, as well.

Mr. President, I ask unanimous consent that a summary of the provisions of the Comprehensive Bank and Thrift Prosecution and Taxpayer Recovery Act of 1990 be printed in the RECORD at this point.

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

THE COMPREHENSIVE BANK AND THRIFT FRAUD PROSECUTION AND TAXPAYER RECOVERY ACT OF 1990

SUBTITLE A—BANK FRAUD AND EMBEZZLEMENT PENALTIES

Section 11: Increased Penalties for Bank Fraud.—Increases the maximum penalties for bank fraud and embezzlement criminal offenses from 20 years to 30 years.

Section 12: Life Imprisonment for S&L Kingpins.—Creates a new criminal provision to subject S&L kingpins to a mandatory minimum sentence of 10 years and up to life imprisonment with fines of up to $10 million for an individual and $20 million for others. S&L kingpins are those who, acting in concert with three or more other persons, engage in a continuing series of bank fraud violations and who derive more than $5 million in profits from their crimes over a 2-year period.

Section 13: Expands Government Prosecutions Under RICO to All Bank Fraud.—Provides the Attorney General with the authority to bring criminal and civil actions under RICO for all bank fraud violations. The eight additional bank fraud predicate offenses are not available for private civil actions.

Section 14: Mandatory Minimum Sentences for Major Bank Fraud.—Imposes mandatory minimum sentences in cases of major fraud (involving more than $1 million) against a federally insured depository institution.

SUBTITLE B—BROADENING INVESTIGATIVE AUTHORITY IN BANK FRAUD CASES

Section 51: Authorizes Wiretaps in Bank Fraud Investigations.—Adds bank fraud offenses to the list of crimes for which wiretaps may be authorized by a court.

SUBTITLE C—RESTRUCTURING THE FEDERAL ATTACK ON BANK CRIMES

Section 111: Justice Department Financial Crime Unit Established.—Directs the establishment of a Financial Institutions Crime Unit within the Office of the Deputy Attorney General headed by a Special Counsel for the Unit. The Special Counsel and the Unit are responsible, and report directly, to the Deputy Attorney General.

Section 112: Special Counsel Responsible for Combating Bank and Thrift Fraud.—The Special Counsel must be appointed by the President and confirmed by the Senate. His duties include: (1) supervision and coordination of investigations and prosecutions of fraud involving the financial services industry, (2) ensuring that the statutory tools designed to recover funds from those who committed crimes involving financial institutions are used to the fullest extent, and (3) ensuring that the resources, available to investigate and prosecute financial institution fraud and related criminal activity are adequate.

Section 113: Financial Crime Unit Personnel.—The Attorney General is responsible for assigning the personnel needed to maintain or increase the level of enforcement activity involving financial institution fraud and related criminal activity.

Section 114: Fraud Task Forces and Senior Interagency Group Established.—The Attorney General is responsible for creating financial institution fraud task forces to provide appropriate resources to recover funds from those who have engaged in financial institution fraud and related criminal activity. The task forces may be supervised by the Special Counsel.

The Attorney General is responsible for creating a Senior Interagency Group comprised of senior officials from the Justice Department, Treasury Department, FBI, RTC and the federal banking agencies to identify, direct coordinate and enhance investigative and prosecutorial efforts relating to the most significant cases.

Section 115: Semiannual Reports on Investigations and Prosecutions.—The Financial Institutions Fraud Unit is responsible for collecting and compiling data of investigations and prosecutions. The Unit must report to the Senate and House Banking and Judiciary Committees semiannually on this data and the coordination of efforts by the agencies represented on the Senior Interagency Group.

Section 116: Monthly Statistical Reports on Financial Crime Enforcement.—Monthly crime statistics will must include information on cases involving federally insured depository institutions.

SUBTITLE D—EXPANDING FEDERAL FORFEITURE AND MONEY LAUNDERING LAWS

Section 151: Expanding Civil Forefeiture.—Expands the ability to obtain civil forfeiture in cases involving mail or wire fraud affecting a federally insured depository institution. The Attorney General is authorized to seize forfeited property relating to bank fraud.

Section 152: Expanding Restitution to Victims of Bank Fraud.—Restitution provisions are expanded to authorize the restoring of forfeited property to the victims of bank fraud. In addition, courts are authorized to order restitution to victims of bank fraud even if the conviction did not involve those specific victims or property.

Section 153: Expands Money Laundering Offenses to Include Bank Fraud.—Expands the prohibition on the laundering of money to include proceeds resulting from bank fraud and mail fraud.

Section 154: No Bankruptcy Protection for Breaches of Fiduciary Duty.—Bankruptcy court protection would be denied to officers, directors and other "institution-affiliated parties" (e.g., shareholders, employees and agents) for debts arising from a breach of their fiduciary duties to federally insured institutions.

Section 155: No Bankruptcy Protection for Bank Fraud.—A bankruptcy court is prohibited from discharging debts of those who committed fraud while an officer, director or other fiduciary of a federally insured institution. No protection in bankruptcy court would be available for damages, penalties, fines, forfeitures, restitution, or similar claims ordered by a court or by a bank regulatory agency. Bankruptcy court protection would also be denied those who breach commitments to maintain the capital levels of federally insured institutions.

Section 156: Disclosure of Enforcement Actions.—Enforcement actions by federal bank regulatory agencies, including hearings and settlement agreements, would be open to the public unless the agency determines that open proceedings or other disclosures would not be in the public interest.

SUBTITLE E—INCREASED RESOURCES FOR INVESTIGATIONS AND PROSECUTIONS

Section 201: Congressional Findings Concerning Bank Fraud.—Currently there are over 7,000 FBI investigations of bank fraud and embezzlement, some 3,000 of which involve potential losses of more than $1 million. The Attorney General has indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity. The RTC has estimated that 60 percent of the savings and loans seized have been victimized by serious criminal activity.

Section 202: $203.5 Million Authorized to Combat S&L Fraud.—Appropriations of $162.5 million are authorized for the Justice Department and FBI each year through fiscal year 1993 to hire the prosecutors and investigators needed to combat fraud in the savings and loan industry. In addition, appropriations of $16 million are authorized for fiscal year 1991 to hire 160 IRS agents to assist in investigation of savings and loan fraud. Finally, an additional $25 million is authorized to be appropriated to the courts to handle the increased caseload relating to

savings and loan fraud and other criminal prosecutions.

SUBTITLE F—COMBATING FRAUD IN THE SALE OF ASSETS

Section 251: Concealment of Assets a Crime.—Concealment of assets subject to a claim by the federal banking agencies or the RTC are subject to fines of up to $1 million and up to 5 years imprisonment.

Section 252: Proceeds from Fraud Involving Asset Sales Subject to Forfeiture.—Expands federal forfeiture law to permit seizure and forfeiture of the proceeds of fraud against the U.S. government involving the sale of assets by the RTC and FDIC.

Section 253: Civil RICO Actions by the RTC and FDIC.—The RTC and FDIC are expressly authorized to bring civil actions against financial institution racketeers under the Racketeer Influenced and Corrupt Organizations Act.

Section 254: RTC and FDIC Subpoena Authority.—Clarifies the subpoena authority of the RTC and FDIC to assist the agency in uncovering assets and recovering funds.

Section 255: Recovery of Fraudulently Conveyed Assets.—Creates a uniform federal statute that permits the RTC and the FDIC to recover assets fraudulently conveyed during the five years prior to the failure of financial institution when assets were transferred to hinder, delay or defraud the insured depository institution.

Section 256: Prejudgment Attachment and the Freezing of Assets.—The RTC and FDIC are authorized to have a court appointed trustee take the assets of those who may be liable in connection with an insolvent institution to prevent the dissipation or transfer of those assets. Federal banking agencies, the RTC and the Justice Department are authorized to obtain an ex parte court order to freeze assets in connection with certain actions in order to prevent the dissipation, transfer or disposal of assets.

Section 257: Injunctions Involving Schemes to Defraud Financial Institutions.—When schemes to defraud financial institutions are uncovered, the RTC, FDIC and NCUA, are authorized to obtain court ordered injunctions to prevent losses or damages in other cases, arising from the potential dissipation of assets or other activities that may hinder the executions of judgments for money damages.

Section 258: RTC Enforcement Division.—The RTC is directed to establish a Fraud and Enforcement Review Division to assist other agencies in coordinating and pursuing criminal, civil and administrative enforcement actions against those responsible for losses at insolvent savings and loans.

Section 259: RTC and FDIC Priority of Claims.—This provision gives the FDIC's and RTC's claims against those responsible for losses at insured institutions a statutory priority over competing suits by shareholders and other parties. Several courts previously recognized this priority while others did not. This provision would expressly grant the FDIC and the RTC a priority as to private claims which are filed after enactment. The provision is neutral with respect to the FDIC's and RTC's entitlement under current law to a priority with respect to pending claims.

Section 260: Fast Tract Litigation to Recover Funds.—Courts are directed to give expedited review to cases brought by the FDIC/RTC to recover funds from those who caused losses at insured institutions.

SUBTITLE G—INCREASED AUTHORITY FOR FEDERAL MAGISTRATES

Section 301: Expanded Authority to Expedite Bank Fraud Cases.—Expands the authority of federal magistrates to accept the guilty pleas of defendants charged with defrauding a federally insured institution.

SUBTITLE H—INTERAGENCY COORDINATION

Section 351: Interagency Coordination.—Permits federal agencies, including the IRS, OTS, Secret Service and others to loan personnel who can assist in S&L fraud investigations to the Justice Department without requiring reimbursement. Attorneys detailed from other agencies can serve as special assistant U.S. Attorneys under the direction of the Attorney General.

Section 352: International Banking Agency Cooperation.—Authorizes the Federal banking regulatory agencies and the RTC to provide assistance to, and receive assistance from, foreign bank regulators in investigations of bank regulatory violations.

Section 353: Technical Amendment.—Corrects a statutory miscite in a provision of Federal Deposit Insurance Act relating to regulatory enforcement authority over foreign banks.

SUBTITLE I—FINANCIAL ANTIFRAUD ENFORCEMENT ACT

Sections 401-469 Rewards and Private Litigation in Bank Fraud Cases.—Persons who provide information to the Attorney General relating to bank fraud or the location of assets subject to a claim by the Government relating to bank fraud are authorized to receive rewards up to 20% to 30% of the first $1 million recovered, 10% to 20% of the next $4 million recovered and 5% to 10% of the next $5 million recovered, as determined by the Attorney General.

When appropriate, the Attorney General may retain an attorney chosen by the informant, on a fixed or contingent fee basis, to pursue claims relating to bank fraud. Courts are authorized to award private counsel retained by the Attorney General reasonable attorneys fees.

SUBTITLE J—TECHNICAL AMENDMENTS

Section 501.—Deletes obsolete terms in bank fraud statutes and makes other technical changes.

Section 502.—Corrects a statutory miscite in a provision of Right to Financial Privacy Act.

Mr. HEINZ. Mr. President, I want in conclusion, to thank and congratulate the many people who have worked on this amendment. I have particularly worked with Senator WIRTH, Senator GRAHAM, and Senator BIDEN, who were here on the floor, and I do believe this represents a very strong bipartisan effort, even if from time to time the rhetoric may sound a little partisan.

Mr. WIRTH. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. DIXON. Mr. President, this debate began when my friend from Colorado, who is managing here this morning, offered an amendment that I was honored to join him in, which attempted to take $30 million from the appropriated amount for promotion of tourism in Panama to give it to the Department of Justice to hire additional prosecutors and investgators.

The battle went on when my friend from Florida, Senator GRAHAM, joined by my friend from Colorado, Senator WIRTH, in this amendment, and this Senator originally offered a strike force amendment to the crime bill.

The idea has grown a lot, Mr. President. It has incorporated the ideas of my friend, Senator BIDEN, the distinguished chairman of the Judiciary Committee; my dear friend, the distinquished Senator from Illinois, Senator SIMON; Senator KASSEBAUM; the Republican leader, Senator DOLE; Senator HEINZ, who is managing on the other side; Senator RIEGLE, Senator HOLLINGS, and others.

As I said upon original introduction of the strike force amendment, two tools are needed to prosecute these criminals: an efficient structure and sufficient resources.

Mr. President, this bill does both. It gives us the structrre, and it authorizes $162.5 million in appropriated money to do the job. This amendment improves the structure and provides for greater accountability. It will establish a special unit with local strike forces within the Department of Justice to prosecute financial crimes. Having strike forces would facilitate the kind of specialized training and skills needed to investigate these complex cases. Dedicating these resources will also prevent prosecutors from neglecting these time-consuming cases in favor of easier ones.

A new special counsel for financial institutions fraud will be accountable for spearheading prosecution of these fraud cases.

The strike forces, the RTC, the U.S. attorneys around the country, would all be required to report twice a year to the Congress on their progress. This will let Congress know whether these cases are being addressed and whether adequate resources have been allocated.

Mr. President, this amendment provides for using private parties as well, with inside knowledge to help recover money stolen in effect from the Federal Deposit Insurance Fund, an idea taken from a bill introduced by my distinguished colleague, Senator SIMON, S. 2763, which I had the honor of cosponsoring.

So, Mr. President, this is a good amendment, and it should be adopted.

I yield the floor.

Mr. HEINZ. Mr. President, how much time does the Senator from Illinois wish?

Mr. SIMON. If I could have 3 minutes.

Mr. HEINZ. I yield to the Senator from Illinois 3 minutes.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON] is recognized for 3 minutes.

Mr. SIMON. I thank my colleague from Pennsylvania. It is an illustration of the bipartisan nature of what we worked out.

First, I conmmend those who worked on the structural change. I was pleased to cosponsor that. I tell you candidly that Senator WIRTH, my colleague from Illinois, Senator DIXON, Senator GRAHAM, and others played a much more significant role in setting that up than I did. But I think it is a step forward.

There are three provisions in this compromise on the savings and loan situation that I have had the opportunity to get into this thing.

One is a provision that authorizes the Attorney General to seize assets in the case of S&L fraud. The need for that I think is so obvious I do not need to expand.

Second, it gives the RTC and the FDIC the chance to freeze the assets of those involved in fraud.

Then, finally, a provision that was a matter of some controversy on the floor before we adjourned for the recess, and here let me give credit to my colleague, Senator ROTH of Delaware, who worked with this, and also let me credit the Deputy Attorney General Designate, William Barr, for his good work on this.

And as I am passing out commendations, I see the chairman of the Judiciary Committee down here, Senator BIDEN, who has been helpful on all of this, and I appreciate it.

But this final provision is how do we encourage citizens who have knowledge of fraud or hidden assets to disclose that information? We have worked out a procedure where the Attorney General and the Justice Department continue to control, but where there is undisclosed information and that is reported, an individual citizen in the case of a criminal conviction can get a reward of $10,000 to $250,000. This is at the discretion of the Attorney General, and where assets are recovered through civil penalties, a reward of between 20 and 30 percent of the first million dollars received in those recovered assets.

It is a substantial incentive to people who have knowledge of what is going on to disclose that. The same is true, somewhat different provisions, but where someone is convicted or where civil penalties have been assessed and there are hidden assets, people who are aware of those hidden assets are given an incentive to come forward. I think it is a good provision that should help to strengthen law enforcement in this area where we have to recover every penny that we possibly can that has been fraudulently taken from savings and loans.

Mr. President, at subtitle I, the Wirth-Heinz amendment contains my and Senator ROTH's and Senator DIXON's provision on bounty hunters. The Department of Justice was helpful in crafting this package with us to add the tools of private resources to tackle S&L fraud.

Our provision works this way. An individual goes to the Justice Department or local U.S. attorney with information on savings and loan fraud. The information can not be something the Government already knows or is otherwise publicly available.

If the information is specific enough to state a prima facie case of fraud or other banking violations, then the individual files a declaration with Department of Justice or local U.S. attorney. The Attorney General has up to 3 years to review the declaration and file suit or refer it to a private attorney selected in consultation with the declarant if the information is meritorious. If it is not meritorious, the Attorney General must so inform the declarant within 3 years. If the Attorney General takes no action within 3 years, he must inform the declarant who then can require the Government to pursue the case or refer it to private counsel.

The declarant is entitled to an award of between $10,000 and $250,000 if a criminal conviction is obtained or between 20 to 30 percent of the first million dollars in civil penalties and a lesser percentage of greater amounts.

If the information is not as specific, then the person is considered an informant or tipster and can collect up to $50,000 in the Attorney General's discretion if the information leads to a conviction or civil judgment.

The same structure is established where the declarant has information about the assets of an institution or individual already convicted of bank and related fraud. This provision helps the Justice Department collect on awards already won in court. Since time lost means assets dissipated, the Attorney General must respond or act within 1 year, not 3.

Three years from now when the number of complaints should lessen, the Attorney General will be required to review declarations and act within 1 year of the filing of a declaration, rather than 3 years.

The Attorney General is required to report to Congress every 6 months as to the number of declarations, their status, awards made and their amount. A declarant can sue in court to require the Attorney General to respond in some way to a declaration.

Mr. President, the Wirth-Heinz amendment also contains my provision to authorize the Attorney General to seize through the civil forfeiture process assets which are derived from various savings and loan fraud crimes. Civil forfeiture is the process by which the Government can, with a warrant, seize assets directly, before a conviction. Once the property has been seized, the individual can bring a lawsuit to get it back. Currently, the Attorney General has this authority in other situations such as drug and money laundering cases where there is often immediate danger of loss through defendants hiding their cash in a hurry. Assets derived from savings and loan fraud are already subject to civil forfeiture by the Secretary of Treasury, but due to an apparent oversight the Attorney General is not named as a party authorized to bring the action. The amendment fixes that problem.

Finally, Mr. President, another provision in the Wirth-Heinz amendment added at my request makes it easier for the three savings and loan regulatory agencies—Federal Deposit Insurance Corporation, Resolution Trust Corporation, and National Credit Union Administration—to freeze the assets of defendants in savings and loan cases. This provision lowers the Government's burden of proof for court orders to freeze assets.

My colleagues have been very cooperative in addressing my concerns about the need for tougher, quicker, and surer prosecution of savings and loan fraud. The United States has just experienced the greatest financial theft in our history—carried out by thousands of people—and the wheels of justice grind with agonizing slowness. Today, we are voting to approve strong law enforcement. I hope the House acts soon on the savings and loan provisions contained in the Wirth-Heinz amendment. The American people want it and justice demands it.

The PRESIDENT pro tempore. The time allotted to the Senator from Illinois has expired.

Mr. WIRTH. Mr. President, I yield 2 minutes to the distinguished Senator from Vermont.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] is recognized for 2 minutes.

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of the amendment offered by Senator WIRTH, Senator BIDEN and others. I am pleased that a bipartisan consensus was reached on the amendment that is now before us. I believe it is the most sensible and comprehensive approach to cracking down on the orgy of fraud and lawbreaking that occurred during the savings and loan crisis.

We want to make sure that the Justice Department and the FBI have the tools necessary to bring these crooks to justice. We want to make sure to avoid a replay of what is quickly becoming a national nightmare.

I represent a State known for its frugality and common sense. Certainly I hear, from Vermonters, as my colleagues hear from their constituents when they go home, about their concerns on what happened to cause the S&L fiasco and what will happen to fix it. How did so much money get

stolen? How did so much money get lost to the taxpayers?

We are very careful in the State of Vermont about how we spend our money, very careful how we invest it. Our banks are run very carefully and very honestly. I am proud to say that no savings and loan fraud happened in our State. I doubt it ever could. Vermonters, just like the residents of the great State of West Virginia, represented by the Presiding Officer, are going to pay their bills.

We Vermonters have to pay part of this savings and loan bill. The people represented by every Senator here are going to have to pay part of this bill. So we need some answers about what happened, and if criminal conduct has occurred, it should be prosecuted.

I spent 8 years as a prosecutor in Vermont. I quickly learned that prosecuting criminals is not the way it is portrayed in the movies. Symbolic acts and finger pointing does not get you anywhere. The tough part is getting solid evidence and making a case so a jury will convict.

Successful prosecutions deter crimes. This amendment will help make sure the men and women who are working to bring these cases forward will have the tools to do the job and get those convictions. Those who broke the law will pay the price. This amendment will also help to ensure that a crisis like this will never, ever, happen again.

We have heard a lot about how and why the S&L disaster occurred—about impersonal forces like the collapse of the real estate market in one State or another, about the folly of deregulating an industry that needed more regulation, about allowing S&L executives to invest federally insured money in very risky investments.

But what has become shockingly clear in recent months is the degree to which outright fraud contributed to this crisis.

According to the Attorney General, 25 to 30 percent of all S&L failures can be attributed to criminal activity by the institution's officers and directors. According to Bill Seidman, Chairman of the FDIC and undoubtedly the most respected government official currently dealing with this crisis, some 60 percent of the institutions seized by the Resolution Trust Corporation have been the victims of "serious criminal activity."

The magnitude of this manmade disaster has far outstripped the ability of our prosecutors and investigators to keep up.

The FBI has over 7,000 pending cases of bank and thrift crime—cases in which the Bureau has reviewed the allegations and decided to go forward. Of these, over 3,000 involve losses greater than $100,000. The Bureau is also investigating 530 failed banks and thrifts. And it has over 21,000 unaddressed referrals in its files—matters on which it has not yet decided to go forward or to dismiss.

This is intolerable. It is one thing to tell the American people that they are being saddled with a Paul Bunyan sized bailout bill through no fault of their own. It is quite another to tell them to be patient—to be indulgent—toward the shady dealers and sharp operators who have taken us all to the cleaners.

Mr. President, the American people will not stand for it and they shouldn't.

The least that this Congress and this administration can do is to make darn sure that the resources needed to crack down on S&L swindlers are in place and are operating effectively.

For whatever reason, the Bush administration refused to face up to the dimension of the S&L enforcement problem until quite recently. For example, although last year's bailout bill—FIRREA—authorized an additional $75 million a year to investigate and prosecute financial institution crimes, the administration requested only $50 million for the current fiscal year.

This made no sense. In March 1989, the FBI concluded it would need 425 new agents plus substantial numbers of accounting support staff to investigate thrift fraud and embezzlement. The administration's $50 million has provided less than half of these needs. The truth is that the $75 million provided by FIRREA wasn't enough, and the administration wouldn't even take that.

What the administration did not seem to appreciate is that a slow, deliberate pace is just not good enough when every man, woman and child in this country is being asked to pay over $1,000 to fix this mess. These cases may be complex and they may be intricate, but the only appropriate pace for our prosecution effort is a full-court press.

I am pleased, however, that at least at this point, the administration appears to be recognizing the need for a redoubled effort. Last month, I spoke with Acting Deputy Attorney General Barr at his confirmation hearing, and he expressed a positive attitude that I hope will be a sign of Justice Department cooperation in the weeks and months ahead.

The amendment before us is a tough, comprehensive, approach to the problem of S&L enforcement.

It includes a number of key provisions that will bolster our effort to punish S&L fraud.

First, and probably most important, it provides funding for additional, badly needed resources including 642 additional assistant U.S. attorneys and technical support staff, 370 new FBI agents and support staff, and $16 million for additional IRS investigators for S&L related fraud cases.

You cannot fight a battle without troops in the field and the only way we can speed up the pace of prosecution is to bring in reinforcements.

Second, this legislation will create a new Financial Institutions Fraud Unit in the Justice Department. The special counsel in charge of this unit will have the benefit of being able to focus exclusively on financial crime without having his attention diverted to other pressing criminal matters like drugs.

In addition, this amendment directs the Attorney General to establish 10 interagency strike forces in key areas of the country drawing not just on Federal prosecutors and FBI but on investigators from the IRS, Secret Service, and bank regulatory agencies.

Third, the bill will expand the reach of our civil forfeiture laws to cover mail and wire fraud to the extent such fraud affected banks or thrifts.

Fourth, this bill will toughen the penalties against all those who may be tempted to try to make a fast buck in connection with the massive sell-off of properties held by the RTC. With the RTC having to sell off tens of thousands of properties worth tens of billions of dollars, we have to take tough steps to prevent a whole new round of fraud.

In this regard let me say that I have been particularly troubled by reports that the same S&L con artists and the same fast and loose developers who played roulette with borrowed money may now be getting ready to cash in on the sale of properties held by the Resolution Trust Corporation.

Regulators reportedly expect that property speculators who have already defaulted on their loans will line up to buy the same property back from the RTC at bargain-basement prices.

And S&L executives who have already driven their institutions into the ground are expected to line up, too. No doubt they figure they'll have an inside track on the bidding thanks to the inside information they have about properties that were held by their own S&L's.

Of course, when it comes to sheer, unadulterated gall, Charles Keating, the original S&L kingpin, has no equal. Keating ran the Lincoln Savings and Loan into the ground at a cost of a billion dollars to the taxpayers, and now he proposes that the assets of Lincoln be sold back to him.

The American people would be justifiably outraged if we allowed the same wheeler-dealers who fleeced us once to launch a new get-rich-quick scheme through the purchase of RTC assets. So I intend to offer shortly a bill to prevent buybacks of this kind.

Any executive of a failed S&L who played a significant role in squandering the assets of his institution would

be barred from buying those assets back from the RTC. And anyone who defaulted on a loan from a failed S&L would similarly be barred from turning around and buying that S&L's assets back.

The least the American people can expect in cleaning up the S&L mess is swift and sure justice. This Congress and this administration have an obligation to see that it is provided.

Mr. President, these are tough provisions. I have never believed that measures like civil forfeiture should be undertaken lightly. But these are not ordinary times.

I thank the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. WIRTH. Mr. President, I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDENT pro tempore. The Senator from Florida [Mr. GRAHAM], is recognized for 3 minutes.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I commend all those who worked over the past several days in bringing this important amendment to the attention of the Senate. I urge its adoption by our colleagues.

I have been particularly involved in the provision that relates to the establishment of a new Office of Special Counsel within the Department of Justice, and then a series of units or task forces which will bring greater institutional capacity to deal with those people who have broken the law, who have engaged in fraudulent activities, and who are now benefiting by the proceeds of those criminal and fraudulent activities.

Mr. President, we have had some experience in the past with how to deal with unusual investigations and prosecutions. One of those which I believe was very successful was the establishment of a series of task forces under a designated officer within the Department of Justice to deal with organized crime.

The essential genius of that structure was that the persons who had that single responsibility were responsible and accountable. Also, Mr. President, you had the ability of individuals to gain wisdom and understanding and insight as to how to prosecute these especially difficult cases.

Finally, Mr. President, you were not asking a U.S. attorney who already had an overburdened workload of the types of activities that are their day-to-day responsibility to now suddenly take on a new, highly sophisticated area of investigation and prosecution. I believe that model which served this Nation effectively in dealing with organized crime is the model that can serve us well now in dealing with the issues of savings and loan criminal and fraudulent activity.

It is that essential idea which is now incorporated in this amendment, and I hope will soon be part of the crime bill and will soon be in use to give to our Department of Justice greater capacity to deal with illegal activity and to give the American people greater confidence that there is somebody who is concerned, accountable, and capable of taking serious actions against those individuals who have caused the greatest single financial crisis debacle in the history of this Nation.

Thank you, Mr. President.

The PRESIDENT pro tempore. Who yields time?

Mr. WIRTH. Mr. President, I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. I know the Senator is pressed for time. May I take 1 minute?

Mr. WIRTH. I yield 1 minute to the distinguished Senator.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN] is recognized for 1 minute.

Mr. BIDEN. Mr. President, I save the plaudits for those who worked hard on this. Many have.

Let me make two points. I think there are several very important parts of the bill, not the least of which is the forfeiture provision that now extends to bank fraud cases and allows us to go after assets, homes, yachts, just like we do with drug dealers.

Second, we put a provision in this bill that we drafted, and it is called the kingpin provision. We provide for up to life imprisonment. You know, if we took all the bank robberies at the rate that they have occurred over the recent several decades and added them up, it would take 4,000 years before the bank robbers of this country could steal as much as the S&L fraud kingpins have stolen from the American public. It would take 4,000 years.

If we are going to put somebody in jail for robbing a bank, we should throw the key away for some of the people who have bilked the savings and loans.

Mr. President, as we know the S&L crisis is the biggest financial scandal in this Nation's history. It is hard to grasp just how much this scandal will cost taxpayers.

But think of it this way: What we will spend on cleaning up the S&L's is equivalent to what bank robberies will cost us over the next 4,000 years.

Much of the S&L crisis can be directly attributed to fraud and insider abuse. William Seidman, head of the Federal Deposit Insurance Corporation, estimates that 60 percent of the S&L failures can be linked to fraud and criminal wrongdoing.

Unfortunately, the S&L violators that we have nabbed are spending little time behind bars. According to a recent study, in 1989 the average S&L offender received a sentence of just 1.9 years in prison, in comparison, the average bank robber was sentenced to a prison term of 9.4 years.

The white-collar criminals who are responsible for this massive rip off must be brought to justice.

And that's exactly what this amendment does.

The amendment is based on the comprehensive S&L fraud enforcement bill that I introduced last month, S. 2786.

Most importantly, this amendment includes many of the provisions I am proud to have authored:

Creating an S&L kingpin statute, which provides up to life imprisonment for the most egregious cases of S&L fraud and embezzlement.

Requiring the U.S. Sentencing Commission to impose stiff, mandatory minimum penalties for major S&L violators;

Expanding civil and criminal forfeiture laws to allow prosecutors to seize and recover the ill-gotten assets from important bank and thrift fraud crimes.

Finally, the amendment adds $203 million to fight S&L fraud—$103 million above the administration's request—boosting our forces with 375 new FBI agents, 600 new prosecutors, 100 more IRS investigators and additional money for U.S. courts to track down and punish S&L violators.

This amendment takes a major step in bringing these S&L criminals to justice. Under this amendment, major S&L offenders will spend time behind bars. Their assets will be seized. And every possible dollar will be recovered for depositors and taxpayers.

The S&L debacle can't be undone. But we can punish the white collar rip off artists who have perpetrated this fraud, thereby deterring such crimes in the future.

The PRESIDENT pro tempore. Who yields time?

The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. I yield 2 minutes to the distinguished Senator from Nevada.

The PRESIDENT pro tempore. How much time is the Senator yielding?

Mr. THURMOND. Two minutes to the distinguished Senator from Nevada.

The PRESIDENT pro tempore. The Senator from Nevada, [Mr. BRYAN] is recognized for 2 minutes.

Mr. BRYAN. Thank you very much, Mr. President. I thank my distinguished colleague for yielding time to me.

I preface my comments this morning by congratulating Senator WIRTH, Senator HEINZ, and others for their leadership in processing this amendment. A number of us who have served on the Banking Committee have been particularly distressed to see the evidence that has been developed over

the last few months indicating there are a large number of people who have been involved in criminal misconduct.

As a consequence of their criminal misconduct, billions of dollars have been lost as a result of the savings and loan collapse in a number of States.

What is even more distressing is that those that have been involved in this misconduct in all too many cases have not been aggressively and effectively prosecuted. So I am particularly pleased to see that this amendment does a couple of things among several that I think gets right to the heart of it, and that is, it concentrates the attack on the S&L fraud cases by creating a new financial institutions fraud unit. I think that gives it the kind of priority we need.

I am particularly pleased as well, Mr. President, to see that the resources which the field agents, the FBI, the Justice Department, and the assistant U.S. attorneys have requested and which heretofore had only been approved by approximately 50 percent of the request, that we are finally providing the resources. My colleagues and good friend from the State of Florida, Senator GRAHAM, who joins us on the floor this morning, has taken a leadership role in this, and I am pleased to support amendments which he has been working on and legislation which he has introduced.

So, Mr. President, I compliment those who have worked on this amendment. I think it provides the kind of attention and priority and the resources to get the job done, and the American public has a right to expect that those who are guilty of the most egregious kind of criminal misconduct ought to be prosecuted vigorously and effectively.

I thank the Chair.

(Mr. KOHL assumed the Chair.)

Mr. WIRTH. Mr. President, I yield myself whatever time is remaining on our side.

Mr. President, I, first of all, thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and his very able staff for a variety of provisions from Judiciary which are in this amendment.

I also thank the Senate Banking Committee, Senator RIEGLE and staff. I also thank the majority. Senator HEINZ and I spent an awful lot of time trying to pull this all together. Senator GARN took part in a great number of the bargaining sessions, and Senator DOLE was certainly of great help.

Senator PRYOR and Senator BOB KERREY, as well as the other people who have spoken today, have pulled together what I think is a very important amendment.

Mr. President, I am pleased to join Senators HEINZ, GRAHAM, DOLE, BIDEN, DIXON, RIEGLE, and a number of other colleagues in offering this amendment to the crime bill. Fraud and other criminal activity involved in the S&L industry in recent years should not be ignored as we consider crime legislation. A number of Senators had offered legislation to address S&L crime, making various suggestions to help investigators and prosecutors in their efforts to bring those who looted our S&L's to justice. I am pleased that we were able to work out this comprehensive bipartisan package that incorporates many of these proposals.

The S&L debacle is the largest financial crisis in our Nation's history. While it will be years before we know the final tally, the cost of resolving the industry's problems, according to some estimates, may reach $500 billion or more. No matter what the final figure, it represents a vast sum that we will be unable to devote to other critical needs such as education, our crumbling infrastructure, biomedical research and environmental protection. There is no question, Mr. President, that fraud and other crimes played a significant role in the S&L crisis.

In recent months the need to pursue fraud and other crimes that contributed to the S&L crisis has drawn a great deal of attention in Congress and by the administration and the public. By now, we are all familiar with the story.

FRAUD AND THE S&L CRISIS

An October 1988 report of the House Government Operations Committee found that insider misconduct caused or contributed to more than three-fourths of all thrift failures.

Last June, the General Accounting Office [GAO] issued a report that examined 26 thrift failures and compared them to a sample of 26 solvent S&L's. The GAO found activities at each insolvent institution that appeared to be fraud and insider abuse. Investigations or legal action had been initiated against 25 of these 26 thrifts or against persons associated with the S&L's.

Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management.

Officials at the Resolution Trust Corporation [RTC] indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity."

LARGE AND GROWING INVESTIGATION AND PROSECUTION CASELOADS

The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the Bureau has been unable to address. More than 1,000 of these cases involve losses of more than $100,000.

As of February 1990, the Bureau also had more than 7,000 pending bank and S&L fraud and embezzlement cases, some 3,000 of which were major. And more than 900 of the pending cases and 234 of the unaddressed referrals involve losses greater than $1 million.

Mr. Timothy Ryan, the new Director of the Office of Thrift Superivision, recently indicated that the Department of Justice had received between 20,000 and 25,000 criminal referrals in recent years.

Mr. President, the need for additional resources to attack fraud and other crime in the S&L industry is well known.

FUNDING FOR INVESTIGATION AND PROSECUTION OF S&L CRIME

Last year the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized $75 million annually for 3 years to investigate and prosecute financial institution crimes. However, the administration requested only $50 million for the current fiscal year. These funds were used to expand staff in FBI and U.S. attorneys' offices throughout the country.

The $50 million in funding is inadequate. The additional personnel do not meet the staffing needs identified in a 1989 FBI survey. In this survey, FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than the agencies received.

The administration's budget proposal for fiscal year 1991 is also inadequate. The budget would only permit the FBI to add 42 agents and 26 support staff, well short of the bureau's staffing needs.

Additional resources are needed as soon as possible because the passage of time makes investigation more difficult.

In recent testimony before the House Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee, administration officials indicated there is a need for additional resources to pursue financial institution crimes.

On March 14, 1990, Mr. Oliver B. Revell, Associate Deputy Director of the FBI, discussed the difference between the March 1989 request and the eventual allocation of resources to pursue financial institution fraud and embezzlement. Mr. Revell said that these additional personnel were still needed and that "we wouldn't have asked for them if we didn't need them."

On March 15, 1990, Assistant Attorney General Edward S.G. Dennis, Jr. testified before the same House subcommittee. Mr. Dennis's statement noted that seven FBI field offices requested additional special agents but were not allocated any new agents. Ten other field divisions were de-

scribed by Mr. Dennis as receiving "substantially fewer positions than requested."

The story was similar when Mr. Dennis turned to the U.S. attorneys offices: 11 districts requested additional assistant U.S. attorneys but did not receive any while 8 districts received substantially fewer positions than they requested.

Mr. Dennis said that "A significant reason why these shortages exist is that there is insufficient funding under FIRREA to fill all the requested positions." That may be the case. However, FIRREA authorized $25 million more than the $50 million the administration requested for this purpose.

Timothy Ryan, the Director of the Office of Thrift Supervision also recently called upon Congress to provide more resources to investigate and prosecute financial institution crimes.

Mr. President, the Wirth-Heinz amendment is a comprehensive package based on legislation a number of us introduced as S. 2786 in late June.

It is the product of discussions and negotiations involving Senators on both sides of the aisle. It is a sound proposal that we all can and should support. I am particularly pleased by the authorization of new resources to investigate and prosecute financial services crimes and the creation of a Financial Services Fraud Unit within the Department of Justice and an enforcement unit within the RTC.

The fraud unit at the Department of Justice would coordinate and focus efforts to investigate and prosecute fraud and other criminal activities in the financial services industry and determine how to deploy resources most effectively. The amendment also authorizes the Attorney General to establish financial services crime strike forces to pursue criminal activity within the industry. These steps would raise the visibility of this effort, sending a clear message to the American public and those involved in the financial services industry that we will not tolerate the criminal activity that contributed to the S&L industry's losses.

The legislation also authorize a significant increase in resources devoted to the investigation and prosecution of the criminals who were active in the industry. The Wirth-Heinz amendment authorizes $162.5 million for each of the next 3 years. The increased authorization would bring additional FBI agents, assistant U.S. attorneys, IRS agents, support personnel and financial experts on board to aid in S&L crime enforcement. Importantly, additional funds would also be provided to the judicial branch to help the courts handle the increased caseload.

For several months now, I have sought an increase in resources for this purpose. I am pleased that these provisions are a part of the amendment and that Senator HOLLINGS intends to seek increased funding during the appropriations process. Such a step is perhaps the most effective thing we can do at this time to increase efforts to pursue S&L crime. If we give the FBI and the U.S. attorneys more resources, the Department of Justice will be able to make more progress against the backlog of cases.

There are a number of other provisions in the package that also deserve our attention and support. For example, the amendment includes tough new sentencing requirements that would raise the maximum penalty for bank fraud and embezzlement to 30 years—an increase of 10 years, add an S&L kingpin provision that provides life imprisonment for those who acted in concert with at least three others and who received more than $5 million from their crimes, and impose mandatory minimum sentences in major bank fraud and embezzlement cases.

Other important provisions would change Federal asset seizure, forfeiture, and bankruptcy laws to increase recoveries from those who looted the S&L's and the deposit insurance fund.

This is the most comprehensive package to tackle S&L crime that we have seen introduced in the Senate. It is long past the time for speeches and photo opportunities, Mr. President. We need to act. The Wirth-Heinz amendment sends a message to the FBI agents, U.S. attorneys and support personnel working on the frontlines against financial institution crime that help is on the way. I encourage my colleagues to support this amendment.

I would like to highlight just two points here Mr. President, in the final seconds remaining. One, that we are, in this amendment, concentrating the attack on S&L fraud cases through this new financial institutions fraud unit in the Justice Department, bringing together the resources necessary to target them where they must be targeted. Second, that we increase the resources available to the President and to the Attorney General. We are authorizing $162 million, the amount defined by the distinguished chairman of the Appropriations subcommittee, Senator HOLLINGS, for each of the next 3 years. This will allow the necessary resources that we have heard from friends in the Justice Department were necessary: 224 FBI agents were requested by the FBI, 146 support staff; and in the U.S. attorneys offices to add 205 additional attorneys, 205 support staff, and 50 auditors. The Tax, Civil, and Criminal Divisions of the Department of Justice will be able to add 104 attorneys and support staff. These are the resources necessary, Mr. President, to do the job.

I hope that now we find the Attorney General orchestrating them, as we have asked him to do in this bipartisan amendment.

Again I thank all Senators for this very broad bipartisan package.

Mr. President, I ask unanimous consent that a summary of the amendment and a savings and loan fact sheet be printed in the RECORD.

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

SUMMARY—S&L CRIME AMENDMENT

INCREASES BANK FRAUD AND EMBEZZLEMENT PENALTIES

Increases the maximum penalty for bank fraud and embezzlement from 20 years to 30 years.

Creates a new "S&L kingpin" statute that provides up to life imprisonment for the highest-level of S&L violators who act in concert with three or more other violators and who derive more than $5 million from their crimes.

Authorizes the Attorney General to bring civil and criminal suits under the Racketeer Influenced and Corrupt Organizations (RICO) law for additional bank fraud and embezzlement-related crimes not currently under RICO.

Imposes stiff mandatory minimum sentences in major bank fraud and embezzlement cases to ensure that S&L violators serve time behind bars.

FINANCIAL INSTITUTIONS FRAUD UNIT

Concentrates the attack on S&L fraud cases by creating a new Financial Institutions Fraud Unit in the Department of Justice, headed by a special counsel.

Authorizes new Financial Institutions Fraud Strike Forces in those cities hardest hit by the S&L scandal, composed of special teams of FBI agents, IRS criminal investigators, bank examiners and federal prosecutors.

EXPANDING FEDERAL ASSET SEIZURE, FORFEITURE, AND MONEY LAUNDERING LAWS IN S&L-RELATED CASES

Allows U.S. prosecutors to use civil seizure and forfeiture laws to recover the proceeds of mail and wire fraud involving financial institutions.

Authorizes the Attorney General to seize property used in or derived from bank fraud and embezzlement crimes; current law restricts such seizure authority to the Secretary of the Treasury.

Makes the laundering of proceeds derived from important bank fraud and embezzlement offenses a crime under the federal money laundering statute.

Authorizes the Attorney General to restore forfeited property directly to victims, including those involved in S&L fraud cases, rather than requiring victims to file a time-consuming action in civil court.

Prohibits the discharge of certain S&L-related debts as a result of bankruptcy proceedings.

Generally allows for public disclosure of regulatory enforcement actions, administrative orders and supervisory agreements.

INCREASING INVESTIGATORS AND PROSECUTORS FOR BANK FRAUD AND EMBEZZLEMENT CASES

Authorizes $162.5 million for each of the next three years to dramatically expand the number of federal agents and prosecutors devoted to bank fraud and embezzlement cases.

The new funds would allow the FBI to add 244 agents and 146 support staff, and

U.S. Attorneys' offices to add 205 additional attorneys, 205 support staff, and 50 auditors. The tax, civil, and criminal divisions of the Department of Justice would be able to add a total of 104 attorneys and 78 support staff. These personnel would be in addition to those added as a result of the $50 million appropriated for the current fiscal year.

Authorizes $16 million for Fiscal Year 1991 for the Internal Revenue Service to increase the number of investigators in S&L related cases.

PREVENTING AND PROSECUTING FRAUD IN THE SALE OF ASSETS BY THE RTC

Expands federal forfeiture laws to authorize U.S. prosecutors to seize the proceeds of fraud against the U.S. government involving the sale of assets by the Resolution Trust Corporation.

Authorizes the RTC and the FDIC to bring civil RICO charges on their own behalf for violations in and against the banking and savings and loan industries.

Gives the RTC subpoena authority and clarifies the existing subpoena authority of the FDIC to investigate sales of assets by the RTC.

Permits the RTC and FDIC to place under the control of a court-appointed trustee the assets of individuals who may be held culpable in the failure of an insured depository institution.

Establishes a uniform federal statute that permits the RTC and the FDIC to unwind fraudulent conveyances made in anticipation of liability for fraud involving the thrift and banking industries dating back over a five-year period.

Creates an Enforcement Division within the RTC.

INCREASING JUDICIAL RESOURCES TO ENSURE PROMPT PROSECUTION OF BANK FRAUD AND EMBEZZLEMENT CASES

Provides $25 million in additional funding for the Judicial Branch for those districts where the S&L-related case load is the heaviest.

Expands the authority of federal magistrates in bank fraud and embezzlement cases to expedite these cases in federal courts.

PRIVATE ACTIONS AGAINST BANK FRAUD AND EMBEZZLEMENT

The bill encourages individuals to report Savings and Loan fraud to the Department of Justice by providing rewards to individuals whose information leads to conviction or liability. Should the Justice Department not act within a certain time on the information provided by the informer, the individual may hire a private attorney to proceed with the action. The bill also provides whistleblower protection.

SAVINGS AND LOAN FACTSHEET

The Savings and Loan (S&L) debacle is the largest financial crisis in our nation's history. According to the Treasury Department, the cost of resolving the crisis today could be as much as $132 billion. The General Accounting Office (GAO) calculates that the overall cost could reach $500 billion over a 30-year period.

FRAUD AND THE S&L CRISIS

Fraud and other criminal activity contributed significantly to the Savings and Loan industry's losses and will cost taxpayers billions of dollars.

An October 1988 report of the House Government Operations Committee found that insider misconduct caused or contributed to more than three-fourths of all thrift failures.

Last June, the General Accounting Office (GAO) issued a report that examined 26 thrift failures and compared them to a sample of 26 solvent S&Ls. The GAO found activities at each insolvent institution that appeared to be fraud and insider abuse. Investigations or legal action had been initiated against 25 of these 26 thrifts or against persons associated with the S&Ls.

Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the Savings and Loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management.

Officials at the Resolution Trust Corporation (RTC) indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity".

LARGE AND GROWING INVESTIGATION AND PROSECUTION CASELOADS

The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the Bureau has been unable to examine. More than one thousand of these cases are major involving losses of more than $100,000.

As of February 1990, the Bureau also had more than 7,000 pending bank and S&L fraud and embezzlement cases, some 3,000 of which were major. And more than 900 of the pending cases and 234 of the unaddressed referrals involve losses greater than $1 million.

Mr. Timothy Ryan, the new Director of the Office of Thrift Supervision, recently indicated that the Department of Justice had received between 20,000 and 25,000 criminal referrals in recent years.

Regulators will examine and close more insolvent institutions and the Department of Justice will receive thousands more referrals of possible criminal activity related to Savings and Loan failures, increasing the workload for federal investigators and prosecutors.

FUNDING FOR INVESTIGATION AND PROSECUTION OF S&L CRIME

Last year the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) authorized $75 million annually for three years to investigate and prosecute financial institution crimes. However, the Administration requested only $50 million for the current fiscal year. These funds were used to expand staff in FBI and U.S. Attorneys' offices throughout the country.

The $50 million in funding is inadequate. The additional personnel do not meet the staffing needs identified in a 1989 FBI survey. In this survey, FBI and U.S. Attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. Attorney positions, and 142 more support staff positions than the agencies received.

The Administration's budget proposal for FY 1991 is also inadequate. The budget would only permit the FBI to add 42 agents and 26 support staff, well short of the bureau's staffing needs.

Additional resources are needed as soon as possible because the passage of time makes investigation more difficult.

In recent testimony before the House Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee, Administration officials indicated there is a need for additional resources to pursue financial institution crimes.

On March 14, 1990, Mr. Oliver B. Revell, Associate Deputy Director of the FBI, discussed the difference between the March 1989 request and the eventual allocation of resources to pursue financial institution fraud and embezzlement. Mr. Revell said that these additional personnel were still needed and that "we wouldn't have asked for them if we didn't need them."

On March 15, 1990, Assistant Attorney General Edward S.G. Dennis, Jr. testified before the same House Subcommittee. Mr. Dennis' statement noted that seven FBI field offices requested additional Special Agents but were not allocated any new agents. Ten other field divisions were described by Mr. Dennis as receiving "substantially fewer positions than requested."

The story was similar when Mr. Dennis turned to the U.S. Attorneys Offices: 11 Districts requested additional Assistant U.S. Attorneys but did not receive any while eight Districts received substantially fewer positions than they requested.

Mr. Dennis said that "A significant reason why these shortages exist is that there is insufficient funding under FIRREA to fill all the requested positions." That may be the case. However, FIRREA authorized $25 million more than the $50 million the Administration requested for this purpose.

Timothy Ryan, the Director of the Office of Thrift Supervision also recently called upon Congress to provide more resources to investigate and prosecute financial institution crimes.

Mr. ROTH. Mr. President, the mask and gun no longer fit the stereotypical image of a bank robber in today's world of high-technology finance. More likely, today's bank robber is an insider who leaves no smoking gun but a bewildering trail of paperwork. For these reasons, law enforcement agencies have a particularly difficult time investigating fraudulent transactions and apprehending the wrongdoers. Perhaps even more damaging, as it has become evident in the wake of the savings and loan crisis, is that the American taxpayer has become the ultimate victim of the modern bank robbery.

To address the problem of fraud against financial institutions, the distinguished junior Senator from Illinois and I introduced a proposal 2 weeks ago with two fundamental purposes: First, to augment the resources of the Department of Justice by engaging the private sector in vindicating the justified outrage by the American people over the savings and loan scandal; and second, to encourage the production of human clues that can give form and substance to the burdensome mass of paper trails left behind fraudulent activities.

During the course of several meetings with the Department of Justice and the various banking regulatory agencies to discuss the original proposal, we did not lose sight of those two important goals. It is our belief that the two goals are achieved in pending the Simon-Roth-Dixon amendment. This legislation will, therefore, appreciably assist the administration's effort to make wrongdoers pay, to the

maximum extent possible, for cleaning up the savings and loan mess. Moreover, we believe that the legislation balances, on the one hand, the legitimate concerns by the Department of Justice in coordinating the hundreds of internally generated criminal actions as well as the thousands of referrals from the various banking regulatory agencies with, on the other, the urgent need to proceed efficiently and effectively in recovering money from wrongdoers.

Given the magnitude and the complexity of the fraud among the failed savings and loan, one is instinctively attracted to the suggestions that a massive increase in manpower resources would be necessary to combat the fraud issue as well as to recover the assets of the failed institutions. But no department, much less the Department of Justice, can exponentially increase its staff overnight. While we can, and should, augment the resources of the Department, it would be inadvisable to suggest that the Department beef up its personnel in so great an amount for so short a time.

My original legislation proposed qui tam litigation as a method of asset recovery modeled after the False Claims Act. The purpose of such a legal device was to engage the private sector as an additional resource dedicated to the recovery of stolen assets and to openly solicit individuals to come forward with solid evidence of fraud against financial institutions. During the course of our discussions with the Department of Justice and the bank regulatory agencies, it became apparent that private causes of action in the name of the United States as applied to the current savings and loan crisis, might be more of an administrative burden than a financial benefit. A sudden deluge of hundreds, perhaps thousands, of qui tam bank fraud actions which the Department of Justice must review under the original proposal might have conflicted with and interfered with ongoing fraud cases being pursued by the Department of Justice.

That is not to suggest that the analytical structure of the qui tam model has been abandoned altogether in the legislation that is before us. Rather, it is our belief that the modified proposal achieves the substantive goals of qui tam if not its procedure and form. We have modified this tool to adapt it to the particular circumstances before us.

The Simon-Roth-Dixon amendment provides a substantial monetary award as an incentive for individuals to come forward with specific information about the fraudulent conduct of particular individuals in connection with a failed depository institution through a reward procedure as well as a recovery of the proceeds after judgment. Such information must, when combined with other elements, constitute a prima facie case of criminal violation of specific title 18 statutes and bank regulatory statutes. Alternatively, the Attorney General may still choose to reward an individual for providing information unknown to the Government that has relevance to a possible prosecution under specific sections of title 18.

The award authorized can be a substantial percentage of the recovered assets—up to $1.6 million—in the first instance or a fixed statutory amount not to exceed $250,000 in the second. The basis for these awards to informants may be either a criminal or civil proceeding. This is an improvement over the qui tam model which depends only on civil recoveries.

If the Department of Justice fails to act after a certain period of time on the information supplied, the declarant can notify the Department and force the Department either to take immediate action on the information or, in the alternative, to contract out the case to private counsel to act on the information. The statute of limitations will also be extended by 5 years to ensure that the Department of Justice is afforded an adequate amount of time to fully develop its cases without any prejudice to informants who may have to wait while the Department and banking regulatory agencies process similar cases. This extension of the statute of limitations was part of my original legislation, and I am pleased that it is incorporated into the pending amendment.

The reward incentive also applies to specific identification of assets that have been hidden or diverted to prevent recovery by the United States after a judgment has been rendered.

The Simon-Roth-Dixon amendment also grants to the Attorney General plenary authority to contract for private counsel to pursue civil cases that arise from information about fraud against insured institutions. This authority provides the Attorney General with the option of resorting to the legal resources of the private sector to meet the backlog of uninvestigated cases. Counsels employed under this provision can be paid on a contingent fee basis from the proceeds of recoveries. The contingent fee basis gives the Attorney General the option to expand his resources at no up-front cost to the taxpayer. Moreover, in order to maximize the recovery to the United States, the amendment authorizes the courts to award attorney fees to the United States in such cases.

The act will also strengthen the statutory protections afforded whistleblowers by allowing for double damages in the event the whistleblower is fired or otherwise discriminated against because of his cooperation with authorities. This provision was part of my original proposal, and I am pleased that it also has been included in the amendment before us.

Mr. President, when an institution fails, its corpus is little more than a great heap of paper. Making sense of all this paper is a difficult and time consuming task if there is no guide. A witness who can make the trip through this paper more efficient is extremely beneficial. The authority by the Attorney General to offer meaningful rewards to those who can identify evidence of fraud or the assets to make good on collections upon judgments against wrongdoers is, therefore, critical. The amendment grants this authority to the Attorney General because it is clear that there is a backlog of several thousand uninvestigated allegations of fraud and corruption in failed institutions. Such an authority coupled with the discretion to contract out civil cases will, I believe, address both the urgency and necessity created by the continuing dissipation of the assets of the failed thrifts.

Bank robberies have plagued financial institutions ever since the opening of the first depository institution and it is unlikely that this or any other legislation will put a stop to such crimes. To some degree, the pending amendment is in response to the urgency imposed on law enforcement agencies and banking regulatory agencies by the alarming increase in bank-related fraud. We hope, however, that the amendment will put into place a more permanent set of legal tools for the Department of Justice to deter financial misconduct and to recover losses from those who defraud depository institutions.

I believe that this amendment merits adoption by the Senate. It is an improvement upon earlier efforts that I and others have authored. It is the product of the combined efforts of the amendment's sponsors and the Department of Justice. It is rare for a group of negotiators with different interests and demands to walk away feeling that each one has been enriched in the process. I am pleased that the Department of Justice supports this amendment. Particular plaudits should go to Bill Barr, the acting Deputy Attorney General, and Tom Boyd, Director of the Office of Policy Development, without whom this improved amendment would not have been possible. I ask unanimous consent that a copy of a more complete explanation of the Simon-Roth-Dixon amendment be printed in the RECORD at this point.

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

JOINT EXPLANATION OF SIMON-ROTH-DIXON AMENDMENT

EXPLANATION OF TITLE I

Title I of the Simon/Roth/Dixon Amendment creates a mechanism for private citizens to file declarations of violations of federal criminal law relating to insured deposi-

tory institutions, violations giving rise to an action for civil penalties under FIRREA, or facts giving rise to a civil right of action on behalf of the government arising from fraud. These declarations are filed under oath and contain specific factual allegations constituting a prima facie case of violation of federal law by depository institutions or their agents.

The purpose of permitting such declarations is to encourage private citizens to help the Department of Justice and the federal banking agencies put together civil and criminal cases against individuals and institutions involved in the savings and loan scandal. The Amendment creates incentives for citizens to come forward with declarations by offering such declarants substantial rights. First, declarants are entitled to a lump sum payment where the information they provide is relied upon, in whole or in part, in securing a criminal conviction. These awards can range from a $10,000 minimum to $250,000. Second, declarants are entitled to a substantial percentage of any civil or criminal penalty or restitution payment received by the United States attributable to judgments based on their declarations. Awards can reach $1,600,000 under this provision. Finally, where the Attorney General determines that outside counsel could best conduct litigation based on a declaration, the declarant may choose his own counsel and pursue the action as an independent contractor subject to general oversight by the Department of Justice. The use of private counsel in such actions provides the Department with substantial additional resources without interfering with ongoing investigations or the broader enforcement efforts of the Department and the banking agencies.

Title I also grants declarants substantial procedural rights. They have a right to notice of the status of their declarations, notice of any judgment or order affecting their rights to an award, and a written statement of reasons for the determination of both the eligibility for and size of any award. In addition, every six months, the Attorney General will issue a report on the processing of declarations under this title. Through this system, the Government is made accountable for the use or nonuse of the information provided by private citizens pursuant to the declaration program.

Finally, title I of the Amendment establishes the Financial Institution Information Award Fund as a special fund in the treasury. Modeled in large part on the Asset Forfeiture Fund in the drug area, the Fund will receive monies from criminal fines levied in criminal action for Savings and Loan fraud. The Fund will then be used to pay declarants under title I and informants under title III of the Simon/Roth/Dixon Amendment. Thus, the wrongdoers will help pay the costs of bringing their co-conspirators to justice.

EXPLANATION OF TITLE II

Title II, which is closely modeled on Title I, concerns matters that the United States has already brought to judgment. This Title permits private citizens to file declarations that identify specific assets which might be recovered by the United States in satisfaction of a final judgment in any civil or criminal action involving the sorts of violations as to which declarations can be filed under Title I. Title II is designed to encourage individuals to come forward with information that will help the United States recover on outstanding judgments, unpaid criminal fines, and orders of restitution. The financial incentives and the substantive and procedural rights that declarants enjoy under Title II are substantially the same as those in Title I.

Title II effectively combines the resources of the Government and the private sector to ensure that civil penalties, criminal fines, and orders of restitution are satisfied to the fullest possible extent.

EXPLANATION OF TITLE III

Title III substantially improves reward incentives for individuals who provide tips or leads concerning violations of federal criminal law relating to insured depository institutions. This title is designed to encourage those who have information that does not rise to the level of a complete cause of action eligible for filing as a declaration under Title I to come forward.

Under present law, informants are only eligible for rewards as a percentage of any recovery of assets by the United States. This results in reduced incentives to come forward with information, particularly in the most egregious cases where the assets of the depository institution have been depleted.

Title III rectifies this problem by providing for rewards up to $50,000 where information leads to criminal convictions, even where the United States does not recover any assets. These rewards come out of the special fund established for this purpose by title I of the Amendment. As noted earlier, the Fund will receive a portion of all criminal fines collected in financial institution fraud cases.

For cases in which information does lead to a recovery of assets, Title III drops the requirement under the Federal Deposit Insurance Act that the recovery exceed $50,000 before an informant may share in the recovery.

EXPLANATION OF TITLE IV

Title IV of the Simon/Dixon/Roth Amendment authorizes the Attorney General to enter into contractual arrangements with outside counsel for the collection of civil judgments, fines and monetary penalties arising from violations of federal criminal law relating to insured depository institutions. The heads of federal banking agencies are authorized to refer these same matters to such outside counsel subject to the approval of the Attorney General.

Title IV is modeled on the private counsel provisions of Public Law 99-578, the so-called Debt Collection Amendments of 1986. See 31 U.S.C. § 3718(b). Those amendments were designed to enlist the skills of the private debt collection bar for use in pursuing liquidated claims. In many cases, the United States Attorneys offices did not have the resources to pursue collection actions, particularly with regard to smaller claims, such as student loan defaults, in a cost-effective manner.

Title IV is meant to address a similar problem arising from the savings and loan crisis. First, it would allow the Attorney General to engage highly skilled counsel for large, complex civil proceedings. Second, a large number of potential claims in this area are in the range of $25,000 or less. Title IV would allow the Attorney General to select private counsel and authorize them to pursue these claims in the name of the United States. By utilizing the skills and economic incentives of private counsel in this area, the maximum amount of fraudulently converted assets can be recovered from individuals who manipulated the savings and loan system for personal gain. In addition, the use of private counsel will assure that civil and criminal fines are executed to the maximum extent possible.

Private counsel retained under title IV may work on a contingency fee arrangement, and this Title also authorizes a court, in an action in which the United States was represented by such private counsel, to award the United States a reasonable attorney's fee.

Mr. HEFLIN. Mr. President, I strongly support this major floor amendment to S. 1970, the omnibus crime bill. This amendment, whose title is the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act, is badly needed to help prosecutors across the country in their efforts to bring to justice those who have defrauded savings and loan institutions.

In this morning's Washington Post is a news article entitled, "S&L Fugitive Living the Life of Riley in Europe." This article details allegations against J. Billman, a former executive of the collapsed Community Savings & Loan Association of Bethesda, MD. Allegedly, Mr. Billman fleeced his institution of some $22 million and escaped to Europe where he is living the high life at the expense of the American taxpayers.

This important amendment to the crime bill will make it easier to apprehend and prosecute those accused of defrauding savings and loan institutions, and easier to seize embezzled savings and loan assets. Furthermore, this amendment increases the maximum penalty for bank fraud and embezzlement from 20 years to 30 years, adds these crimes as predicate offenses under the racketeering influenced and corrupt organizations law, and imposes stiff mandatory sentences to make sure S&L violators will serve time behind bars.

This amendment creates a new financial institutions crime division in the Department of Justice, and directs the Attorney General to establish strike forces to go after those criminals in cities hardest hit by this scandal. Also, the amendment expands Federal assets seizure, forfeiture and money laundering laws by allowing the Attorney General, in addition to the Secretary of the Treasury, to seize property derived from fraud and embezzlement.

Victims of fraud under this amendment will be able to recover their assets easier, and a loophole is closed which would no longer allow defrauders to escape repaying their victims by filing for bankruptcy protection.

I am convinced that by providing more funds to hire more agents and prosecutors over the next 3 years—$162.5 million—the American public will reap a return on this investment. This amendment contains a feature that authorizes private citizens to bring civil actions in the name of the U.S. Government against violators of

institutional fraud and embezzlement, and the private citizen may receive a reward from 15 percent up to 25 percent of any recovery so obtained. This provision should prove to be very beneficial in helping to police savings and loan fraud.

Overall, this comprehensive, bipartisan amendment is a big step in the right direction to deal with the effort of the U.S. Government to bring to justice those who have defrauded our Nation's savings and loan institutions, and to send a signal to those in the future who may be tempted to do likewise, that the full weight of the U.S. Government will be brought to bear on those criminals. I strongly support this amendment to the crime bill and urge its speedy adoption.

Mr. SANFORD. Mr. President, this morning I rise to lend my strong support to the Wirth-Graham amendment to the omnibus crime bill. As I have said in the past, such measures are necessary to limit the costs of the savings and loan crisis on the taxpayer, and to ensure that such a debacle can never repeat itself.

As the full size and scope of the savings and loan disaster has unfolded, the first question in every American taxpayer's mind, including my own, has been, "How could this have happened?" Recently, the Attorney General told us: Fraud or other criminal activity has been a direct cause of failure in at least 25 or 30 percent of all thrift failures; up to 60 percent of all the institutions seized by the Resolution Trust Corporation "have been victimized by some serious criminal activity." We know where at least part of the blame lies. Now we must take action to punish these crooks.

The American people have made it very clear that if they are being asked to foot the bill for the S&L crisis, at the very minimum the Government owes them swift and tough action to put those responsible in jail and to recover every cent possible from these wrongdoers. Unfortunately, the administration has been slow to act on this mandate from the people, and it is time now for the Congress to give the administration more tools, tougher penalties, a better organized operation and clearer marching orders to go after all S&L criminals.

Mr. President, the Wirth-Graham amendment would do just that. First, the amendment would give the administration the tools it need find the criminals. The new Financial Institutions Fraud Strike Forces in heavily hit cities will use special teams of FBI agents, IRS investigators, and bank examiners to seek out shady S&L owners and expose their crimes. A Financial Institutions Fraud Unit in the Department of Justice would oversee and coordinate efforts to extend a savings and loan dragnet throughout the United States. Rewards and whistle blower protection would encourage private citizens to help uncover criminal activity. All of this would be backed up with new authorizations to fund an all-out attack on S&L crime. We must not let let these expensive crimes go unnoticed simply because the perpetrator wears a tie or has relationships with higher-ups in the Administraton. This amendment would help expose S&L fraud.

Equally important, the amendment makes certain that once these crooks are discovered, they pay for their wheeling and dealing. The maximum prison term for bank fraud would be raised to 30 years, fitting the punishment for the serious nature of the crimes of these S&L high fliers. The amendment would also impose stiff mandatory minimum sentences so that no crook will be immune to serving hard time in jail. New funding to get fraud cases through the judicial process promptly, making quick recovery of taxpayer losses possible, is also a vital part of the amendment.

Mr. President, these savings and loan criminals have cost the American taxpayer billions of dollars. The citizens of the United States deserve an honest effort from the administration to actively go after these crooks. The Wirth-Graham amendment makes this possible. Without the serious measures set out in this amendment, the omnibus crime bill fails to address some of the most serious crimes against this Nation—those which will cost us more money than any other scandal in the history of the United States.

I am proud to be a supporter of this amendment and urge my colleagues to support it. Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, as an original cosponsor of the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990, I rise to strongly urge my colleagues to support its passage as part of the omnibus crime package, S. 1970.

The resolution of the savings and loan debacle will require hard decisions and even tougher actions.

Congress must ensure that sufficient financial resources are provided to honor its full faith and credit pledge to depositors.

Even more important, Congress must cooperate with the administration to ensure that the Nation's financial institutions are properly regulated and supervised in order to provide their depositors with the guarantee that their hard-earned savings are wisely invested.

While this amendment does not address this issue directly, it does get to the heart of the issue which most gripes my constituents. That is that thrift directors and officers—the culprits who misused depositors' trust and who abused Federal guarantees—are prosecuted swiftly and to the fullest extent of the law.

This amendment will provide the Department of Justice with the needed enforcement tools to do just that.

To appreciate where we are today, we have to recall last year's S&L bailout bill. I opposed that bailout bill when it was passed by a division of the Senate in the early morning hours of August 4, 1989.

I speculated then about whether the plan to put the S&L bailout on budget, was a part of some insidious notion to swell the budget deficit in order to pressure the President to support tax increases.

Well, there is no way of knowing if I will be proven right beyond a reasonable doubt. However, here we are, less than a year later. And sure enough, the bailout's costs have indeed become the rhetorical trampoline for people jumping up-and-down for more taxes.

I opposed what I considered to be the petty political barbs of a jealous Congress; a Congress that had been unable, unwilling—or both—to deal with the problems facing the thrift industry on its own; a Congress unwilling to provide the needed resources to get to the root cause of the S&L mess in order to provide real and true protection to the American taxpayer.

I opposed a bill that both failed to address the underlying cause of the S&L mess, while it provided political cover to some of those most involved in the problem.

I opposed what began as a $12 billion problem in September, 1988; grew to a $155-$250 billion problem by the time of the passage of the S&L bailout bill; and has now mushroomed to at least a $500 billion problem, with no prospect for a resolution of the problem until we are into the next century.

I stand by my statements of last August.

However, I cannot leave the impression that we can spend our way out of the S&L crisis, any better than we can win the drug war using the same strategy.

While the siren call of more spending is alluring, greater resources, standing alone, are no silver bullet.

Let's be candid: Not even an army of Dick Tracys will catch every S&L crook. These cases are exceedingly complex, time consuming, and most difficult to prove—as intricate and delicate as any case the Government might bring.

Whatever its shortcomings, this bill is the first meaningful tool what we can use to meet our duty to protect the American taxpayer.

I particularly commend the following meritorious provisions of this bipartisan compromise to my colleagues: increased resources for the Federal law enforcement agencies with which they can attack financial institution fraud; restructuring of the Federal

Justice Department investigative and prosecutorial authority effort to streamline financial institution fraud cases; increased bank fraud and embezzlement penalties; expanded Federal forfeiture and money laundering laws and authority; changes in bankruptcy laws to remove safe havens for dishonest debtors; and a program to reward private citizens who provide information to the Justice Department relating to bank fraud or to the location of stolen thrift assets.

The S&L debacle is not only the largest financial scandal in our country's history, it is also the largest criminal scandal in our history.

It is no secret that fraud and other criminal conduct—along with depressed economic conditions in some areas of the country—have been major factors contributing to the massive financial mess facing the Nation's thrifts and consequently, the Nation's taxpayers and thrift depositors.

This bipartisan compromise provides the means to investigate prosecute, and bring to justice the white-collar criminals who have—not only played fast and loose with the Nation's financial institution laws and regulations—but who decided that they could dip into the Public Treasury as if it were their own private checking accounts.

This bipartisan response will allow us to pursue S&L fraud with dispatch, for we cannot afford to delay any longer.

The American people want and deserve our attention.

The American people want and deserve our action.

The time for finger-pointing is over.

I urge my colleagues to vote in favor of the compromise Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990.

Mr. COHEN. Mr. President, I am very pleased to be an original cosponsor of the Wirth-Heinz S&L enforcement amendment being offered today. The time for forceful action in the savings and loan scandal has certainly come and I am happy to see the Senate taking steps today to address the serious problems that now confront us. Each day the cost of this debacle continues to grow to even more staggering levels. The most recent estimates indicate that we will be asking every man, woman, and child in this Nation to contribute at least $2,000 to fund this bailout. The American people are justifiably outraged that they are being asked to pay for a scandal that they had no part in creating, while those individuals who do bear responsibility are not being vigorously pursued and prosecuted.

There exists compelling and persuasive evidence that fraudulent activities have been rampant in the savings and loan industry. We know that the FBI has received over 20,000 referrals of fraudulent financial activity and that there are more than one thousand inactive major fraud and embezzlement cases which have not been pursued because the FBI has lacked adequate resources.

Attorney General Thornburgh has recently referred to an "epidemic of fraud" within the savings and loan industry. The Chairman of the Resolution Trust Corporation, Bill Seidman, has stated that fraud has been discovered in 60 percent of the thrifts that have been seized by the Government. Revelations about the extent of the scandal and cost of the cleanup continue to emerge on a daily basis. We owe it to the American people to take decisive action now to demonstrate that the Government is committed to vigorously prosecuting every case of S&L fraud.

I am especially pleased that the amendment being offered today is truly a bipartisan effort. Recently, there has been much debate over which political party bears the brunt of the blame for this scandal. Certainly, there is sufficient blame to go around. I am happy that instead of continuing this partisan debate and continuing to waste valuable time, members of this body from both parties have worked together to forge a comprehensive enforcement package. The public wants action now and they deserve nothing less than an all out effort by their government to investigate, prosecute, and sanction those who broke laws, and recover as many funds as possible for the American taxpayers.

I believe the provisions of this amendment, which incorporates many of the provisions of the S&L bill I introduced with Senator BIDEN, encompasses the kind of comprehensive and forceful measures that will be required to effectively go after and prosecute those individuals responsible for acts of financial wrongdoing. First of all, this proposal will greatly strengthen the penalties imposed for bank fraud and embezzlement crimes. For example, it will create a new S&L kingpin statute that provides up to life imprisonment for the highest level of S&L violators, and will impose stiff mandatory minimum sentences to ensure that S&L violators serve prison time. Another very important part of this proposal addressed the problem of inadequate resources that has seriously hampered the efforts of the FBI and the Justice Department. The number of investigators and prosecutors will be significantly increased and will ensure that these agencies are equipped with the level of assistance that this massive enforcement effort will require. This amendment also contains a very important provision that will expand the ability of the Federal Government in S&L cases to seize assets and recapture funds illegally obtained. This provision is important in guaranteeing that some portion of the bailout costs will be recovered directly from those parties that have acted to defraud the Government, thereby reducing the share that taxpayers will have to bear.

Again, I commend my fellow colleagues for putting aside their partisan political differences and working together to put forward the kind of comprehensive, tough S&L fraud package that the American people deserve.

Mr. DOMENICI. Mr. President, I am pleased to cosponsor the comprehensive bank and thrift fraud prosecution and taxpayer recovery amendment.

This amendment focuses on the crimes committed against taxpayers by S&L owners and managers.

It is a comprehensive amendment that will give our law enforcement community, the RTC, and our bank regulators enhanced powers and resources to do their job.

It would authorize $203.5 million for the Justice Department, the courts, IRS, and the FBI to combat S&L fraud.

The commitment the Congress made when it insured the deposits was to the families with their passbooks. The FSLIC insurance was a solomn promise: No matter what happens, your savings are safe because the Federal Government is insuring that your money will be there when you want it. Passbook savings accounts represented people's dreams and security. We are living up to that guarantee and it is expensive.

Today we need to redouble another commitment. And that is that S&L fraud will be prosecuted to the highest degree possible under the law. Today we need to strengthen our investigative and prosecutorial resources.

The amendment would allow the use of court approved wiretaps in investigating bank fraud. It would authorize Federal regulatory agencies to ask the courts to freeze the corporate and personal assets of defendants in civil cases involving financial institution fraud—so that they would not leave the taxpayers high and dry. And we want to prevent rip-off artists from using bankruptcy as a strategy to avoid paying damages.

The amendment would establish within the Department of Justice, a new unit to direct and sharpen the Department's actions even further, while helping to coordinate actions with other agencies.

Sorting out the S&L crisis is complicated. It involves investigating these institutions and their management practices to see whether laws were broken. In some cases, it was just bad judgment. In some cases it was fraud.

It takes a great deal of investigative work to sift through piles and piles of documents. It takes a keen mind to

follow the audit trail and discover what went wrong in each S&L. It takes a lot of legal talent to distinguish the incompetent from the fraudulent, the unlucky from the unlawful.

This amendment provides the legal tools and authorizes the manpower necessary to put a stop to the crime in the S&L executive suite.

In the column after column of numbers of a ledger can be found the tragedy of an embezzled pension, the heartache of stolen savings, the disappointment of a misappropriated college fund or home downpayment.

Fortunately, the insurance funds are making these Americans whole. At the same time it is appropriate to get a pound of flesh from those who committed fraud, abused the public trust and fiduciary duties they were given.

I hope this amendment will pass unanimously.

Mr. SHELBY. Mr. President, I am pleased to rise in support of the legislation compiled and introduced by my colleague from Delaware, as well as a number of my colleagues on the Senate Banking Committee.

The Congress worked hard last year to resolve the thrift crisis. In this body, the banking committee took the President's proposal, fine tuned it and passed a bill that the Senate could support. We worked hard, under a sense of urgency, because we knew that the crisis was continually growing and that the hemorrhaging had to be stemmed as soon as possible. Finally, there was a president willing to confront the crisis and Congress lost no time in cooperating with the administration. The President signed that bill, FIRREA, into law on August 9, 1989.

The estimates change daily but the savings and loan crisis will cost American taxpayers somewhere between $200 billion and half a trillion dollars. It is indisputably the most expensive financial crisis in this Nation's history.

And while this estimate also varies, we know that fraud contributed to the failure of somewhere between 25 to 60 percent of the insolvent financial institutions. Mr. President, even 25 percent of $200 billion is real money.

But Mr. President, taxpayers are confused. They are accustomed to Congress spending huge amounts of their money for things that Congress deems important. But they are accustomed to getting something, some tangible result, for their money! And to the taxpayers, the savings and loan crisis seems a little fishy. Most Americans find it hard to believe any industry can just lose somewhat in excess of $200 billion; they do not need statistics to tell them that there was a significant amount of fraud out there. They know it is the largest bank heist in history. They know a crime has been committed, but, if that is the case, where are the criminals?

We say we are fighting a war on drugs. In 1990, we will spend approximately $9.5 billion on the war on drugs. That is "real money" but the public sees on the nightly news the huge caches of drugs and weapons confiscated from the drug lords. They see drug dealers go to jail and drug users lose their jobs, and go to treatment centers. They see their money going toward something.

We say we are fighting a war to win back the environment. Over the next decade, we will spend approximately $20 billion to clean up the environment. The public sees the clean up efforts, they see us ban the use of certain chemicals, certain production techniques, all in an effort to clean up the skies, the lakes, the rivers. Once again, they see their money going to something.

And when we passed FIRREA in August of last year, we told them that we were fighting a war on financial institutions fraud. We promised that we would get the criminals—make them pay back the money they had stolen, and serve time behind bars. But as of yet, the public has not seen anything. They hear they are on the hook for $200 billion or more, but they do not see what they have bought for that price. We tell them that we stiffened the sentences and penalties in FIRREA. But what good does it do if we do not impose them on anyone?

Hundreds of insured institutions failed because white collar criminals used them as personal piggy banks—insiders borrowed against collateral of dubious worth, against a signature, through dummy corporations. These criminals left a paper trail but one so complex, so labyrinthine that it requires a dedicated, large, sophisticated, highly trained work force.

In white collar crime there is no smoking gun; prosecution requires attorneys and investigators, accountants and financiers, professionals that know the business. We do not have time for a work force undergoing on-the-job training. In February of last year, the National Law Journal published an article that discussed a confidential internal audit of the FBI which questioned the ability of FBI agents to investigate sophisticated financial crimes. That was February of last year. I am not picking on the FBI but I would like to know what they have done since then to improve the caliber of their work force.

However, to date the biggest disappointment is the Justice Department's efforts, or lack thereof. In 1987, the Justice Department established a task force against financial institution fraud, based in Dallas. To date, this task force has obtained 52 convictions, 40 of which relate to savings and loan institutions. I commend the members of this task force on their work, I know each conviction represents literally thousands of man hours and I do not want to minimize their efforts. But Mr. President, Texas accounts for about 60 percent of the S&L problem—60 percent of, to use the low figure, $200 billion. We know that there were a lot more than 40 people that caused that size of a problem.

A few short weeks ago, the Justice Department announced that it was going to get tough on S&L crime. Just a few weeks ago. Congress gave them the money last year. It was the administration that sent the S&L bailout bill to Congress in the first place; the Justice Department knew the magnitude of the crisis and knew the enormous demands on its resources that would be forthcoming. And yet, just recently, does the Justice Department announce that it is going to get serious.

Mr. President, I am a cosponsor of this legislation because it does not permit the Justice Department to ignore its responsibilities any longer. It puts in place an Assistant Attorney General specifically charged with prosecuting financial institution fraud. It sets up regional financial services crime strike forces to centralize teams of experienced, capable, investigators, examiners, attorneys, and FBI and Secret Service agents. It permits the private sector to dedicate its expertise in the prosecution of this fraud by allowing them to bring suits against those suspected of ripping off savings and loans. It creates a new, strong deterrent to white collar crime by authorizing life imprisonment for "S&L kingpins."

I will not go through the provisions of this bill because they have been discussed previously. I will close by saying that I support my colleague from Delaware and the other cosponsors of this legislation and commend them for their efforts. It is time that the nightly news showed footage of savings and loan executives going off to jail, of extravagances bought with looted funds being sold to the highest bidder, and restitution made to the taxpayer.

Mr. LEVIN. Mr. President, I am an original cosponsor of this comprehensive amendment. It authorizes $162.5 million for each of the next 3 years to expand the number of Federal agents and prosecutors devoted to bank fraud and embezzlement. Specifically, it will allow the FBI to add 224 agents and 146 support staff, and allow the U.S. attorneys' offices to add 205 additional attorneys, 50 auditors, and 205 support staff dedicated to bringing the S&L crooks and embezzlers to justice, and recover whatever assets they can. It increases the number of attorneys and support staff that the tax, civil, and criminal divisions of the Justice Department will be able to hire. Additionally, it increases funds for the IRS to increase the number of investiga-

tors dedicated to S&L cases. It creates within the Justice Department a new Financial Institutions Fraud Unit, and authorizes special strike forces to operate in those cities hardest hit by S&L fraud.

But, Mr. President, more than being pleased that we are taking this important and necessary step, I am angry that it is necessary and that it took so long. While I am pleased that this legislation will increase the maximum penalty for bank fraud, and impose mandatory minimum sentences, I am angry that the crooks and thieves were able to loot the national treasury. It is appropriate that this legislation increases the resources available for investigators, prosecutors, and the judiciary to guarantee that the crooks not escape justice. But I am angry that the American taxpayers are stuck with the tab, and will have to pay unprecedented amounts of money to resolve the national nightmare of the savings and loan debacle.

I am particularly angry that Michigan taxpayers, and taxpayers from the entire midwest and northeast, will have to pay for the rampant crimes and fraud that occurred disproportionately in other regions.

This amendment to the omnibus crime bill pulls together some approaches and bills that have been proposed over the past several weeks to bring the S&L crooks to justice. This amendment is a national, bipartisan expression of outrage. While some of the specific provisions contained in this legislation may have to be rethought based on future experiences, it is on balance an appropriate and effective approach.

Mr. President, our long, national nightmare of the S&L calamity is far from over. It is a calamity of unprecedented dimension. It is a nightmare of greed, criminality, and myopia run amuck. This amendment is one step on the long, painful road that we will have to travel.

Mr. ADAMS. Mr. President, I rise to seek unanimous consent that I be added as a cosponsor to the Wirth-Heinz amendment, No. 2116, to the crime bill, S. 1970.

Mr. President, this amendment represents a proposal I have supported for a long time. It seeks to provide necessary punishment and legal actions against those who have subverted our financial and economic institutions.

Specifically, it provides for enhanced bank fraud penalties, as well as providing for a restructuring of the Federal attack on fraud and theft in the bank and savings and loan industries. It also allows our law enforcement agencies to use civil seizures to recover the proceeds of certain fraud and adds bank fraud and embezzlement offenses to the predicates under the Federal money laundering and wiretap statutes.

Mr. President, I am enraged to learn that there are those who have profited from the misery of others. These criminals who have purposefully subverted our financial systems must be brought to justice. They have hurt not only the depositors, but the general taxpayer who now must pay for the results of these criminal deeds.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 2 minutes remaining.

Mr. THURMOND. Mr. President, I rise in support of the pending amendment. This amendment provides needed assistance to the Department of Justice for its efforts to prosecute those criminally responsible for the savings and loan crisis. This amendment represents the bipartisan efforts of several members who have, by working together, demonstrated their commitment to address this problem.

Mr. President, this amendment provides the needed funding to hire additional investigators and prosecutors to bring those criminally responsible for this crisis to justice. In addition, it enhances penalties for S&L fraud and amends current law to enhance the Federal Government's forfeiture and money laundering effforts.

Mr. President, I commend Senator HEINZ, Senator DOLE, Senator WIRTH, and Senator BIDEN for their efforts on this amendment. It represents the Senate's commitment to address the S&L crisis. Rather than point fingers regarding who is at fault for the current S&L crisis, this amendment provides President Bush with the needed funding and tools to bring those individuals who are criminally responsible for this crisis to justice.

For these reasons, I am very pleased to support this amendment.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back the remaining 1½ minutes?

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, there will now be 30 minutes of debate on the bill to be equally divided and controlled by the Senator from Delaware [Mr. BIDEN], and the Senator from South Carolina [Mr. THURMOND].

Mr. BIDEN. Mr. President, parliamentary inquiry. Has the S&L amendment, the Wirth amendment, been accepted?

The PRESIDING OFFICER. Under the previous order, the vote on the Wirth amendment will occur at 12:30 p.m.

Mr. BIDEN. I thank the Chair.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, time will be deducted equally.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, as I understand, each side has 15 minutes now on the bill.

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. It may be necessary to come back in a few minutes to consider a further modification of the particular amendment we have been considering, but will will go ahead now on the bill.

Mr. President, shortly, the Senate will vote on final passage of the pending crime bill, S. 1970. I rise to strongly urge my colleagues to vote for final passage so that we can send a tough crime bill to the House for their consideration. This tough, effective crime bill will take needed steps to curb the crime related crisis we face in this country.

When the Senate began consideration of S. 1970 on May 21, the bill contained several provisions which made it unacceptable. These provisions originally included in S. 1970 were the Racial Justice Act, a weak habeas corpus reform proposal, a proposal to create a new division within the Department of Justice, and an exlusionary rule proposal which weakens current law. The Kennedy Racial Justice Act would eliminate the death penalty in every State while these other proposals would expand the rights of criminal defendants. In response to S. 1970, I proposed to offer a substitute which is identical to S. 1971, a comprehensive crime bill I introduced. My substitute would have had the effect of eliminating, or substituting tougher alternatives to, the controversial provisions contained in S. 1970. Rather than vote on the Thurmond substitute, the Senate chose to proceed in a manner which addressed each controversial provision, one at a time.

Mr. President, as a result of negotiation, debate, and amendment, the Senate has greatly improved S. 1970. It has improved it so much that it closely resembles the Thurmond substitute. It is a much tougher bill than it was when consideration began. For example, title I, the death penalty proposal, has been vastly improved upon. The Racial Justice Act, which would have eliminated the death penalty in every State, has been stricken. In addition, troublesome mitigating factors for the imposition of the death penalty have been removed. In short, the

death penalty provision contained in S. 1970 is substantially similar to the proposal contained in the Thurmond substitute.

With respect to habeas corpus reform, title II of the original S. 1970 would have greatly expanded death row inmates' rights rather than properly remedying the abuse and delay which is so prevalent in our current system. The Senate voted to replace this proposal with a tougher habeas corpus proposal which I, along with Senators SPECTER, HATCH, and SIMPSON, offered. It eliminates the loopholes and delay present in our current system and requires that Federal courts dispense with habeas corpus petitions in death penalty cases within roughly 1 year.

Mr. President, the original bill also contained unacceptable provisions which created a new division within the Department of Justice and which would have weakened the good faith exception to the exclusionary rule. These controversial provisions have been removed from the bill.

Early in the debate on this bill, there were over 200 amendments filed. The Senate, working in a bipartisan manner, succeeded in drastically reducing the number of these amendments so that it would not lose the chance to pass a tough proposal to address violent crime. In fact, this bill is a tougher bill now that several important amendments have been added.

S. 1970 is, now, a much tougher crime package than the bill originally before the Senate. It contains a comprehensive death penalty proposal which will reinstate the death penalty at the Federal level. In addition, it contains a tough habeas corpus reform proposal. These are proposals which the American people truly demand and it is time for the Senate to pass them. This crime package will eliminate the delay in imposition of the death penalty and reestablish a comprehensive death penalty in the Federal system. Violent offenders must know that the commission of heinous crimes will lead to swift, harsh punishment.

The scourge of the crime epidemic is stangling the life of our Nation. The American people demand action. We should take advantage of the opportunity before us and pass this important legislation.

Mr. President, the reasons for voting for this bill are clear. A vote in favor of this bill is a vote for the following: ending excess death penalty litigation; enhanced money laundering enforcement; mandatory restitution for victims of crime; strengthening our efforts against child abuse; additional funding for more Federal law enforcement officers; tougher penalties for drunk driving; more stringent prisoner work requirements; added funds for State and local law enforcement; drug testing for Federal prisoners; "boot camps" for drug offenders; uniform Federal debt collection procedures; desperately needed investigators and prosecutors for the savings and loan crisis; and harsh penalties for those who commit crimes with guns.

A vote in favor of this bill is a vote for law enforcement and for the law-abiding citizens of America.

For all of these reasons, I urge my colleagues to vote in favor of this tough crime package.

In closing, Mr. President, I again wish to commend the able majority leader and the able Republican leader for the fine cooperation they have given during the consideration of this legislation.

Mr. President, we owe a great debt of gratitude to the able chairman of the Judiciary Committee, Senator BIDEN. He has worked with me on this bill very faithfully and it has been a very tough bill to work out. There were so many controversial provisions. He accepted many of the amendments that I offered and we have worked together cooperatively. I wish to praise him openly and publicly for the outstanding job he has done in connection with this crime bill. In addition, I would like to thank Senator SIMPSON and Senator HATCH for their efforts.

Mr. President, I express my appreciation to the staffs of both sides, Senator BIDEN's staff and my staff—I have stated their names previously—for the fine work they have done on this bill. We appreciate the consideration given by all concerned and it shows the importance of working in a bipartisan manner on a great piece of legislation. This will go down in history in my opinion as one of the greatest pieces of legislation this Congress has passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague from South Carolina for his generous remarks. I see my friend from Colorado on his feet. I understand he has an unanimous-consent request.

Mr. WIRTH. I thank the distinguished chairman of the committee. Mr. President, I ask unanimous consent that prior to the vote on the S&L amendment at 12:30, I be recognized to offer a bipartisan modification of the Wirth-Heinz amendment. That will be the modification crafted by Senator GRAHAM and the Justice Department relating to the strike force. It will not require a vote. It will just be by unanimous consent, a modification of the Wirth-Heinz amendment.

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

Mr. WIRTH. Mr. President, I ask for the yeas and nays on the S&L amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent the time the Senator from Colorado consumed in his request not be taken out of the 15 minutes allotted to the Senator from Delaware.

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

Mr. BIDEN. I thank my colleague, Senator THURMOND. He and I have worked on so many crime bills and so many pieces of drug legislation over the years. I must say I do not want to ruin his reputation but there is no one with whom I would rather work. There is no one more committed. In my 18 years here in the Senate, I found no one more committed to actually getting something done, to actually solving problems. Notwithstanding our differences of views on many issues, we have never let those differences of views get in the way of putting together what I think most of our colleagues have agreed over the years have been substantial pieces of legislation, relative to crime and drugs and, I might add, other matters.

So I thank him for his comments, although he is a very tough bargainer, and although sometimes I am not sure what I have ended up agreeing to until I go home and read it afterward, because he will start off and say things, like, "Now, this is going to help you, Joe," and I found out what just helped me is the Thurmond amendment.

But, all kidding aside, he has been a pleasure to work with.

Mr. President, the Senate stands on the verge of passing, notwithstanding the other tough bills we have passed, the toughest, most comprehensive crime bill in our history. Before I offer my thanks to some of the other people who have made the achievement possible, I want to say a few words about this landmark legislation.

About 6 months ago, Mr. President, the President of the United States of America went to Kansas City, MO. My switchboard lighted up with press calls after he spoke there, because the President criticized the Biden crime bill—and I think he referred to it, if not by name in a way so it was clear what he was referring to—he referred to S. 1970 as a "Trojan horse" and a "sheep in wolf's clothing."

The press was very interested in my response to the President characterizing my crime legislation as a "Trojan horse" and a "sheep in wolf's clothing." At the time the only thing I did was express regret over the President's remarks and what they represented, because, for 8 years, as I have said, Senator THURMOND and I and Republicans and Democrats in this body worked very hard with the Reagan administration to produce several important pieces of legislation relating to

crime and drugs. We always did so on a bipartisan basis.

Whatever the faults of the Reagan administration, from my perspective, I credit them with an honest desire to work for bipartisan measures to fight crime and drugs. But then came along the campaign of 1988 and crime was a hot-button political issue.

Fair enough; campaigns are campaigns. We all know the rules, or we all know there are not many rules. But what has disappointed me about the Bush administration has been their approach to the crime issue, and that it is not significantly different than the campaign of 1988.

What happened to the crime issue in 1990 after the crime issue of 1988 ended should have been fundamentally different. But it was not. It seems that someone had forgotten to tell the President's speech writers that the election was over. It seems that the President's outstretched hand of cooperation did not reach all the way up to the Hill, at least to me as chairman of the committee, on the crime issue.

Last May, the President issued a political attack when he sent his crime bill to us, and he reiterated that political attack in January in his Kansas City speech, and most recently the President did it again here in Washington in May the day before the Senate took up the crime bill which I drafted and sponsored. In the last attack, the President called this crime bill a weak imitation of his crime package.

Today, Mr. President, Senator THURMOND and I, and others, are about to finish work on that so-called weak imitation, the so-called Trojan horse, the so-called sheep in wolf's clothing. Let us compare a little bit the crime bill we are about to vote on and the one the President sent up to us, the difference between the Biden-Thurmond crime bill and the President's crime bill.

I do this for a specific reason, for the explicit purpose of hopefully making it clear to the President—as they say where I come from, we can play it flat or we can play it round. We can play it politically or we can play it substantively. On the crime issue, he will be beaten either way.

It is much, much, much more important for the country and much, much, much easier for the Senate if we put aside the partisanship on the issue of crime and drugs. Willie Horton is back in jail, figuratively speaking. The 1988 campaign is over. At least wait until the eve of 1992, because we have much more important work to do on the drug bill.

We are about to have a comprehensive drug strategy once again debated, and I formally issue an invitation to the administration to please sit down with me and others who are interested before we bring it up, and let us agree to do away with all the partisan rhetoric and come up with a bipartisan bill just as we are doing now. Every time I speak to the Attorney General and mention that, every time I speak to the drug director and mention that, they tell me you cannot in this atmosphere have bipartisan legislation.

We are having it here again. This is not just the Biden crime bill, this is the Biden-Thurmond crime bill. This is not a Democratic crime bill; it is a Democratic-Republican crime bill. Every single year I have been in charge of this issue for the Democrats, we have produced not a Democratic crime bill or a Republican crime bill, but a bipartisan crime bill.

We seem to have no trouble up here getting together. We seem to have no difficulty here on the Hill, Republicans and Democrats, getting together and deciding that we are going to have a bipartisan bill. Why can it not be done downtown as well? It would save us a lot of time and effort and benefit the American public significantly.

I was going to go through these charts. I am not sure I should do it now. But a quick look at the charts shows there are some changes that have been made, as the Senator from South Carolina has pointed out. He has made the death penalty provision, the Biden death penalty provision, tougher. I did not want him to make them tougher the way he wanted them. I wanted to have the racial justice provision in. He changed some of that. He changed some of the legislation on habeas corpus. He did that. This is not all exactly what I introduced before. That is what the legislative process is about. But compared to what the President sent up to us, it is a lot.

The President sent up a bill that had no S&L savings and loan enforcement provisions in it, and we just debated and outlined what that bipartisan approach is to that issue now. The President sent us a bill that had no provisions for rural law enforcement. The Biden-Thurmond bill has significant provisions.

The President sent us a bill, so-called tough bill, that had no provisions for child abuse in it. We have very tough provisions.

The President sent us a bill that had no provision for a police corps in it. We have a police corps in it.

The President sent us a bill that had no provision for boot camps in it. We have a boot camp provision. The President sent us a bill that had no provision for money laundering. We toughen the money laundering.

The President sent us a bill that had no provision in it for new drug dangers. We have a provision in it. The President sent us a bill that had nothing in it for crime victims' rights.

The Biden crime bill was, is now, and always has been tougher, but it is no longer the Biden crime bill. It is the Biden-Thurmond crime bill, because Senator THURMOND came along and made significant differences and changes, as did Democrats and Republicans on this floor.

So my message, not to my colleagues, to downtown, is, we have much more work to do; we have a whole drug strategy. Admittedly, Biden introduced a drug strategy, and the President has a drug strategy, but that does not mean never the twain shall meet. We will settle it up here, and hopefully, though, the President will join in, or his designees will join in, much before we have to essentially disregard what they had to say and do it up here.

So, Mr. President, the President's crime bill is not the crime bill we are passing. This crime bill was not necessarily good, bad, or indifferent, but it is not the one we are passing, not even close to the one we are passing.

So Democrats and Republicans, and anyone who will give an objective look at the comparison of those if you wanted to go into these silly phrases like sheep in wolf's clothing, for example, and Trojan horses—I do not know where he gets those speech writers—but if he wants to do that, just take a look at where the Trojan horse is. Just take a look at where the wolf is and where the sheep is, and maybe we can stop having to shear the sheep from downtown and get to business, because I do not want to go through this again. I do not want to go through wasting 4 months of political rhetoric, listening to 4 months of political rhetoric.

Let me make it clear now. The Biden crime bill that was introduced in 1972, which the President referred to, was changed, not in substance, but was changed in some parts by Democrats as well as Republicans. It is a better bill in some people's minds. It is a weaker and stronger bill in some people's minds, but it is that bill.

I predict this is going to be voted probably 99 to 1 or 100 to nothing. And I do not know anybody who is going to look at this bill and not say that this bipartisan bill, this bill that comes off of 1970—1970 was when the Biden bill was introduced. That is all we have worked off of, 1970, and every time the President's provisions, the big ones, were put in, they were defeated, not just by Democrats, but by Republicans as well.

So, Mr. President, the administration can either abandon the political charges against the toughest bill that has been passed in my 18 years, and arguably the toughest crime bill we have passed in the last four or five decades, he can either abandon the political rhetoric or he can try to muster the votes to defeat that sheep. He can try to muster the political votes to try to defeat that Trojan horse we are

about to vote on. He can muster the political votes to try to defeat that weak imitation of a crime bill, and when it gets down to him, he can veto it if he thinks it is so weak.

I do not think he believes it is weak. I do not think anybody here believes it is weak. Nobody who reads it is going to think it is weak. I promise again what I promised earlier: No more political references by me to the President's legislation on drugs, which we are about to take up and, in my view, even more important issue, if we can just downsize the rhetoric. We all have the same objective. We are about to accomplish that objective.

I have very high hopes the House of Representatives is going to move essentially in the same direction with some of their additions and changes. They will make it better in some ways. I am not suggesting this cannot be improved upon, but I am suggesting that it is one tough crime bill.

The only legitimate argument in my view against this crime bill is not that it is not tough enough, that it maybe is too long on tough and not long enough on insight. That is a potentially legitimate criticism but not because it is not tough. I hope we will end this.

Let me close by thanking many of the people that really deserve to be thanked, as Senator THURMOND has already done. Of the countless staff people who have literally spent thousands of hours compiling this bill on Senator THURMOND's staff, special credit has to go to Terry Wooten and Thad Strom and especially to a fellow to whom I think I have spoken more than he ever wants to speak to me. Mr. Cooney has been having to deal with me more than he ever wanted to, I suspect, but he is a pleasure to deal with; and Jim Whittinghill of Senator DOLE's staff also deserves a lot of credit.

On my staff, I want to thank the people who have worked on this bill: Ron Klain, who I already mentioned; Diane Huffman, who runs the operation from moment to moment over there; Scott Green, who has handled the crime issue for me for years; Ann Howard and Anne Rung. They all deserve credit.

I want to particularly single out two people who made an enormous contribution: Victoria Nourse, who did such brilliant work on the death penalty, habeas corpus, and the criminal law portions of this bill; and John Bentivoglio, who has been instrumental in developing the law enforcement provisions of the savings and loan package.

I have many other people to thank, but I guess the person I thank the most is Senator STROM THURMOND. As I said—and I will close with how I opened—it is a pleasure to work with him. He is tough. Sometimes from each of our perspectives we probably think of one another as bullheaded. I occasionally think of him as bullheaded. I am sure I am wrong. He occasionally thinks of me as bullheaded. He is probably right. But the end result is he is honorable, a gentleman to work with. You never have to go back and check whether the i's are dotted and the t's are crossed, the commas are there. If he gives his word, his word is his word. That is all you have to take. Nothing else. That extends totally to his staff. It is a rare pleasure to be able to work with men and women of that caliber and character. As I said, he is a man unlike many with whom I disagree and agree. He is a man who looks forward to getting things accomplished. He is not a naysayer. He gets things accomplished. I thank him again. I thank all my colleagues for their cooperation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, in view of the number of Senators who wish to address this subject, I ask unanimous consent that the time for debate on this measure be extended for 20 additional minutes, until 11 a.m., with the additional time to be equally divided between the managers.

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

Mr. MITCHELL. Mr. President, before yielding to my colleague, I extend my congratulations to Senators BIDEN and THURMOND for their outstanding effort with respect to this legislation.

As all of us who have been involved in the process know, it has been long, difficult, and time consuming. It has taken a great deal of perseverance by several Senators, most notably the distinguished present and former chairmen of the Judiciary Committee, Senators BIDEN and THURMOND. I congratulate them on what I think is a responsible legislative result, the Biden-Thurmond bill, that will, I believe, on balance help move our effort forward in the important area of combating crime in our society.

I must make it clear that there are some provisions in this bill with which I disagree and which I regard as unwise public policy. However, as is commonly the case in the Senate, we vote on a major package which contains some things we support, some things we do not support.

On balance, I believe it is a positive contribution to the effort agains criminal activity in our society and will support it and vote for it, notwithstanding my disagreement with some of its specific provisions.

None of that should be taken to detract from the efforts of my colleagues to whom I have previously referred, and I congratulate and commend them for their effort. I thank the chairman and the ranking member for their courtesy in this regard.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator. The Senator from Utah has a time bind and I will yield to him at this time.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I would feel remiss if I did not compliment my colleagues on the Judiciary Committee for the work they have done on this bill. I have to say Senator BIDEN and Senator THURMOND have worked hand and glove on this bill. This is a major improvement in our criminal laws.

I also want to praise my distinguished colleague and friend from Pennsylvania, because when we sat down and tried to resolve the habeas corpus reform bill, it did not appear as though we were ever going to do anything that would really be in the nature of reform. It was largely due to the efforts of the gentlemen on this floor, Senator BIDEN, Senator THURMOND, and very much to the credit of Senator SPECTER, as well as Senator SIMPSON, that we all sat down and worked out this habeas corpus reform, which really has the potential of reforming the habeas corpus laws in a way to do our society a great deal of good in the future. I think these gentlemen certainly deserve a lot of credit for that.

Although I am disappointed in the DeConcini amendment—and I am not happy with that—the balance of this bill really makes up for that amendment. The balance of this bill is a tremendous effort on the part of everybody concerned and one of the most significant bills with regard to our criminal laws that we have come up with in all the time I have been on the Judiciary Committee these last 14 years.

So I just want to praise my colleagues and, in particular, I would like to speak for my good friend from South Carolina, Senator THURMOND. I do not know anybody who has had more zealousness or desire to do what is right about the criminal laws of this country than this great senior Senator from South Carolina. He has been an inspiration for me the whole time I have been on the Judiciary Committee. Nobody works harder, nobody does more, nobody does a better job for his constituents and for the people of America than this great Senator from South Carolina, who happens to be one of the all-time great Senators. I would feel remiss if I did not stand up at this time and praise him and let people know just how much his colleagues hold him in high esteem. I

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want to thank Senator THURMOND for the leadership he has provided, and, again, Senator BIDEN, Senator SPECTER, Senator SIMPSON, and others who have really done a good job on this bill.

I yield back whatever time I may have.

Mr. THURMOND. Mr. President, I express my deep appreciation to the able Senator from Utah for those kind remarks. I have already expressed my deep appreciation for the contribution he made on this bill. We appreciate the work he did.

Mr. President, I now yield to the able Senator from Pennsylvania, who has also done a great job. In fact, it was mainly his thoughts on the habeas corpus that we adopted. Now we shorten this period to 1 year. The Senator from Pennsylvania played a big part. It was his suggestion. I want to praise him for the great work he has done.

Mr. SPECTER. Mr. President, I thank the distinguished ranking member. Although in the Judiciary Committee we have a very distinguished chairman in Senator BIDEN, who is the real "Mr. Chairman," we frequently call the distinguished ranking member from South Carolina "Mr. Chairman" because he was chairman for so long.

Mr. BIDEN. If the Senator will yield, Mr. President, I also call him "Mr. Chairman." I understand full well.

Mr. SPECTER. It is not easy, Mr. President, being on a committee like Judiciary with two chairmen, but we are so far accomplishing a fair amount.

I associate myself with the remarks by the distinguished Senator from Utah about the remarkable service of Senator THURMOND who has been in this body for many years and continues to perform in an extraordinary way.

I similarly congratulate the distinguished chairman, Senator BIDEN, for the outstanding work which he had done. I know there has been very considerable motivation coming from President Bush. The distinguished Senator from Delaware, the chairman, has used many metaphors quoting from what the President has said about Senator BIDEN's bill.

Willie Horton is still a figure to be reckoned with in America and on the Senate floor.

Without unduly commenting on the comments of Senator BIDEN as to what President Bush has said, at least it was a substantial motivating factor, and what has resulted is really an outstanding piece of legislation.

We passed a very important bill in 1984, the omnibus crime control bill. I believe that the legislation which has been proposed today is of equal stature, perhaps even greater stature.

I agree with what the majority leader has said, that there are parts of this bill that this Senator disagrees with. But when you take a look at what has been accomplished with the police corps, a novel approach to provide both pre-service education and training, and a program to provide veteran police in America in-service educational assistance, and take a look at the provisions on child abuse, on money laundering, and also at what we have done with the savings and loan legislation crafted by my distinguished colleague, Senator HEINZ, and the distinguished Senator from Colorado, Senator WIRTH, and Senator BIDEN, adding prosecutors, adding investigators, adding IRS and FBI agents—there is no doubt about the seriousness of the S&L crisis and the justifiable outrage of the American people. The kind of legislation embodied in this bill will go a long way toward putting the culprits in jail and bringing to justice those who have abused the system.

In conclusion, I believe that the dath penalty provisions in this legislation are very important because since 1972, except for the Uniform Code of Military Justice, and the drug kingpin provisions in 1988, there has been no death penalty.

Perhaps even more important than a Federal death penalty is making meaningful the State death penalty where criminal justice is enforced by and large.

In order for a penalty to be effective it must be swift and certain, and the death penalty in the United States today is neither. Some cases take up to 18 years. The average is more than 8 years. The habeas corpus provisions—that is the fancy Latin word for Federal appeals—have tied the death penalty in knots, and rendered it ineffective.

This bill will eliminate the duplication of two State proceedings going to State supreme courts, will streamline Federal habeas corpus, will fundamentally help rights of the accused by providing adequate counsel, and will do justice all around, justice to the accused with adequate counsel and justice to the public by reinstating an effective death penalty which is a very important deterrent against violent crime.

Again, I congratulate Chairman BIDEN. I congratulate the ranking member, Senator THURMOND, I thank them for this time, and yield the floor.

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I ask unanimous consent that I yield to the Senator from Colorado for a unanimous-consent request, and that the time not be taken out.

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

MODIFICATION TO AMENDMENT NO. 2116

Mr. WIRTH. Mr. President, I thank the distinguished chairman of the Judiciary Committee.

Mr. President, in accordance with the consent granted earlier to modify the Wirth-Heinz amendment, I now send to the desk the modification drafted by Senator GRAHAM, Senator HEINZ and myself, and ask that the amendment be so modified.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WIRTH. I thank the distinguished chairman of the Judiciary Committee for his help.

The modification to Amendment No. 2116 is as follows:

Page 9, line 25, after the word "available" insert: "in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and".

Page 8, after line 13, add as new paragraph:

"(c) SUNSET PROVISION.—The provisions of this section III shall expire no later than five years after the date of enactment, provided, however, that the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.".

Mr. BIDEN. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Thank you very much.

Mr. President, I would like to begin by paying tribute to the distinguished chairman of the Judiciary Committee. We undertake many legislative efforts around here, and we after confront contentious issues in this body. I cannot remember one piece of legislation that had more volatile issues in one fell swoop than the crime bill when it was first introduced.

I think the chairman of the Judiciary Committee, Senator BIDEN, has done really one of the most remarkable jobs that I have seen in 5½ years of pulling together a coalition, helping to defuse some of the volatility of the issues, and of bringing us to the point where we are able now to vote on what I consider to be a landmark piece of legislation, an important piece of legislation. I want to note, however, as the majority leader did in his statement, that I continue to oppose some of the provisions of this bill, most notably those relating to the death penalty.

Mr. President, life in America has changed in the last 20 years, dramatically, and it has changed for the worse with respect to the issue of violence and crime in our streets. There is not a family that has not somehow been affected by these changes. There is not one of us who does not go back to a community in our States to hear citizens ask why is it like this, why do we

have to live like this? Here we are in the freest land on the face of this planet, and yet we also live in one of the most violent nations in the world.

As a result of crime, we have seen our lives change in many ways. For example, we think about the risks of simply going out to dinner at night, where we let daughters or members of our family walk, or whether or not we even allow them to go out alone; more locks on our doors; higher insurance; extraordinary choices about everyday lifestyle; homes that you can no longer leave unlocked, and the whole nature of life in the United States had changed.

What is shocking is that years ago, 20, 30 years ago, there were more police officers on the streets of America per violent crime than there are today, notwithstanding the fact that we continue to declare war on crime.

So, Mr. President, we are not going to change it overnight. We have to be realistic about the projects for success. It took us 20 years to watch the deterioration, to see the drug problem become as large as it is, and it is not going to be solved in one night. But I believe that, as legislative efforts go, this crime bill takes some important steps, some incipient steps, to help us to make real some of the rhetoric that we have been hearing.

Most significant, I think, is the assault weapons ban in which the Senate has finally said no to the NRA, a first, and which finally stands up for police officers who are on the line. As those police officers said, in the words of Sgt. William Patterson of the National Organization of Police, "police organizations are united on this issue, a life and death issue for police officers." We have taken a step there. I think that is important.

I am delighted that in this bill, thanks to the support chairman, we have been able to double the amount of money that is going to go to local police departments and to the States in an effort to try to assist them to fight this war. I am pleased that my amendment to increase assistance from $400 million to $900 million was accepted by the chairman and by the Senate because I think it is vital that we do that.

In 1975 when I was an assistant district attorney we were receiving $875 million a year in assistance to fight crime. Today, with the fifth declaration of war on drugs, the States and local communities are receiving only $450 million in 1990 dollars.

That does not make sense. So finally, with this bill, we are raising that amount to above that 1975 level and we are saying to the police on the front lines that they are not going to desert them for the resources and the strategy.

In addition, I want to pay tribute to the police corps that is in this bill. That is innovative and important. It will help us, I hope, to draw a crosssection of Americans to the job of policing our communities, and assist us in taking some of those people in the police departments today in furthering their educational opportunities. That is important in our ability to be able to communicate what it takes to fight crime, and to bring people into the process.

So, Mr. President, finally I would like to say I think the Wirth-Heinz provisions on the savings and loans are also an important part of crime fighting. Americans are sick to their stomachs when they read and hear about the extraordinary abuses of members of the banking and business community with respect to savings and loans. Our Government has a fundamental responsibility to prosecute those people and to try to regain whatever profits are available and whatever losses to the public may have occurred. The Savings and Loan amendment here strengthens the penalties, increases the enforcement ability, and creates a special unit within the Justice Department to do so.

So I believe this legislation is important. I am delighted the Senate is going to pass it. I congratulate both Senator THURMOND and Senator BIDEN for their leadership in helping to bring us to this important point.

Mr. BIDEN. Mr. President, what time is remaining?

The PRESIDING OFFICER. The Senator from Delaware has 6 minutes, 13 seconds.

Mr. BIDEN. I yield 3 minutes to Senator ADAMS.

Mr. ADAMS. Mr. President, I want to pay my compliments to Senator BIDEN and Senator THURMOND for creating and carrying through this bill; it has been a most difficult bill. But as a former U.S. attorney, I know that this kind of bill is necessary at this point in America. As chairman of the D.C. Subcommittee on Appropriations, I can simply say that this Capital City needs help.

I rise today for a particular problem, and the chairman has been very good in working to help me. It touches also on the provisions Senator KERRY just mentioned.

Mr. President, we have the end of the drug pipeline in the Pacific Northwest in a small city known as Yakima, WA. When I talked to the police chiefs, not only of our major cities, such as Seattle, Tacoma, and Spokane, but cities as far away as New Jersey, New York, and elsewhere, they are coming to buy in this small city. Its law enforcement is overwhelmed.

I have asked the head of the DEA to add additional agents. We were promised two DEA agents months ago. They still are not there. The local criminal calendar is overwhelmed. The judges are overwhelmed. They are not even able at this point to prosecute fully through transactions of one kilo of cocaine. They are doing it at three kilos of cocaine.

I thank the chairman, the ranking member and the others who have worked with me on this amendment. Particularly, we need that $900 million for rural law enforcement. These are small cities; 46,000 people out in a rural area are being used by the drug lords now to bring in cocaine and crack and black tar heroin up the pipeline from Colombia to Tijuana, up the coast and into our rural area and disperse it throughout the State.

I am disappointed in the fact that I have asked Mr. Bennett, who visited that city, and Attorney General Thornburgh, who visited that city, to come back in with a Federal task force and help. But this bill is a step forward. It incorporates the provisions, which I requested from the chairman, that we add additional money into rural law enforcement.

The $900 million mentioned by Senator KERRY, I pray that part of that, at least $1 million of it, will go into Yakima for straight law enforcement on the streets to prevent the killing and the rapid movement of crack and cocaine to our State. I feel the same way about the provisions which have been placed in this bill for an additional $300 million in drug emergency programs for rural areas. Please help our State; please help Yakima.

I appreciate very much the fact that this bill is going to pass, and I compliment, once again, the chairman and the ranking member.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank my colleague for his kind comments. I want to acknowledge that Senators PRYOR, BAUCUS, and HARKIN have been very, very insistent on the rural law enforcement provisions. I cannot assure my colleague that Yakima will get $1 million, but I can assure my colleague that if this is adopted, the State of Washington will get a good deal more for rural law enforcement than it gets now, and all other States will, as well.

AMENDMENT NO. 2117

(Purpose: A technical amendment to delete miscellaneous duplicative sections and correct cross-references)

Mr. BIDEN. Mr. President, I ask unanimous consent that technical amendments which I now send to the desk on behalf of myself and Senator THURMOND be in order, nothwithstanding the unanimous-consent agreement, that it be considered read and that it be adopted without further debate or discussion.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. THURMOND, proposes an amendment numbered 2117.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT INTENDED TO PREVENT DRUNK AND DRUGGED DRIVERS FROM ESCAPING PAYMENT TO THEIR VICTIMS

Mr. DANFORTH. Mr. President, a drunk or drugged driving crash in which an innocent victim is injured or killed is a tragedy. It is a double tragedy if drivers can avoid paying a civil judgment to victims by seeking protection under the bankruptcy laws. I introduced the Drunk Driving Victims' Protection Act, S. 1931, to help ensure rightful financial compensation to the victims of impaired drivers. Mr. President, I am pleased that Senators BIDEN and THURMOND have included the language of S. 1931 in the managers' amendment to S. 1970.

In the past decade, efforts to deter drunk driving have begun to pay off. According to the National Highway Traffic Safety Administration [NHTSA], in 1982, 25,165 Americans were killed in alcohol related accidents. By 1988, the toll had decreased more than 7 percent to 23,352 alcohol related fatalities. Drunk driving, however, is still responsible for nearly 50 percent of all highway fatalities. If this national average were applied to Missouri, over 550 deaths could be attributed to alcohol related accidents in my home State in 1988 alone.

Our progress has come about in part because of national initiatives, such as incentive grant programs that encourage States to enact tougher drunk driving laws and the national minimum drinking age law.

Congress has also worked to guarantee that those persons who are injured by drunk drivers will receive an appropriate level of financial compensation. In 1984, legislation was enacted to prevent drunk drivers from escaping payment of civil judgments to their victims by filing for bankruptcy under chapter 7 of the Bankruptcy Code. Before 1984, chapter 7 afforded an opportunity for scandalous abuse. Under this statute, drunk drivers who killed or injured innocent people could escape civil damage judgments by declaring bankruptcy.

Last November, it came to my attention that drunk drivers can still discharge civil judgments through a chapter 13 bankruptcy filing. Instead of the liquidation of personal assets which occurs under chapter 7, chapter 13 allows the debtor to restructure his debt payments over a 3- to 5-year period. By filing for personal bankruptcy under chapter 13, drunk drivers are still allowed to discharge judgments awarded against them, and thereby escape full payment to their victims.

One such case is that of Dorothy Mercer, of Michigan. In 1982, Dorothy was hit by a drunk driver traveling over 100 miles per hour with twice the legal limit of alcohol in his blood. She filed a civil suit against the driver to compensate her for her injuries, including permanent brain damage and a compression of the spine which caused a loss of 3 inches in height. To protect himself from the lawsuit, the drunk driver filed for bankruptcy under chapter 13 in November 1984. Because any financial judgment against the driver could be fully discharged by the bankruptcy court at a future date, Dorothy was forced to settle for a fraction of her original claim for damages.

In response to this problem I introduced the Drunk Driving Victims Protection Act, S. 1931. This bill was reported unanimously by the Senate Judiciary Committee on June 14. As reported, S. 1931 would close this chapter 13 loophole and make two additional improvements to the current law. First, it would make it clear that a drugged driver may not seek bankruptcy protection in either chapter 7 or chapter 13 from debts owed as a result of his impaired driving. Drugged driving is a growing problem. These drivers should not be able to escape liability for the death and injury they cause. Second, S. 1931 would resolve "the race to the courthouse issue" that has arisen from a narrow reading of the current statute. The statute says that a bankruptcy court cannot discharge a "judgment or consent decree entered in a court of record" against the impaired driver. Some courts have read this to require that a victim must reduce his claim to judgment before the impaired driver can run into court and file bankruptcy. This narrow reading of the statute defeats its purpose. Victims should have sufficient time to make their case in court. S. 1931 halts this race to the courthouse by amending 11 U.S.C. 362(b), to add impaired driving debts to the list of debts that are not automatically stayed by the filing of a bankruptcy petition. This would keep a bankruptcy judge from staying the victim's claim until after the victim had an opportunity to reduce it to judgment.

In sum, Mr. President, I am pleased that Senators BIDEN and THURMOND have included the language of S. 1931 in their managers' amendment. This legislation builds on the effort we began in 1984 to protect the rights of drunk and drugged driving victims to compensation for their injuries. The message to impaired drivers is that they will be held financially accountable for their acts. The message to victims and their families is that Congress protects their rights.

Mr. President, I urge all my colleagues to join in supporting this important legislation to protect the victims of impaired driving.

Mr. BIDEN. How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Two minutes.

Mr. BIDEN. I ask my colleague from South Carolina, is there anyone wishing to speak on his side before we close?

Mr. THURMOND. Mr. President, the Republican leader wanted to speak for a few minutes, and we have sent for him.

Mr. President, I suggest the absence of a quorum, and request that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from South Carolina [Mr. THURMOND] has 4 minutes and 52 seconds remaining. The Senator from Delaware [Mr. BIDEN] has 1 minute and 35 seconds remaining. Who yields time?

Mr. BIDEN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND. Mr. President, I yield the remainder of my time to the distinguished Republican leader.

The PRESIDING OFFICER. The Senator from Kansas is yielded 4 minutes and 52 seconds and the Senator from Kansas still has time under his leader time.

Mr. DOLE. I thank the Chair and I thank my colleague from South Carolina. I hope I have not delayed my colleagues in getting to final passage but we have been in my office discussing campaign finance reform and how we could deal with that rather controversial issue.

First, I wanted to say a word about the S&L amendment.

Mr. President, I want to commend my distinguished colleagues, Senators HEINZ, GARN, WIRTH, and GRAHAM, for their hard work in negotiating the final version of this amendment.

I also want to thank Attorney General Dick Thornburgh and Secretary

of the Treasury Nick Brady for their willingness to come to the bargaining table and iron out the differences separating the administration and some of my colleagues here in the Senate.

A LITTLE HISTORY

Mr. President, prior to the Fourth of July recess, the Senate had two S&L proposals on the table: We had an amendment drafted by Senate Republicans and endorsed by President Bush. And we had a Democratic amendment sponsored by the chairman of the Judiciary Committee and by some of the Democratic members of the Banking Committee.

No doubt about it, both amendments had many good provisions. Both amendments had the same primary goal—to recoup some of the horrifying financial losses involved in the savings and loan disaster and to put the S&L crooks in the only place they belong—behind bars.

But the Republican and Democratic amendments also had some differences.

Fortunately, we were able to iron out the significant differences. It did not make much sense, at least to this Senator, to continue the partisan efforts here in Congress. Once both sides agreed that bipartisanship was a better approach, we were able to agree on a single amendment. We combined the best ideas of Democrats and the best ideas of Republicans.

As I have said, we have had administration input from the Attorney General's office and from the Treasury's office. So it seems to me that we are making progress.

I think one of the major reasons for the collapse of S&L's can be summed up in one word, and that word is "greed." I read about someone this morning who is hiding out in Europe. He made 22 million bucks. He ripped off the American people. He is now a fugitive from justice. He is one of the dishonest thrift executives. Their greed and the greed of dishonest attorneys and accountants, and the greed of other dishonest thrift insiders, in my view, was one of the primary causes of the collapse.

This isn't just my view. It's the view of many outside experts. And it happens to be the view of the Attorney General, who recently testified that 25 to 30 percent of all thrift failures can be attributed to fraud or insider abuse.

Unfortunately, we cannot change history, we cannot correct the abuses, we cannot go back in time and change the hearts and minds of those high fliers who gambled with the savings of their depositors and with the tax dollars of the American people.

But we can take some important steps to help bring the S&L crooks to justice, and that is precisely what is being done in this bipartisan amendment.

The bipartisan amendment adopts a provision of the Taxpayer Recovery Act, which was introduced earlier by my colleague, Senator KASSEBAUM and myself, which makes criminal restitution orders issued against those who have defrauded financial institutions nondischargeable in bankruptcy.

It directs the courts to give expedited review to cases brought by the FDIC and the RTC.

It gives the FDIC and the RTC stronger enforcement tools, including subpoena authority and the authority to bring civil actions under RICO.

It substantially increases the penalties for bank fraud and embezzlement.

It authorizes $162.5 million for fiscal years 1991, 1992, and 1993 to hire more Justice Department prosecutors and investigators.

And the bipartisan amendment restructures the Federal attack on thrift fraud—along the lines suggested by Senator GRAHAM—by establishing a financial institutions crime unit within the office of the Deputy Attorney General.

These are all important provisions, and I am proud to endorse them.

MORE THAN ENOUGH BLAME

Mr. President, we all know that there's more than enough blame to spread around on the S&L front.

So I hope that this amendment could be the beginning of the end for the partisan rancor here in Congress.

This amendment may disturb those slick political operatives who think that the S&L disaster makes for good politics.

But this amendment is good news for the American people, who do not want to trivialize an American financial tragedy with ill-conceived efforts to achieve short-term political gain.

These are all important provisions and for that reason I am very pleased that the amendment will be agreed to, I hope by unanimous vote.

Finally Mr. President I with to comment about the bill itself after the adoption of the S&L amendment.

Mr. President, I am pleased we have reached this point with the crime bill. Although Republicans did vote on two occasions against invoking cloture on the bill, we did so in order to protect our rights to offer amendments which improved this legislation and strengthened this Nation's ability to rid our streets and neighborhoods from thugs who prey upon the weak and innocent.

Probably the most important provision of this bill is the reform of habeas corpus appeals. For too long convicted felons have been allowed an almost endless number of appeals, seeking to overturn convictions on technicalities using every possible new legal theory. Crime is deterred only when there is a swift and certain punishment, and habeas corpus petitions have fouled that principle. While leaving the opportunity for those wrongly convicted to have justice prevail and their convictions overturned, it severely restricts the frivolous appeals now clogging our Nation's courts.

As well, the most heinous of crimes will be deterred for the first time since the Supreme Court's Furman versus Georgia decision in 1974, since this bill will finally reimpose the death penalty for those crimes. I want to thank my distinguished colleague from South Carolina, Senator THURMOND, for his untiring efforts to secure passage of the death penalty provision. He has been the leader in the Senate for reimposing the Federal death penalty, and his years-long efforts are chiefly responsible for the death penalty being included.

Mr. President, I have already stated my pleasure that we have included the comprehensive savings and loan enforcement and prosecution amendment which includes several provisions which I originally introduced. The American taxpayers are being asked to pay tens of billions of dollars to insured depositors, it seems little for them to ask that those responsible for this travesty should also pay, by serving time in jail, by losing all ill gotten gains, and by the knowledge that justice for them will also be swift and certain.

I am disappointed that the DeConcini amendment was not deleted from the bill. I firmly believe we are witnessing a new phenomenon in both urban and rural areas, in that young people—children really—are now armed to the teeth and dangerous. And, I agree with those who supported the amendment that this problem must be addressed—and soon. But, the proposed solution, merely to ban a few assorted firearms which are improperly referred to as assault weapons, will do nothing to correct the problem. Quite frankly, no one wants to be shot with a firearm. And, it doesn't matter if that firearm is an AK-47 rifle or a 38-caliber revolver. All guns have the potential to kill, so we must do all we can to keep every gun from those who would use them in criminal activities.

Mr. President, I would also like to congratulate a number of my colleagues who were successful in improving the crime bill and protecting our citizens. I joined with Senators LOTT and HELMS to make sure those sentenced to Federal prisons will be required to perform some type of work, so they are not allowed to bide their time by watching television, playing sports, or planning new crimes to be committed upon their release.

Senator D'AMATO expanded the crimes for which the death penalty could be imposed to include major drug trafficking. This amendment will deter those who seek financial gain by poisoning our Nation with illicit narcotics.

Senator GORTON strengthened the current precursor chemical program which allows Federal agents to track and control chemicals used to produce narcotics, both domestically and abroad.

Senator GRAMM added new mandatory minimum sentences for the illegal use of firearms, certainly a step in the right direction to keep guns from those who would use them against their fellow men, women, and children during crimes.

Senator MCCONNELL has been urging the Senate to address the growing problem of child kidnaping, and was able to add his amendment to this bill.

Senator SPECTER'S amendment will offer higher education to those who intend to enter the field of law enforcement, ensuring a trained and qualified corps of crime fighters.

Senators NICKLES and GRASSLEY added an amendment to increase victims rights. For too long, we have paid too much concern to those who commit crimes, not those who are being preyed upon.

Senator BOSCHWITZ added new mandatory minimum sentences for those who engage in child pornography, a particularly horrible crime.

Finally, while I disagreed with the amendment and although the amendment was ultimately not agreed to, I would like to compliment my colleague from Oregon, Senator HATFIELD. He was steadfastly opposed to the death penalty during his tenure in the Senate, and did an outstanding job of representing his position. As a man of conscience, he deserves special credit.

I thank the managers, the distinguished Senator from Delaware and the distinguished Senator from South Carolina. I think this is a far-reaching effort. Again, for the most part, it took a lot of time, and it took a lot of give and take by a lot of people on both sides. We had up to 300 amendments. They all disappeared except about 20 or 25. There was a lot of good will on each side. I think most everyone decided it was time to have a strong, tough, crime bill.

Probably one of the most important provisions in the bill is the reform of habeas corpus appeal. As many of us have said on the floor before and as the distinguished Senator from South Carolina has emphasized, for too long convicted felons have been allowed an almost endless number of appeals seeking to overturn convictions on technicalities using every possible new legal theory.

I think we have been able to tighten that up. In fact, we have tightened it up in the bill. It seems to me that was a big, big step in the right direction.

I want to thank my colleague from South Carolina, Senator THURMOND, for his untiring efforts to secure passage of this measure, working with the Senator from Delaware, and also passage of the death penalty provision. He has been a leader in the Senate for a long time.

So, again I think we have done good work. We decided we could get together.

I am somewhat disappointed about the DeConcini amendment. But it seems to me it was not deleted from the bill. I think we are witnessing a new phenomenon in both urban and rural areas, in that young people—children, really—are now armed to the teeth and dangerous. I agree with those who supported the amendment that this problem must be addressed—and soon. But the proposed solution, merely to ban a few assorted firearms which are improperly referred to as assault weapons, in my view will do very little if anything to correct the problem.

But I guess in the long run I am perfectly willing to accept the DeConcini amendment as part of this package and I intend to support the bill and vote for the bill.

Again, I know some of my colleagues, maybe because of that one amendment, will not support the bill, but I urge them to take a look at the entire package. This is one provision. I urge my colleagues on the House side to move very quickly on this bill so we can get it down to the President and get it signed.

Mr. BIDEN. Mr. President, I would like to also thank the minority leader who, as all leaders must around here, when we get into legislation with as many amendments as this has, has to bring people into a room and bring some order to the chaos.

He has done that always, and it has been a pleasure working with him. As I said earlier, I hope we can get swift action on this legislation in the House. I am confident that this legislation is something that, given the opportunity, the vast majority of the Members of the House will support, and that the President will also sign.

We have another major hurdle to look at down the road, and that is the drug bill, which is different than this. Hopefully we can have as much success as we had last year on that issue and as we are having on this issue.

I thank everyone for their cooperation. I must say to the Presiding Officer, I am delighted that this issue is coming to a close in the Senate, at least for this year. But it has been a worthwhile undertaking.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have previously thanked the distinguished majority leader and the distinguished Republican leader for their fine cooperation and assistance in the passage of this legislation. I wish to again thank the distinguished Republican leader for his excellent remarks he has just made on this bill, and express my appreciation for all the cooperation given us.

SUPPORT FOR STRONG ANTICRIME BILL

Mr. COATS. Mr. President, I am pleased to support the strong bipartisan anticrime legislation which the Senate has just completed. I am convinced that S. 1970, as amended, despite certain flaws, will provide the kinds of reforms and resources that will strengthen the ability of law enforcement to win the war on crime and drugs.

To begin with, the omnibus crime bill will strengthen and enlarge the Federal death penalty. Henceforth, capital punishment will be available for some 30 Federal crimes, primarily involving murder, espionage and treason—all including the deliberate taking or attempted taking of innocent life. Procedural safeguards are included to ensure that this ultimate sanction will not be abused, such as a separate sentencing trial and jury consideration of aggravating and mitigating factors. The execution of mentally retarded defendants and defendants under the age of 18 at the time of the crime is prohibited. In addition, the Senate expanded the reach of capital punishment by authorizing the death sentence for drug kingpins, or defendants convicted of running continuing criminal enterprises under section 848(b) of title 21 of the United States Code.

The Senate wisely deleted the so-called racial justice language which would have barred the death penalty if it furthered a "racially discriminatory pattern." This provision would have created an irrebuttable presumption of discrimination based on a failure to achieve specific numerical proportions in the imposition of the death penalty—the effect of which would have been to invalidate the use of capital punishment at both the State and Federal levels and nullify Indiana's death penalty statute. At the same time, S. 1970 authorizes grants for the States to study the role of race in their criminal justice systems, including a determination of whether bias exists in the imposition of the death penalty.

Second, the Senate approved important procedural reforms which should improve the process by which criminal defendants are brought to justice. Henceforth, defendants sentenced to death in State courts will be limited to one Federal habeas corpus petition in most cases if the State where they were tried provides them with court-appointed counsel in both trial and posttrial proceedings. The new law will require defendants to file habeas corpus petitions within 60 days after their State appeals are exhausted. I regret that the proposal was dropped to extend the good faith exception to the exclusionary rule to cases in which

there is no valid search warrant because that would have allowed the introduction of certain evidence important to criminal prosecutions. However, these welcome habeas corpus reforms will promote speedy justice and finality of convictions.

Third, the bill imposes mandatory minimum prison sentences for violent and drug-related crimes and for the use of firearms in various crimes. Putting teeth into penalties on criminals for weapons violations, in my view, will do more to stop violent crime than restrictions on weapons.

I am pleased that the major thrust of my own bill, S. 1548, the Juveniles in Drug Crime Prevention Act of 1990, was also incorporated into S. 1970, as amended. As a result, longer minimum prison terms—10 years without release—will be mandatory for persons convicted of selling illegal drugs to minors or of using minors in drug trafficking operations, and life imprisonment without release will be mandatory for a second offense.

Fourth, the Senate adopted a child victims bill of rights, I am very pleased to note. S. 1970, as amended, establishes a new felony offense for drug-related child abuse, with a 25-year mandatory sentence for a person convicted of habitual child abuse, and authorizes a $20 million grant progam to establish a child abuse investigation and prosecution program. The Senate also authorized $15 million in grants in fiscal year 1991 to public and nonprofit organizations to treat juvenile offenders who have themselves been victims of child abuse and neglect.

The bill also stiffens mandatory minimum penalties for serious crimes against children, including sexual exploitation, and makes the possession or viewing of child pornography a criminal offense.

Fifth, the bill mandates a minimum 30-year prison term for persons convicted of child kidnapping, except in the case of parental or family abduction. The bill also provides a minimum sentence of life imprisonment if the kidnaped child is permanently injured, sexually abused, or used in child pornography.

Sixth, the bill allows the use of victim impact statements during the sentencing phase of Federal death penalty trials. Federal courts will also be required to order restitution for the full amount of a victim's loss, and restitution debts arising from criminal sanctions will not be dischargeable should the defendant file for bankruptcy under chapter 13.

Seventh, the bill establishes stiff penalties for the production, manufacture, sale, or distribution of ice, a very pure, smokeable, and highly dangerous form of methamphetamine which has become increasing popular on the street and may well become the crack of the 1990's. The bill also adds the chemicals used to produce this drug to the DEA's list of regulated precursor chemicals.

Eighth, the bill mandates work requirements for Federal prisoners and increases the availability of prison space by allowing the use of tent shelters at former military bases and other prison facilities on a temporary basis. The bill also encourages private industry to play a larger role in operating prisons and providing jobs for prisoners through expansion of the Private Sector/Prison Industry Enhancement Certification Program [PIE].

Ninth, the bill establishes a federally supported Police Corps by authorizing $400 million in fiscal year 1991 for the States to provide college scholarships to persons who agree to work for State and local police departments for 4 years after graduation and $30 million in subsidies to the States to provide scholarships to inservice law enforcement officers who seek to further their education.

Tenth, S. 1970 will significantly strengthen Federal law enforcement by adding 1,000 FBI agents, 1,000 DEA agents, 500 border patrol officers, and 480 Federal prosecutors to the Justice Department. The bill also authorizes $300 million in emergency funding for areas hardest hit by the trafficking in illegal drugs and increases resources and manpower to fight crime and drugs in rural areas. Increased funding for the Drug Enforcement Agency is designed to ensure swift prosecution of offenders, establish a mandatory detention policy, require drug testing for all defendants released on probation, parole, or supervised release, and provide for the closing of shooting galleries and crack houses used by drug addicts and criminals.

The bill will also enable State and local law enforcement agencies to step up their anticrime efforts by authorizing the doubling of Federal aid through the Bureau of Justice Assistance to those agencies from $450 million in fiscal year 1990 to $900 million in fiscal year 1991.

Finally, and perhaps most importantly to this Senator, was the adoption by the Senate of the Coats-Levin boot camps amendment. This amendment would authorize $20 million in fiscal year 1991 in Justice Department grants to the States to set up and operate boot camp prisons for nonviolent offenders, including juvenile drug offenders.

The idea behind boot camps is that it is better for the criminal justice system, for society, and certainly for youthful and first-time offenders to offer nonviolent offenders a second chance to straighten themselves out, rather than to assign them to a prison cell and consign them to a life of crime. Boot camps will provide offenders with little or no criminal history a meaningful alternative sanction to imprisonment which will enable them to gain necessary values and life skills, discipline, a sense of self-worth, an understanding of the work ethic, and a realization of what they have done wrong, so that at the end of their reduced sentences, they will become contributing, upstanding members of society, better able to take care of themselves and support their families. Whether the boot camp experience will ultimately reduce recidivism or not—I believe it will, and many corrections officials, judges, criminal behavioral, and family specialists and legislators agree with me, but early data and studies are inconclusive—there is little doubt that shock incarceration is preferable to prison for young, nonviolent offenders and boot camps can reduce prison overcrowding at a much lower cost than prison housing.

I discussed in detail the boot camp proposal in a colloquy with Senator LEVIN on June 28 during consideration of the bipartisan managers amendment which contained the Coats-Levin language. Let me summarize the amendment now. To receive funding the States will be required to offer to eligible offenders an intermediate or alternative sanction program that combines punishment with rehabilitation.

In addition to a military-style regimen of strict discipline, hard labor, physical training, drill and ceremonial exercise, the State shock incarceration program must include substance abuse testing and treatment, counseling, and literacy education. All offenders who successfully complete boot camp will then be paroled to home detention, community confinement, or intensive supervision for a time, during which they continue to receive support programs to ease their transition into society, including drug testing and treatment, counseling, and literacy education. If ordered by the sentencing judge, the parolee must also provide restitution and participate in community service projects. To the fullest extent possible, offenders will also receive vocational education and job training throughout boot camp and supervised release.

What I have proposed is not just a convenient way for offenders to avoid sanctions or get off lightly or get out of jail early. Boot camp prisons are prisons, not country clubs. Serving time in a boot camp means, for every volunteer and selected participant, surviving a highly regimented, intensive program of tough physical training, hard labor, and drill, combined with mandatory drug treatment, testing, counseling, and life skills education—a structured program that entails 16- to 18-hour days and normally lasts 90 days to 6 months.

Fourteen States already have operational programs, and 8 other States

are in the process of setting up boot camps. My own State of Indiana this year enacted boot camp legislation but lacks the funds to start the project. Many other States are ready to undertake shock incarceration projects, in separate low-security facilities adjoining or apart from regular prisons or in abandoned military bases, but the money is not available. My amendment would make available the funding necessary to permit the States—especially States like Indiana which are under court order to relieve prison overcrowding—to continue this bold and worthwhile experiment.

The President recommended boot camps in his national drug strategy, and national drug czar William Bennett and the Justice Department have endorsed the concept of my amendment. My proposal has been warmly endorsed by Chuck Colson, head of the Justice Fellowship Advocates. I regret that Mr. Colson's letter was inadvertently omitted from my earlier statement, so I request unanimous consent that the full text of that letter be printed in the RECORD at this point. I also ask unanimous consent that the text of the Fort Wayne News-Sentinel editorial and the syndicated column by Cal Thomas, both of which were mistakenly left out of my June 28 statement, be printed in their entirety at this point.

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

JUSTICE FELLOWSHIP ADVOCATES,
Washington, DC, May 10, 1990.

Hon. DAN COATS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR DAN: In the current atmosphere of "get-tough" rhetoric and disastrous results, our nation desperately needs leaders who will address the prison overcrowding crisis in a responsible, no-nonsense manner. Every day we put off action, the situation only worsens.

I salute you for rising to the challenge by introducing S. 2216, the "Innovative Boot Camp Prison Act of 1990." The inclusion of S. 2216 could dramatically improve this year's crime package.

I support boot camp prisons because they offer a compelling combination of self-discipline and life skills in a setting which involves close supervision without the degradation of prison.

There are several features of your bill that I find especially encouraging. One is that you have clearly targeted Federal aid to programs that serve as an alternative to imprisonment. We have to reserve prison space primarily for violent criminals.

In addition, you have built in a strong component of treatment, education and job training during the program and afterwards, when offenders re-enter the community. Not only that, your funding formula requires a partnership of the Federal and state governments with private groups in providing these services. This affirmation of the role of the private sector is excellent.

Finally, by including restitution and community service, you ensure that offenders will be held accountable to those they have harmed. Making things right—what I call "restorative justice"—is ultimately what criminal justice should be all about.

Dan, S. 2216 is a refreshing and positive approach to the crisis that faces our country. May God continue to bless your efforts.

Yours in His Service,

CHARLES W. COLSON.

[From the Fort Wayne News-Sentinel, Oct. 13, 1989]

TWO PROMISING WEAPONS IN THE WAR AGAINST DRUGS

There were two encouraging signs this week that the War on Drugs may turn out to be more than empty political rhetoric.

First, the U.S. Senate passed Sen. Dan Coats' "boot camps" amendment, which would provide federal funds to help states establish military-style incarceration programs for some first-time, non-violent offenders, including drug offenders.

Closer to home, State Rep. Mitch Harper promised to introduce legislation next session that would allow Indiana authorities to seize the out-of-state assets of drug dealers.

Both ideas would be valuable weapons in the fight to keep drugs off our streets and out of our schools.

Our prisons are already overcrowded and too often reinforce criminal behavior instead of rehabilitating it. Shock incarceration programs, known as boot camps, offer a sensible alternative. For up to 180 days, offenders are subjected to a strict military-style existence designed to reinforce their self-worth, and they receive, where necessary, drug treatment, job training and other counseling. Offenders go to prison if they violate camp rules and serve the rest of their sentence on probation if they successfully complete the program. Twelve states already have boot camps, and they report that offenders sent to the camps are less likely to commit a second offense than those sent to prison. Indiana is studying such a system, and the Legislature, it is hoped, will give the idea a serious look next year.

State senators and representatives should also seriously consider Harper's plan. People sell drugs because there's a lot of money to be made. Taking away their cars and other ill-gotten assets is the least society can do to these parasites. And selling the seized goods could help pay for the police and drug education programs needed to win the war. Although Indiana officials already have the power to seize an offender's assets within the state, Coats' drug subcommittee hearing in Fort Wayne this week made it clear that many of the people peddling drugs here have moved in from other states, where their tainted belongings are currently out of reach.

To be sure, neither plan is a sure bet. Coats' amendment must still win approval in the U.S. House of Representatives, and Harper must still introduce a bill and convince the Legislature to pass it.

But if we're serious about fighting drugs, it will require innovative tactics like these—and more.

[From the Washington Times, May 14, 1990]

UNLOCKING THE PRISON DOORS

(By Cal Thomas)

LANSING, MI.—Michigan Gov. James Blanchard says his state will not build any more prisons after 1992, when the current $900 million, 27-prison construction project is scheduled to be completed.

It is not that Mr. Blanchard is growing "soft on crime." The state simply can no longer afford the cost. Instead, Mr. Blanchard told a conference of the newly created Office of Community Corrections, he will be counting on local communities to place non-violent, non-dangerous petty criminals in alternative programs.

"We can't afford to send a five-time shoplifter to Jackson Prison," said Mr. Blanchard, who said he believes that keeping non-violent criminals in local punishment programs will be the trend for the 1990s.

According to growth projections by the Michigan Department of Corrections, the already overcrowded state prison system (more than 22,000 are now locked up) is expected to top 50,000 by Jan. 1, 1993.

Nearly 53 percent of Michigan inmates are in prison for non-assaultive offensives. Nationally, 34 percent of all state prison inmates have never been convicted of violent crimes, according to Justice Department statistics. It costs $20,000 a year to keep someone in prison and, like everything else, the costs continue to rise.

In Michigan, and in most other states, funds that could be used to improve education and for other vital programs go instead for court-ordered reductions in prison population and construction of new prisons.

Politicians who fear being tarred with the "soft on crime" label if they recommend anything but a "lock 'em up and throw away the key" approach, ought to begin to argue prison reform as one means of tax reform, as well as inmate reform.

The national recidivism rate remains above 80 percent. The prison system does little but train and harden criminals to commit more crimes. But alternative sentences for those criminals who are not violent have proved remarkably successful where they have been tried.

In Georgia, only 16 percent of all participants in the state's Intensive Supervision Probation (ISP) program are rearrested within 18 months of completing the program. Seven percent of those are for technical violations and only 9 percent for new crimes.

In New Jersey, only 8 percent of ISP graduates are rearrested for new crimes. In Illinois, the rate of rearrests for new crimes is only 5 percent.

The ISP program saves Georgia $10,000 per offender per year compared to imprisonment. In New Jersey, the annual savings per offender amount to $11,000 and in Illinois, $13,000.

When restitution is included as part of the punishment, the results are even more startling, particularly when one considers that the state can make money instead of spend it on the offender and have a better chance of rehabilitating him.

The nonprofit Justice Fellowship found that restitution centers in Georgia brought in $4.3 million in room-and-board costs, fines, court fees, taxes and compensation to victims when offenders were made to pay for their crimes with something other than time in prison.

Virginia reported saving $11,600 per year per offender by diverting the non-violent offender from prison into punishment programs under its Community Corrections Act.

Tennessee saved $12,000 per offender under a similar program.

According to the Justice Fellowship, Mr. Blanchard may be the first governor in the country to establish alternative sentencing

as a statewide policy. He should not be the last.

If I steal your car and wreck it beyond repair, it might make you feel good to know that I am sitting in a jail cell, but your insurance rates will go up and your taxes, too, to pay for my time in prison.

Wouldn't it make more sense if I was forced to work to pay you back, thus keeping your insurance rate at no more than the current level and not further burdening the taxpayers? Restitution also provides an important link between the criminal and the victim which is, itself, rehabilitative.

The way to place alternative sentencing proposals on the fast track is for some conservative politicians to get behind them. Alternative sentences for the non-violent is a way of getting tough on crime by reducing crime. It is also a way of holding the lines on taxes, another conservative goal. With alternative sentences, everybody wins. It's the ideal issue.

Now that Mr. Blanchard has led the way, all that is needed are some followers who will turn the issue into a priority.

Mr. COATS. The boot camps amendment had strong bipartisan support, with 30 Republican and 15 Democratic cosponsors. I am pleased that the Senate leadership included the Coats-Levin language in the managers' amendment No. 2104, which was adopted unanimously on June 28. I wish to thank the crime bill managers, Senators BIDEN and THURMOND, for including the Coats-Levin amendment in their package.

Mr. President, I note that S. 1970 also would prohibit the manufacture, sale, and possession of nine specific types of semiautomatic assault weapons for 3 years, with a followup study on the impact of such a ban on violent and drug trafficking crime. I voted several times to delete this provision, but such efforts narrowly failed, so the matter is now up to the House to resolve. I believe that a ban will lead to a strong black market in assault weapons which will only benefit drug dealers and other dangerous criminals. I hope that the inclusion of this controversial provision will not endanger the entire bill. This is the only opportunity we will have in this Congress to address adequately the issue of violent and drug-related crime that is plaguing our cities and towns and threatens the peace and moral fabric of our society.

Much as I disapprove of this weapon, it is clearly outweighed by many other important and workable provisions, including the boot camps program, which merit my support. Mr. President, I am convinced that this comprehensive anticrime bill, despite its imperfections, will strengthen America's law enforcement forces and criminal justice system. That is why I shall vote for S. 1970, as amended. I hope that the House will act quickly as well, so that the 101st Congress will be remembered as the Congress that provided the tools and resources needed for our Nation to win the war against crime and drugs.

Mr. HELMS. Mr. President, as a cosponsor of amendment No. 2089 to S. 1970, the omnibus crime bill. I believe it would be helpful to engage in a colloquy with my distinguished colleague and cosponsor of the amendment, Senator LOTT, to clarify a few points regarding the expansion of the Prison Industry Enhancement or PIE Program.

Mr. LOTT. I am happy to enter into a colloquy with my colleague, Senator HELMS, for the purpose of clarifying section 1, mandatory work requirement for all prisoners, section 2, expansion of the Private Sector/Prison Industry Enhancement Certification Program, and section 3, employment of prisoners.

Mr. HELMS. First, is section 1 of the amendment intended to state the policy of the Federal Government to keep Federal prisoners constructively occupied during their incarceration, and not to change current law as it relates to the Federal Prison Industries Inc. "FPI" or UNICOR?

Mr. LOTT. That is correct. The amendment does not change FPI/UNICOR. It creates a new work alternative for Federal inmates, with distinct differences from FPI/UNICOR, incorporating private sector businesses, in addition, the amendment mandates inmate work. Currently the practice for the Federal Government to keep inmates busy working. In this amendment, if the prisoner is not assigned to a job, it better be for a good reason like security or health considerations. Partial exemptions will be granted for educational training and drug rehabilitations, but the prisoners will work. This provision does not affect FPI. However, it does allow Federal prisoners to participate in public work and prison construction projects. It is important to note that this amendment does not create a right for the inmates to work or draw unemployment if they are not placed in a job.

Mr. HELMS. I thank the Senator for that clarification. Next, section 2 of the amendment, as I understand it, expands the current Prison Industry Enhancement Program [PIE] on the State level from 20 certified programs to 50 and creates a new Federal PIE program, under the direction of the Director of the Federal Bureau of Prisons which would be distinct from FPI/UNICOR. The new Federal PIE Programs would be able to sell goods and services to Federal, State, and local governmental entities and to the public after meeting a number of requirements designed to protect nonconvict labor and private sector business. The purpose is to put as many prisoners to work as possible. Is my understanding correct that goods and services or the Federal PIE Program would have no statutory preference in procurements by Federal, State or local governmental entities or when sold to the public, but rather, would have to compete in these markets as to price, quality and timely deliverability?

Mr. LOTT. The Senator is correct. On the non-Federal level, expansion of the PIE Program will allow the existing program to expand to accommodate current and future applicants waiting to enter these non-Federal programs. The Federal program is modeled after the successful programs conducted on the non-Federal level, and is designed to provide additional opportunities to keep Federal prisoners busy in labor-intensive jobs. The private sector businesses participating in the Federal PIE Program would not have a statutory preference for Government contracts.

Mr. HELMS. The next clarification concerns the term labor-intensive. While I believe that these PIE and FPI programs should be limited to jobs that are labor-intensive, I am concerned about the impact on industries which are fighting to protect their U.S. Government and commercial markets from further losses to foreign competitors. In my own State of North Carolina, I see furniture, shoe, and apparel industries losing business everyday to overseas markets. Although these industries are labor intensive, I would not want to do anything that would increase the burden on these industries. Does the Senator share these concerns?

Mr. LOTT. Of course. Prison work programs should be labor intensive and, as the Senator from North Carolina knows, my own State is suffering from some of the same damage to important Mississippi industries due to foreign competition, particularly in the furniture and apparel markets. Pursuant to section 1761(c) of title 18, the Federal PIE must meet a number of requirements including negotiations with labor representatives and businesses that may be affected by a PIE initiative. This law also requires that employment of inmate labor through the PIE Program will not result in the displacement of employed workers or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or impair existing contracts for services.

Mr. HELMS. I thank the Senator and share his concerns. Perhaps could clear up some questions that this amendment has raised regarding FPI/UNICOR. Since the legislation requires the Federal PIE Programs to be labor-intensive, I am concerned that the PIE program could be used improperly as a way to produce ready to assemble products, such as furniture kits, for sale to the Federal Government through FPI/UNICOR using FPI's preference. Such a practice is not a labor-intensive utilization of

prison inmates employed by FPI/UNICOR.

Mr. LOTT. It is not the intent of this amendment to alter FPI/UNICOR. Nor is it the intent to permit goods produced under the PIE programs to be sold to FPI for resale to Federal departments and agencies using the FPI preference. Additionally, the amendment is not intended to allow FPI/UNICOR to subcontract with Government contractors to do the manual labor necessary to manufacture products which FPI/UNICOR inmates merely assemble for resale to Federal customers. If FPI/UNICOR purchases products from the private sector businesses participating in PIE, they must be purchased in the same competitive nature as purchases from other private sector businesses.

Mr. HELMS. I think it would be beneficial to summarize the major differences between FPI/UNICOR and the new Federal PIE Program.

Mr. LOTT. I believe that is an excellent suggestion. We are creating a new and distinct Federal program with a number of differences. While both involve Federal inmate employees, there are three primary differences between the FPI/UNICOR and PIE. First, as I mentioned UNICOR has a preference with the Government. The private sector businesses employing inimates through the PIE program will not. PIE products must be sold in the same competitive nature as other private sector products. Second, the private sector PIE participant must pay its prison workers minimum wage or prevailing wage. Therefore, the private sector participants will not have an unfair wage advantage over other businesses. In addition, deductions totaling not more than 80 percent are taken from the inmates wages for a variety of purposes which were outlined in my floor statement. Last, before a PIE program can be certified, it must meet the requirements I mentioned earlier which include consultations with labor and business representatives. These requirements are to insure that nonconvict workers are not displaced by the inmates workers and businesses are not forced to compete with private sector PIE participants who have a preference or an unfair wage advantage.

Mr. HELMS. I thank the Senator for his clarifications.

Mr. CHAFEE. Mr. President, I would like to make a few comments about the vote on S. 1970.

As my colleagues well know, I have consistently opposed the death penalty. I have spoken repeatedly on this floor against it. I have worked with my colleague Senator HATFIELD in offering amendments that substitute the sentencing option of mandatory life imprisonment for that of the death penalty.

During consideration of the Hatfield-Chafee amendment to S. 1970, I pointed out that it seems we have applied the death penalty to everything except school truancy. I do not think this is wise. The death penalty is irreversible, it does not deter, and it frequently turns criminal trials into Roman circuses.

But time and again, a majority of the Senate has indicated by rollcall votes that they do not agree with my view.

This bill contains another provisions that I feel strongly about: limitations on assault weapons. For the first time the Senate has voted to limit the availability of nine kinds of assault weapons. On three separate occasions, this body voted to retain the assault weapons provisions of S. 1970. That is unprecedented. Yes, we have voted to ban undetectable plastic weapons, and yes, we have approved bans on new machine guns, but never have we approved limitations on military-style assault weapons. This bill is a major step forward in that respect.

The law enforcement community wants this ban, and they worked overtime to ensure that it would remain in the bill. The Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the Police Executive Research Forum, the Police Foundation, and the Police Management Association—all view such a ban as a crime control tool. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. They need our help and we should give it.

I therefore will be supporting the overall omnibus crime bill. I do not like the death penalty. But the Senate has spoken repeatedly, and it is clear I can do nothing—at least for now—to change its mind. But the assault weapons provision is worth saving.

For that reason I will support this bill.

Mr. GRASSLEY. Mr. President, I rise to support the passage of S. 1970, the omnibus crime package.

It is the result of many hours of debate by the Senate over the better part of the last few weeks.

As a compromise bill, it is by no means perfect.

The resolution of some of the issues in this bill leave no Member of the Senate, including this Senator, totally happy.

I am not alone when I express the sentiments that the bill—despite what some of its titles may proclaim—does not provide real reform in some areas of Federal criminal procedures.

In other areas—such as victim's rights and financial institution fraud prosecution and asset recovery—the bill has laid a good foundation to eventually accomplish truly needed reforms in the operation of Federal criminal law.

Despite my reservations, I would like to explain why I have decided to cast my vote in favor of this compromise.

First, the Congress and the President have made a commitment to the American people to pass meaningful crime control legislation.

The American people have demanded action. They have the right to be free from being victims of violent criminal activity.

The American people are rightly exasperated with the seeming inability of their National Government to address their number one concern—the safety of the streets and neighborhoods in which they are trying to raise their families.

This sentiment is true whether one speaks about America's urban centers or its heartland communities.

Mr. President, it is high time for us to act.

Among its many guarantees, the Constitution guarantees that Americans will enjoy the freedoms of domestic tranquility and the protection afforded the general welfare.

As elected officials, we take an oath to uphold the Constitution, the supreme law of the land. Consequently, the welfare of the people must always be our supreme law.

I believe that some of the provisions of S. 1970 establish a foundation that will help us to fulfill our constitutional obligation to protect the citizens of this great Nation—to guard their freedoms and to ensure domestic tranquility—by protecting them from those who have no regard for the rule of law at all.

As importantly—I believe that this bill can help to ensure domestic tranquility through its support of law enforcement presonnel at every level of government.

Law enforcement officers are on the front lines of the fight against crime; they lay their lives on the line every day against the thugs who trample upon the peace and tranquility of a law-abiding society.

Mr. President, no reform proposal, as sweeping as this bill is intended to be, is ever perfect.

And let me repeat, S. 1970 is not perfect.

Our debates on this compromise bill have really been about how our society is to maintan both its freedom and its civility.

We cherish our freedoms, both as individuals, and as a Nation.

For over 200 years—from its upstart and revolutionary beginnings, through its containment and victory over international totalitarianism—this country has been the world's bulwark: Insuring domestic tranquility; promoting the general welfare; and securing the blessings of liberty.

The omnibus crime bill package certainly does not achieve what I orginally hoped we could achieve.

Whether it is better than no legislation at all may be the subject of debate by some.

However, I believe its pasage may enable us—by enhancing the statutory enforcement tools of law enforcement personnel, prosecutors, and judges—to fulfill our obligation to better protect the American people from violent crime.

I know many of my constituents are sick and tired of waiting for us to act. They want and deserve meaningful action from us.

I ask my colleagues to support the compromise crime control package.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Indiana [Mr. COATS] for offering his boot camp amendment as a provision in the comprehensive crime package. It was previously introduced this year as the Innovative Boot Camp Prison Act of 1990, and I was pleased to cosponsor it.

This provision of the bill authorizes the Justice Department, through the Bureau of Justice Assistance, to provide grants to the States to establish camp prisons for young felons who have committed nonviolent crimes for which the sentence is at least 1 year in prison.

We have reached a point with our Nation's criminal justice system when we are faced with a challenge much greater than merely coping with youth criminal activity by imprisonment. Too many young people these days are imprisoned only to be released a short time later to resume a life of crime. We must now look past punishment and focus on rehabilitation for those who have experimented with crime.

We have been mass producing hardened criminals for too long. The system takes a young, first-time offender and sentences him to a year or two in a State penitentiary. The chances are greater that he will be released as a more hardened criminal rather than a person who respects the law and his fellow citizens. Spending 2 years locked up with more violent and experienced criminals cannot be a healthy influence on anyone, especially the young and easily persuadable. What possible constructive lessons has this young offender learned? What alternatives to crime has he been taught that will enable him to rejoin society as a law-abiding citizen?

We must break the pattern of recurring convictions among young felons by developing an alliance between the criminal justice system and rehabilitation. We must devise programs for young offenders that punish them for their offenses but also provide guidance and direction. They must learn about the opportunities that are available to them after they have served their sentences. Rather than merely locking them in a cell for a year or two, they should be trained in vocational skills that will enable them to lead productive lives when they return to society.

I wholeheartedly support the prison boot camp provision. For years, my home State of Mississippi has had at our Parchman State Penitentiary a regimented inmate discipline program, where youthful first offenders may voluntarily enroll in a boot camp program emphasizing vigorous physical training, military style discipline, and drill and ceremonial exercises. The program also includes vocational training, adult basic education, alcohol and drug rehabilitation, and psychological group counseling. Those who successfully complete the program are released for a trial period to supervised community service, during which those with drug abuse histories receive continued drug testing and counseling.

Directors of similar programs across the Nation who have studied former inmate participants have found their recidivism rate to be considerably lower than the rate for the general prison population. Supporters of these programs feel they provide offenders with the motivation to redirect their lives toward the work ethic and a sense of individual responsibility.

Rehabilitation and treatment by discipline and reward demonstrate to young inmates the relationship between behavior and consequences. They learn that they are accountable for their actions. Those unwilling to go by the rules of the program may face a longer term of regimented incarceration or a return to regular prison to resume their original sentence.

The positive results of these prison boot camp programs are worthy of testing in the States. These programs punish young offenders for crimes they have committed and simultaneously educate them in community values, develop in them a sense of responsibility, and make them aware of the employment opportunities available to them. Most importantly, they help these youth to develop the self-respect, ambition, and motivation to begin new and productive lives.

Having this provision in the bill makes it a better piece of legislation. I again congratulate my friend from Indiana, Mr. COATS.

Mr. DOMENICI. Mr. President, the crime bill that is now before the Senate is the strongest anticrime bill in many, many years. It deserves the support of all Senators.

The crime bill would reestablish the Federal death penalty to assure that those who commit heinous murders and other very serious crimes are subject to the ultimate penalty.

It would also assure that death row inmates do not delay the imposition of their lawfully authorized sentences by filing endless frivolous appeals after they have had their case fully reviewed by the courts.

It increases the minimum sentence for criminals who use firearms during a crime of violence or drug trafficking crimes, who steal firearms, who smuggle firearms into the country with intent to engage in drug offenses or crimes of violence, who sell drugs to minors, or who use minors in drug trafficking activities. In some cases, the penalties for repeat offenders would be mandatory life in prison.

The crime bill also increases the penalties for crimes committed against children, including child pornography.

It will provide increased funding for State and local law enforcement agencies, who are in the front lines of the war against drugs.

Mr. President, I am pleased the Senate included two of my amendments in the bill. The first would assure that Indian tribes are given the same rights as States to determine whether the death penalty should apply to first-degree murders within their jurisdiction. This amendment, which I offered with Senator INOUYE, would apply to murders that are committed in Indian country and involve an Indian defendant or victim.

The second amendment would regulate private jail facilities used by the U.S. Marshals Service to assure that, if private jails to house Federal prisoners, that they are needed and that they are constructed with adequate safeguards to protect the public.

This crime bill does what crime bills should do. It punishes the criminals who commit crimes. It is tough. It is strong. It is the right thing to do.

These tough measures are long overdue. For too many years, we have acted leniently during an onslaught of drugs and crime. I believe these measures can be another important step in our efforts to win the war against drugs.

Mr. President, although I will vote in favor of the crime bill, I do not favor all the provisions of this bill. I am disappointed that the bill includes a provision authored by Senator DECONCINI that would ban certain types of semiautomatic firearms.

I certainly understand the concern that many Americans have over the violent crimes being committed by drug dealers, youth gangs, and other criminals. However, I do not think that restricting the constitutional

rights of law-abiding gun owners is the way to solve the problem. Furthermore, I do not believe that the DeConcini provision would keep these guns out of the hands of criminals.

Instead of enacting new laws to ban firearms, we must strengthen and enforce the laws that are already on the books to punish criminals who use a firearm—semiautomatic or any other type—to commit crimes.

I hope that, before this bill reaches the President desk, the DeConcini provision is dropped from the bill.

Mr. D'AMATO. Mr. President, I rise in strong support of S. 1970, the comprehensive anticrime bill we are about to vote on, and which I predict we will pass overwhelmingly.

Among this bill's many provisions are a major expansion of the Federal death penalty for 30 crimes, including espionage and treason; historic habeas corpus reform that will cut down on the delaying tactics used by violent criminals to clog our court system and escape justice; the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990; and an expansion of Federal, State, and local law enforcement programs.

This bill contains two amendments which I proposed, and which I believe are very significant. First, it provides for the death penalty for major drug dealers, those drug kingpins who distribute huge quantities of drugs, over 66 pounds of heroin or 330 pounds of cocaine. It also applies to those who take in $10 million from drug trafficking in any 12-month period.

The Senate agreed to this amendment by vote of 66 to 32 on June 28. Mr. President, I ask unanimous consent that a section-by-section analysis of my death penalty amendment be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. D'AMATO. Mr. President, the second category of offenders eligible for capital punishment consists of the drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person.

The defendant would have to be a continuing criminal enterprise principal organizer, administrator, or leader, but would not necessarily have to traffic in the huge quantities that a super kingpin traffics in.

This amendment is a response to the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals.

The third category of death-eligible drug offenders fills a gap in existing law.

The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain drug-related killings, but did not cover killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

This amendment fills this gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a Federal drug felony, and a person dies in the course of the offense or from the use of drugs involved in the offense.

Some opponents of the death penalty will say that only crimes involving a killing can be punished by the death penalty, but no Supreme Court decision made so far is definitive on this issue.

In the key case of Coker versus Georgia, decided in 1977, the Supreme Court determined that the proper standard for the death penalty is whether capital punishment is excessive in relation to the crime committed.

Whether one thinks the death penalty is excessive depends on how destructive you think drug trafficking is. I think the evidence is overwhelming that drug trafficking is such a destructive crime that the death penalty is what the major drug dealers deserve.

My second amendment is the Safety Officers' Compensation Act, based on legislation which Congressman MANTON has introduced in the House of Representatives as H.R. 2870, and which I have introduced in the Senate as S. 2785.

This legislation amends the Omnibus Crime Control and Safe Streets Act to provide a one-time Federal payment of $100,000 adjusted for inflation to public safety officers who are permanently and catastrophically injured in the line of duty. Such payments are now made only to the families of officers killed in the line of duty.

This bill has been introduced in honor of Steven McDonald, the brave New York City Police officer who was paralyzed from the neck down as a result of gunshot wounds inflicted by three men he stopped for questioning in New York's Central Park on July 12, 1986.

I want to thank Senator BIDEN and Senator THURMOND, the chairman and ranking member of the Senate Judiciary Committee, for including this provision. This legislation has received the support of the Fraternal Order of Police, the International Association of Firefighters, the International Brotherhood of Police Officers, the International Association of Fire Chiefs, the National Association of Police Organizations, the International Association of Chiefs of Police, the National Sheriffs Association, the State of New York, the State of California, the State of Alabama, the State of Indiana, the State of Alaska, the New Mexico Department of Public Safety, the Washington State Patrol, the State of Maryland, the Commonwealth of Virginia, the State of Arizona, the State of Idaho, the State of Maine, the State of South Dakota, the State of Missouri Department of Public Safety, the State of Wyoming, the Commonwealth of Pennsylvania State Police, the State of North Dakota, and the Commonwealth of Puerto Rico.

The Public Safety Officers' Compensation Act will help relieve some of the burden being borne by the family, friends, and community of severely injured or disabled officers, and it recognizes the unique and costly sacrifice of these extraordinary men and women with meaningful help.

The reason for enacting this legislation is as clear and compelling—we simply have a moral duty to acknowledge with more than kind words the bravery of our public safety officers who in service to their communities become the tragic victims of brutal violence and life threatening catastrophe.

Finally, I want to express my strong support for the Comprehensive Bank and Thrift Fraud Prosecution and Taxpayer Recovery Act of 1990, the amendment being added to the anticrime bill.

The amendment is a carefully crafted bipartisan compromise addressing the concerns of many Senators and the Banking and Judiciary Committees to deal with an issue of tremendous national concern. It is a comprehensive attempt to get serious and get tough with those that commit bank fraud, embazzlement, savings and loan fraud, and other crimes. I would like to thank Senators WIRTH and HEINZ, and Senators BIDEN and THURMOND, for their tireless efforts to create this legislative package. Among this amendment's provisions are the following:

First, increases the maximum penalities for bank fraud and embezzlement from 20 to 30 years;

Second, creates a criminal provision that subjects so-called savings and loan kingpins to a mandatory minimum sentence of 10 years and up to life imprisonment with fines of up to $10 million for an individual and $20 million for others;

Third, authorizes wiretaps in bank fraud investigations;

Fourth, expands restitution provision to authorize the restoring of forfeited property to bank fraud victims;

Fifth, authorizes the Attorney General to seize forefeited property relating to bank fraud;

Sixth, expands money laundering offenses to include proceeds resulting from bank and mail fraud;

Seventh, increases resources for investigations and prosecutions;

Eighth, expands the authority of Federal magistrates; and

Ninth, provides for exhanced interagency coordination.

Mr. President, we cannot expect the American people to have faith in financial institutions, on which they rely, if we do not protect the integrity of the entire system. At the very least, they should have the assurance that the looters of savings and loans and banks will be detected, indicted, convicted, jailed, and, denied any profit from their crimes and their abuse of trust.

Mr. President, this is important constructive legislation, and the right thing to do is to pass the bill. I urge my colleagues to give this legislation their full support.

EXHIBIT 1

DEATH PENALTY FOR DRUG KINGPINS AMENDMENT—SECTION-BY-SECTION ANALYSIS

This amendment authorizes capital punishment for major drug dealers and provides the standards and procedures for imposing and carrying out the death penalty, which are required by the Constitution.

In 1988, as part of the Anti-Drug Abuse Act, we authorized capital punishment for certain drug-related killings.

This proposal goes a step further. It provides for the death penalty for major drug dealers, even without proof of a specific killing.

The constitutionality of this proposal has been fully analyzed by the Administration. *See* Statements of Assistant Attorney General William P. Barr and Assistant Attorney General Edward S.G. Dennis, Jr., before the Sucommittee on Crime Legislation (March 14, 1990); and Statement of Assistant Attorney General Edward S.G. Dennis, Jr., before the Senate Judiciary Committee concerning the Death Penalty (October 2, 1989).

The procedural provisions of this amendment are largely the same as the death penalty procedures proposed in title II of the President's violent crime bill (S. 1225 and H.R. 2709). It also incorporates new provisions concerning appointment of counsel and collateral review, which are modeled on the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee"), to ensure that the effectiveness of the federal death penalty is not undermined by dilatory and repetitive litigation.

The section-by-section analysis below describes and explains the various provisions of this amendment.

Death Penalty authorizations and procedures.

This amendment adds a new chapter 228 to title 18 of the United States Code, consisting of sections 3591 through 3599, and makes necessary technical amendments. These sections provide that the punishment for certain drug crimes may, in specified circumstances, extend to the death penalty and set forth procedures for imposing and carrying out the death penalty.

The amendment sets forth the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The specific categories are as follows:

Section 3591(a). The first category of drug offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(a)—are offenders who are currently subject to a mandatory term of life imprisonment under 21 U.S.C. 848(b). This is the highest category of major traffickers recognized under federal law.

Under the general provisions of 21 U.S.C. 848, a person is guilty of engaging in a Continuing Criminal Enterprise (CCE) if he commits a federal drug felony as part of a continuing series of federal drug violations which are undertaken in concert with at least five other persons, where the defendant is an organizer, supervisor, or manager in relation to such persons and derives substantial income or resources from the enterprise.

To be subject to mandatory life imprisonment under section 848(b), a CCE violator must, in addition, be a principal organizer, leader, or administrator of such an enterprise, and must either commit a violation involving enormous quantities of drugs—e.g., 30 kilograms of heroin or 150 kilograms of cocaine—or be a principal organizer, leader, or administrator of a CCE that has gross receipts of at least $10 million in a twelve-month period.

Thus, in essence, the offenders potentially subject to capital punishment under proposed section 3591(a) consist of principal organizers, administrators, and leaders of drug enterprises including at least five subordinates where transactions involving enormous quantities of drugs are involved (e.g., 30 kilograms of heroin, 150 kilograms of cocaine) or the enterprise has annual revenues of at least $10 million.

The inclusion of the very largest traffickers in the class of persons potentially eligible for the death penalty, as proposed in section 3591(a), is a response to the human and social devastation that is threatened and actually caused by their activities. In the past, Congress has prescribed the death penalty for treason, *see* 18 U.S.C. 2381, nuclear and other forms of espionage, *see* 10 U.S.C. 906a, and aircraft piracy, *see* Act of September 5, 1961, 75 Stat. 466 (1961). The proposal reflects a recognition that the current scourge of drug abuse and of drug-related crime and violence represents a comparable threat to the security and well-being of the public, and that the use of the ultimate sanction should be available in this context.

Section 3591(b). The second category of offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(b)—consists of a somewhat more broadly defined class of drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person. To fall within the death-eligible class, the defendant would have to be a CCE principal organizer, administrator, or leader as defined in 21 U.S.C. 848, but would not necessarily have to satisfy the specific criteria for mandatory life imprisonment under section 848(b). Including a more broadly defined class of major traffickers who also engage in actual attempted murders to obstruct justice is justified by the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals.

The extension of the death penalty to attempted murders, in this limited context, even where death does not actually result, would send a strong message concerning the system's resolve to deal forcefully and effectively with this problem.

The applicability of proposed section 3591(d), as noted above, would be conditioned on an attempted murder by a drug kingpin to obstruct justice, committed against any public officer—such as a police officer, judge, or prosecutor—juror, or witness, or a member of the family or household of such a person. Family members (i.e., parents, spouses, children and siblings) and members of the households of such persons are included because of their exposure to victimization as targets of efforts at intimidation or reprisal by drug offenders.

Section 3591(c). The third category of potentially death-eligible drug offenders—described in proposed 18 U.S.C. 3591(c)—fills a gap in existing law. The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain international drug-related killings, *see* 21 U.S.C. 848(e), but did not cover killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

Proposed section 3591(c) would fill this gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a federal drug felony (not necessarily a continuing criminal enterprise offense), and a person dies in the course of the offense or from the use of drugs involved in the offense.

The specific standard of reckless disregard for human life in proposed section 3591(c) refers to the very high level of culpability—i.e., knowingly creating a grave risk of death to another—that the Supreme Court approved as adequate to support the imposition of capital punishment in *Tison* v. *Arizona*, 481 U.S. 137 (1987). *Tison* involved defendants who did not personally kill the victims or intend to cause their death, but who created a situation that resulted in death by freeing two highly dangerous inmates from prison, arming them, and assisting them in waylaying and handling the victims, who were actually killed by the inmates. The Court states that "the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment. . . ." *Id.* at 157–58.

The death penalty provisions of President Bush's violent crime bill (S. 1225 and H.R. 2709) include the general principle that killings resulting from aggravated recklessness, pursuant to the *Tison* standard, may be punished by death. Proposed section 3591(c) in this bill would extend the application of this principle to drug-related killings. Moreover, in relation to deaths resulting from drug use, current law (21 U.S.C. 841) generally authorizes or requires life imprisonment where serious bodily injury results

from the use of drugs distributed by an offender. This proposal would extend this approach, authorizing the possibility of a death sentence (rather than life imprisonment) where the harm resulting from the use of drugs distributed by the offender is death (rather than serious injury).

SECTION 3592 (FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED)

This section sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime described in proposed section 3591. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S. 1 (1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are (1) that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, although not so impaired as to constitute a defense to the charge; (2) that the defendant was under unusual and substantial duress although not such as to constitute a defense; and (3) that the defendant was an accomplice whose participation in the offense was relatively minor, even though he may still be charged as a principal. Subsection (a) further states that the jury or judge shall also consider any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may offer in mitigation. While the Supreme Court has held that no limitation may be placed on the defendant's introducing evidence of mitigating factors, some linkage must be established between the evidence offered in mitigation and the defendent's persona or the offense. For example, the catch-all provision in subsection (a) is not intended to allow such irrelevant evidence as that on the night of the murder in New York City, unusually heavy rain had fallen in Los Angeles.

Subsection (b) sets forth aggravating factors to be considered. These factors are tailored to the conditions of drug trafficking and identify features of a defendant's conduct or background that provide particularly strong evidence of dangerousness, incorrigibility, or indifference to human life. The jury would have to find at least one of these additional factors to impose a death sentence:

Paragraphs (1)–(4) of subsection (b) set out general criminal record aggravating factors. These are prior convictions of a homicide punishable by life imprisonment, and prior conviction of at least two violent or drug felonies.

The factor in paragraph (5) of subsection (b) is prior conviction of a drug offense punishable by five or more years of imprisonment. This is nearly the same as one of the aggravating factors in the Anti-Drug Abuse Act death penalty provisions (21 U.S.C. 848(n)(10)).

The factor in paragraph (6) of subsection (b) is using or knowingly directing, advising, authorizing, or assisting another to use a firearm to threaten, intimidate, assault, or injure a person in committing the drug offense, or in furtherance of a continuing criminal enterprise (as defined in 21 U.S.C. 848) of which the offense was a part. Mere possession of a firearm in connection with drug activities would not be covered; the defendant would actually have to engage in our sanction the hostile use of a firearm against a person.

The factors in paragraphs (7)–(9) of subsection (b) involve a violation in committing the drug offense, or in furtherance of a continuing criminal enterprise, of the provisions that define aggravated offenses where trafficking is carried out in a manner that exploits or jeopardizes young people. This includes distribution to persons under twenty-one (21 U.S.C. 845), distribution near schools (21 U.S.C. 845a), and using minors in trafficking (21 U.S.C. 845b). The 1988 Anti-Drug Abuse Act death penalty provisions similarly have an aggravating factor (21 U.S.C. 848(n)(11)) for distribution to persons under twenty-one in violation of 21 U.S.C. 845. These factors would apply where the defendant directly committed such an offense, or would be liable as an accomplice in such an offense under the normal standards of 18 U.S.C. 2 (by aiding, abetting, counseling, commanding, inducing, procuring, or willfully causing the commission of the offenses).

Factor (10) of subsection (b) covers cases where the offense involves importing, manufacturing, or distributing drugs that are mixed with a potentially lethal adulterant, and the defendant is aware of the presence of the adulterant. This is designed to reach situations in which the manufacturer or distributor cuts drugs with another toxic substance, such as household detergent.

SECTION 3593 (SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED)

This section sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (except in those unusual cases where the sentencing hearing is before the judge alone) will return a binding recommendation as to whether the sentence of death is justified. If the jury returns a recommendation of the death penalty as opposed to some lesser punishment, the court must impose a sentence of death.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized under section 3591 justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of the conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing a death sentence, and the issue is to be determined on the basis of the information presented at the hearing. The hearing is to be conducted before the jury that determined on the basis of the information at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trail to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrance by the government, the sentencing hearing is before a jury.

Subsection 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented. Information concerning any mitigating factor or factors, both those listed in section 3592 and those not so listed, may be introduced. Evidence of at least one aggravating factor listed in section 3592 must be introduced. As explained, the government must give the defendant notice of which aggravating factors it will seek to establish. If evidence of a statutory aggravating factor is introduced, the government may also introduce evidence of any other aggravating factor, again providing the government has given notice as to the nature of such a nonstatutory factor.

The information may include trial transcripts and exhibits or relevant parts thereof. Other evidence relevant to any mitigating of previously identified aggravating factor may be presented regardless of its admissability under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Subsection 3593(d) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court, must return a special finding identifying each aggravating factor (both statutory and nonstatutory) which it has found. Once again, it can only find the existence of an aggravating factor for which notice was provided. The finding with respect to an aggravating factor must be unanimous. If no aggravating factor is found, the death penalty cannot be imposed and the court must impose some other sentence authorized by statute.

With respect to mitigating factors, subsection 3593(d) reflects the holding of the Supreme Court in *Mills* v. *Maryland*, 486 U.S. 367 (1988), that individual jurors may not be precluded from considering mitigating evidence regardless of the number of jurors who agree on a particular factor. Consequently, subsection (d) provides that a finding with respect to a mitigating factor may be made by one or more members of the jury.

As used throughout section 3593, the term "mitigating factor" is meant to include all mitigating evidence which the sentencer must consider with such cases as *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982). Nevertheless, the jury may only consider evidence presented at trial or at the sentencing hearing. It may not speculate on the existence of some factor completely unsupported by any evidence. See *California* v. *Brown*, 479 U.S. 538 (1987). Any member of the jury who is persuaded by a preponderance of the evidence—the standard set out in subsection (c)—that a particular mitigating factor exists may consider such a factor established. That juror (even if he or she is the only one who believes the evidence and has concluded that such a factor has been established) may then weigh that evidence against any aggravating factors which have been found unanimously beyond a reasonable doubt—again, the requirement of subsection (c)—in deciding, under subsection (e), whether to return a binding recommendation for a sentence of death.

Subsection 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida, supra*) the jury, or the court if there is no jury, must then consider whether the aggravating factor or factors which it has found outweight the mitigating factor or factors. It is the intent of this subsection that jurors be instructed that they are to weigh and balance the aggravating factor or factors found against any mitigating evidence. As discussed above, findings of aggravating factors would require a formal determination of the whole jury, but the individual members of the jury would make their own determinations concerning the existence of mitigating factors.

If each juror found no mitigating factors or found that any mitigating factors were outweighed by the aggravating factor or factors, then the jury would be required to make a binding recommendation to impose the death penalty. This reflects the judgment that the death penalty is presumptively the appropriate penalty for the crimes described in section 3591 under the aggravated circumstances described in section 3592, and that the death penalty should be imposed in such cases unless the aggravating factors are balanced or outweighed by mitigating circumstances. The Supreme Court upheld rules requiring that the death penalty be imposed under these conditions in *Blystone* v. *Pennsylvania*, No. 88-6613 (Feb. 28, 1990), and *Boyde* v. *California*, No. 88-6613 (March 5, 1990). This approach promotes equal justice and avoids the potential for arbitrariness that would exist under an approach that gave the jury or court less guidance in imposing the death penalty.

Subsection (e) also requires an instruction to the jury that it is not to be influenced in its decision whether to recommend the death penalty by sympathy, sentiment, passion, prejudice, or any other arbitrary factor, and should make such a recommendation as the information warrants. This is substantially the same as the instruction upheld by the Supreme Court in *Saffle* v. *Parks*, No. 88-1264 (March 5, 1990). *See also California* v. *Brown*, 479 U.S. 538 (1987) (approving similar instruction). The requirements of such an instruction serves to promote equal justice by emphasizing that capital sentencing decisions are not to be influenced by legally inadmissable considerations or personal whim or caprice. Rather, what is called for is a reasoned factural and moral assessment by the jury based on the evidence presented at the trial and sentencing hearing and its conclusions concerning the existence and relative weight of pertinent aggravating and mitigating factors.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, religious beliefs, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors and that the jury is not to make its binding recommendation for a sentence of death unless it would recommend such a sentence no matter what the race, color, national origin, religious beliefs, or sex of the defendent or any victim may be. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision, and that he or she would have made the same binding recommendation as to the sentence no matter what these particular characteristics of the defendant or victim might be.

SECTION 3594 (IMPOSITION OF A SENTENCE OF DEATH)

This section provides that if the jury recommends a sentence of death, the court must sentence the defendant to death. If the court, rather than the jury, is the fact finder at the sentencing hearing, section 3594 requires the court to follow its own recommendation and impose the death penalty. If, however, the jury, or if there is no jury, the court, does not recommend the sentence of death, the court shall impose any sentence other than death authorized by law.

This section also provides that notwithstanding any other provision of law, life imprisonment without the possibility of release or temporary furlough is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

SECTION 3595 (REVIEW OF A SENTENCE OF DEATH)

This section sets out the rules applicable to appeals from the imposition of the death sentence. *Subsection (a)* provides that a sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time specified for filing an appeal of the judgment of conviction and the court may consolidate the appeal of the sentence and the appeal of the conviction. The review of a case in which the death sentence has been imposed must be given priority over all other cases.

Subsection 3595(b) provides that the court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating factors.

Subsection 3595(c) states that the court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the evidence and information support the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens, supra* (death sentence valid even if an aggravating factor is invalidated or found inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984). In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

SECTION 3596 (IMPLEMENTATION OF A SENTENCE OF DEATH)

This section is concerned with the implementation of a sentence of death. *Subsection 3596(a)* provides that a person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshall who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This subsection generally reinstates a portion of the provisions of former section 3566 of title 18 which was repealed as of November 1, 1987, by P.L. 98-473.

Subsection 3596(b) states that a sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed, or upon a woman who is pregnant. The latter limitation is to spare the unborn. Following the conclusion of the pregnancy, the sentence of death would be implemented. The former limitation is intended to implement the constitutional bar on execution of a person who is mentally incompetent but who was sane at the time of the offense and who was competent to stand trial. See *Ford* v. *Wainwright*, concurring opinion of Justice Powell, 477 U.S. at 425 and footnote 5: "The only question raised is not *whether* but *when* his executiion may take place. [Emphasis in original.] [I]f petitioner is cured of his disease, the State is free to execute him."

SECTION 3597 (USE OF STATE FACILITIES)

This section reinstitutes other parts of former section 3566 not contained in subsection 3596(a) by authorizing the United States Marshall charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Mr. DURENBERGER. Mr. President, unfortunately, I must vote today against the S. 1970, the omnibus crime bill. I do so, even though there are pieces within the bill that take an important step toward making America safe from criminals. Yet, because of my life-long and firmly held opposition to the death penalty, I cannot support this bill.

I firmly believe the only way to control crime is to make the criminals responsible for their actions in every circumstance. Thus, criminals must know they will be apprehended and sentenced to long terms in prison. Without such knowledge and stiff penalties, criminals are undeterred. The 1990

omnibus crime bill will do this, however, it goes a step further; a step I cannot support: the death penalty.

My record and views on the death penalty are crystal clear and unchangeable: I oppose it in any form and in any circumstance. Human life is sacred. A responsible society does everything in its power to protect and enhance human life, not destroy it. I have spent my 11 years in the Senate working against such measures, never voting for them or in any way making this reprehensible punishment more likely. To me, the death penalty is not only bad policy but morally wrong.

Mr. President, this bill not only makes the death penalty applicable to more crimes, it seems to encourage its use. Thus, despite its laudable crime control measures, the fact that it will expand the use of the death penalty forces me to cast my vote against its final passage.

Mr. SASSER. Mr. President, I am pleased at the action of the Senate today in passing this crime bill.

The bill will provide important new resources to our law-enforcement agencies in their battle against crime.

I am pleased that the bill contains an amendment that I and Senator SPECTOR offered to establish a national police corps program.

Our legislation would establish a program similar to the Reserve Officers Training Corps. In return for scholarship assistance, a student would agree to serve 4 years in a State or local police force.

The amendment also contains a component suggested by the Senator from Florida, Senator GRAHAM, which establishes a scholarship program for serving police officers. I believe that this proposal strengthens the amendment. It allows serving police officers to improve their education—often a key for promotion and advancement.

Mr. President, our Nation's cities are currently experiencing a crime wave the likes of which this country has not seen in years. Day after day on the news and in the newspapers we see the savage and mindless violence that is spawned largely by the drug trade. We see people killed in their homes by stray bullets from the gunfights going on literally outside their windows. We see children caught in the crossfire as drug dealers fight it out for control of street corners and neighborhoods.

These vicious criminals are destroying our communities, they are destroying our families, and they are destroying our youth. The huge profits to be made in the drug trade are simply warping the values for many people. Parents, and community and religious leaders are finding it impossible to steer our youth away from the glitter of the huge amounts of easy money available from the drug trade.

Our amendment would provide our police increased manpower for foot patrols, for strike forces, and for working with community groups who wish to work with the police to break up criminal activity.

One of the greatest deterrents to crime is simply police presence—on the streets and in our neighborhoods. It increases the risk factor for criminals. We need to increase the risk for the criminal so that if he commits a crime a patrolman will apprehend him, or a strike force will be operating on that block, or that the citizens will promptly inform the police.

There is another benefit from our legislation that should not go unmentioned. Too few of our citizens understand the pressures and the dangers that our police officers face. When the graduates of the Police Corps Program complete their service they may go on to other careers. However, they will know what it is to be a police officer. They will be able to share that knowledge with their neighbors. I firmly believe that this will increase respect and support for the brave men and women who put their lives on the line every day for all of us.

Another important provision of the bill will establish a program on rural drug enforcement. First of all, it will create the new position of Rural Drug Policy Coordinator within the office of National Drug Control Policy. This official will be responsible for examining the special needs of rural areas in drug interdiction and for recommending policy options for the enhancement of drug interdiction in rural areas.

Second, it will provide a minimum of $100,000 to States such as Tennessee for rural drug enforcement. Third, it will provide increased training for law-enforcement officers from rural jurisdictions.

Those of us who represent large rural areas have been saying for some time that insufficient attention has been paid to the problems of rural drug enforcement. As drug enforcement has increased along the gulf coast in recent years, drug smugglers have moved inland.

For instance, my own State of Tennessee is easily within range of the aircraft commonly used by drug smugglers flying from South America. It contains many small, rural airports and airstrips that are particularly vulnerable to use by drug smugglers. Law enforcement officials in my State have identified many such airports which need additional surveillance.

However, State and local law-enforcement agencies simply do not have the manpower to monitor these airports and airstrips on anything approaching a regular basis.

In addition, the crime bill also strengthens our forfeiture and money laundering laws. This will allow law-enforcement agencies to confiscate drug dealers assets.

Overall, Mr. President, this is valuable legislation and I urge our colleagues in the House to act on it quickly.

Mr. LIEBERMAN. Mr. President, I have received a number of inquiries recently about whether the provisions of section 3 of the Anti-Drug, Assault Weapons Limitation Act of 1989, which is now contained in S. 1970, include the Colt Sporter. According to Colt, although the Sporter has a similar appearance to the AR-15 and CAR-15—both of which are named in section 3—it is not the same weapon. Colt says that unlike the AR-15 and CAR-15, the Sporter has no bayonet mount, has a five-shot magazine—rather than a 20-shot magazine—that is permanently blocked and riveted to hold the bullets in a manner that cannot be converted without destroying the gun, and contains a new anti-conversion block that prevents conversion of the rifle to fully automatic use. The manufacturer informs me that it is extremely difficult for anyone other than a skilled machinist using a full machine shop to remove the anticonversion protections in the Sporter. Based upon these representations, I wanted to ask the principal sponsor of these provisions, my friend and colleague fom Arizona, Senator DECONCINI, whether it is his understanding that the Sporter is one of the weapons covered by section 3 of the Anti-Drug, Assault Weapons Limitation Act of 1989?

Mr. DECONCINI. I do not believe that the Sporter, as you described it, is an AR-15 or a CAR-15 as enumerated in S. 1970. The DeConcini amendment focuses on the 14 specifically enumerated weapons listed in S. 1970. From your description of the Colt Sporter, it appears that this weapon is distinguishable enough from the AR-15 and the CAR-15, and is thus not one of the weapons listed in my amendment.

In the past, I have requested the support of the gun manufacturers of America to join us in this drug war and to discontinue supplying drug traffickers with their weapons of choice. I commended Colt for voluntarily ending the production of the AR-15 last year.

Thus, when I became aware that Colt was manufacturing the Sporter, I sent a letter to Colt inquiring about this new weapon. I was concerned that Colt was attempting to circumvent the legislation by producing the AR-15 under a new name. This action would have been irresponsible and a violation of the spirit of the bill. The AR-15 and CAR-15 were included in the listed weapons of my bill because of the frequency in which they appeared in BATF tracing statistics and because they were identified by law-enforcement representatives as being firearms commonly encountered in drug raids.

However, Colt has assured me that the Sporter is indeed not the AR-15 under a new name.

The DeConcini amendment also authorizes and directs the Attorney General to investigate and study the effect of the provisions of the bill and any impact therefrom on violent and drug trafficking crimes. It is my intention to request the Attorney General also to study attempts to circumvent this bill by attaching pseudonyms to the weapons listed in this bill.

I want to thank the Senator from Connecticut for bringing this matter to my attention. I am submitting my letter of April 30, 1990, to Colt Manufacturing Co. for the RECORD to further evince my intent in this legislation.

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

U.S. SENATE,
COMMITTEE OF THE JUDICIARY,
Washington, DC, April 30, 1990.

MR. RICHARD F. GAMBLE,
Colt Manufacturing Co.,
P.O. Box 1868, Hartford, CT.

DEAR MR. GAMBLE: Last year Colt Firearms took a courageous step by voluntarily ending production of the AR-15 semiatuomatic assault weapon. That action was a domestic response to President Bush's ban on the importation of foreign manufactured assault weapons. Colt sent a clear message to the American public that it was joining law enforcement in the war against drugs and would no longer provide drug traffickers their "weapon of choice."

However, The Washington Post recently reported that your company has begun producing a "new, modified version" of the AR-15. According to the article, this new version of the AR-15, which you have decided to call the "Sporter", only differs from the AR-15 in that it lacks a bayonet mount and a flash suppressor. Thus, the new AR-15, under a deceptive pseudonym, still possesses a military configuration, a pistol grip, night sights and the ability to accept a detachable magazine; all features that President Bush took into consideration in banning the future importation of foreign made semiautomatic assault weapons.

According to 1988 tracing statistics by the Bureau of Alcohol, Tobacco and Firearms on semiautomatic assault weapons used in crimes, the AR-15 was used in more crimes than any other rifle. This was the principal reason why I included this weapon in my Anti-Drug Assault Weapons Limitation Act of 1989. My bill, which was passed by the Senate Judiciary Committee last July, would ban the future manufacture of the AR-15. If you doubt that your gun jeopardizes the safety of this country's law enforcement officers, contact Daryl F. Gates, Chief of the Los Angeles Police Department, who had one of his officers killed by a gang member firing 30 rounds at his squad car with an AR-15.

When you announced in March 1989 that Colt would halt the civilian sale of the AR-15, the leader of our war against drugs, National Drug Control Policy Director William J. Bennett, called your step "an act of civic responsibility." Correspondingly, any attempt to produce the AR-15 under an assumed name would be irresponsible and detrimental to this country's battle against the drug scourge.

I hope that your explanation for your company's decision will show that Colt is not attempting to undermine this country's efforts to fight the drug war. I look forward to hearing from you on whether the published report of your company's decision is accurate.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

Mr. CONRAD. Mr. President, I rise today in support of the omnibus crime bill. This legislation contains important provisions which will improve the ability of this Nation to control and combat crime.

This bill is a comprehensive proposal. It contains provisions to increase assistance to State and local law enforcement agencies; enhance Federal law enforcement resources; improve Department of Justice [DOJ] organization; tighten laws prohibiting money laundering by international drug lords; and bar the manufacture and sale of nine semiautomatic weapons which have been identified as the weapons of choice of the drug kingpins in this country.

The bill also contains a major expansion of the Federal death penalty and alters the ability of prisoners to file habeas corpus petitions. I was concerned about these last two provisions. I supported efforts to strike the death penalty because of my concern about the risk of executing an innocent person. I also supported the Biden-backed habeas corpus reform proposal because, while I agreed that the ability of prisoners to clog the courts with frivolous habeas petitions must be limited, I felt that the Biden proposal was a more reasonable reform of the system. However, despite these concerns, I believe this bill will pave the way for a substantial improvement in drug and crime control in this country, and thus I will vote for the bill.

I am especially pleased about the amendment adopted today regarding the prosecution of the S&L crooks. I have been deeply disturbed by the inaction of the Bush administration on this matter. The administration had refused to throw the book at those who stole from taxpayers by making risky and sometimes fraudulent investments with the backing of federally insured deposits in thrift institutions.

I supported an amendment on the supplemental appropriatons bill for fiscal year 1990 to put more resources into the prosecution of financial industry crimes. I also joined as an original cosponsor of the legislation to create a strike force within the Department of Justice to go after those who committed fraud in the thrift industry.

Today, we adopted a comprehensive amendment which will raise the maximum penalty for bank fraud and embezzlement from 20 to 30 years; impose mandatory minimum sentences in major fraud and embezzlement cases; create an S&L "kingpin" statute that provides up to life imprisonment for S&L operators who conspired with others to derive a large amount of money from their crimes; allow the Attorney General to bring civil and criminal suits under the Racketeer Influenced and Corrupt Organizations [RICO] Act; and create an S&L strike force within the DOJ.

The amendment will also expand Federal asset seizure, forfeiture and money laundering laws in S&L-related cases so the Government can stop these criminals in their tracks.

Finally, the amendment increases authorization for judicial resources to insure prompt prosecution of financial industry crimes.

Mr. President, there are a number of other provisions in this bill that I support, but I want to dwell on one in particular. The increase in authorization of local law enforcement grants to a level of $900 million is extremely important. These funds go to the front lines of this Nation's "war on drugs": State and local government, I am very supportive of this program. It has allowed those in law enforcement in my own State of North Dakota to conduct the sort of operations which are necessary to combating drug trade and other violent crimes.

Mr. President, I am also very supportive of the Biden amendment which was adopted on June 28. The amendment authorizes funding for 1,000 FBI agents, 1,000 DEA agents, 500 border patrol officers and 480 Federal prosecutors. The amendment also contains an important rural drug initiative which will assure that adequate funds flow to rural States for combating drugs. The amendment contains a number of other provisions which will increase the ability of Federal law enforcement officials to target their efforts on the most pernicious and violent of crimes committed in the country.

I urge my colleagues to support this important bill.

Mr. LEAHY. Mr. President, our criminal justice system is stretched too thin. We are under seige from the drug trafficking scourge to white collar crimes that include the savings and loan fiasco, environmental crimes and violations in our stock and commodities exchanges. The Senate crime bill takes aim at drug-related crimes and the S&L frauds with more police, stiffer penalties, and more effective drug prevention programs.

This bill gives Federal courts, U.S. attorneys, marshals, defense attorneys, the FBI, the DEA, and other Federal crime fighting agencies more manpower to respond to the rising tide of serious crime that engulfs our Nation.

The bill gives a boost to rural law enforcement in States like my own Vermont. We don't have the same level of illegal drug trafficking and crime that haunts our cities, but we are still undermanned to fight this war in sparsely populated regions. As law enforcement battles urban crime, drug dealers look to rural areas for processing drugs and developing new markets. This legislation creates a rural drug policy coordinator in the Office of National Drug Control Policy. It earmarks funds, equipment, and additional manpower to rural States. Law enforcement in States like mine will finally get the help needed to detect illegal drugs—in the growing, processing and dealing stages.

But law enforcement is only part of the solution to the drug crisis. This legislation contains important provisions to prevent drug abuse by children and young people. The bill has grant programs for community based drug prevention proposals, to bring communities together to fight drugs, plus grant programs specifically targeted toward juvenile gang prevention. I am particularly pleased with these features of the bill.

Mr. President, another important provision in this bill is Senator DECONCINI's limited ban on nine specific assault weapons, like the AK47.

Senator DECONCINI's proposal would ban the future sale and importation of only nine specific, listed weapons, and would add an automatic 10-year prison term to any sentence for violent and drug-related crimes involving assault weapons. The ban would be imposed for 3 years, while the Justice Department completes a study of the ban's impact on violent and drug-related crime.

It is time for Congress to stand up for law enforcement organizations who have expressed support for Senator DECONCINI's proposal.

One of the most important provisions in the bill is the amendment—which I cosponsored—on savings and loan fraud. The dimensions of the S&L debacle have grown day by day. And its clear that fraud, and not just poor business judgment, is a major cause of this crisis.

This amendment provides the agents that the FBI and the Justice Department have called essential for any effective assault on the S&L crooks. It stiffens penalties for S&L-related fraud, insuring that these white collar criminals will never have another chance to bilk the American public as they have in the past.

I support the bill despite my aversion to an expansion of the Federal death penalty. I oppose the death penalty on moral grounds, and I believe it is wrong as a matter of public policy. I have argued and voted against the death penalty at every stage of this bill's movement through the Senate.

Capital punishment drains the resources of the criminal justice system. It is often more costly to execute people than imprison them for life. The death sentence leaves no room for error by judge or jury.

Furthermore, a recent General Accounting Office study covering the past 18 years showed that capital punishment is imposed in a racially discriminatory manner. Crimes involving a white victim result in the death penalty more than crimes against blacks. In some States, a black defendant is more likely to get the death sentence than a white defendant convicted for the same crime. This is intolerable.

I regret that the Racial Justice Act, which was originally part of this bill, was eliminated by the Senate. I voted to keep it as a protection against racially biased decisions. If the defendant established a pattern of racial bias in a death sentence, the prosecution would be forced to prove the sentence warranted by other factors. The Senate's removal of the Racial Justice Act, insures that discrimination will continue to be a pervasive factor in capital punishment.

Mr. President, I am also troubled by the drastic habeas corpus reform measure included in this bill. A habeas petition is a prisoner's right to a Federal court review on the constitutionality of a conviction. It is the primary means by which the Federal courts ensure that State courts are applying constitutional protections in State cases. Some 3 percent of all Federal habeas petitions filed by State prisoners are successful, but in capital crimes, the figure gets as high as 40 percent and more. This illustrates that habeas review is an important constitutional check in the most complex criminal cases, and a right that should be insured.

As a former prosecutor, I know we need reform of habeas corpus rules. Repetitious, frivolous claims can drag on for years. I supported the Biden-Graham compromise to provide counsel and strict limits on habeas petitions in an effort to cut down on successive petitions. The Thurmond-Specter provision now in the bill would effectively eliminate state habeas proceedings by creating an unworkably short statute of limitations for filing Federal petitions. This results in Federal review of habeas claims that State courts lack an opportunity to consider and correct on collateral review.

Mr. President, having stated my concerns about the death penalty and habeas reform provisions, I will vote for this bill because I am convinced that overall it will make a valuable contribution to fighting crime and drug trafficking. The resources for law enforcement and prevention programs, the assault weapons ban, and the many other important crime fighting proposals in this bill will help to turn the tide against the white collar criminals and the drug lords that are corrupting our playgrounds, our streets, and our homes.

Mr. HARKIN. Mr. President, I rise today to commend Senators BIDEN and THURMOND and their staffs for the long hours that they have spent in crafting this crime bill. I'm especially pleased at the inclusion of three key provisions of which I am a strong supporter: providing for penalties for individuals involved in the S&L scandal, the creation of a program to offer benefit payments to public safety officers, and greater assistance to our rural law enforcement officials in fighting the war on drugs.

I am pleased that the Wirth-Heinz amendment has been included in this measure. The amendment includes numerous provisions which will greatly increase the ability to genuinely punish and recover funds from those who engaged in criminal activities involving savings and loans. They have cost the taxpayers huge sums and should be placed in jail for long sentences. The Wirth amendment which I am proud to have cosponsored provides up to life sentences.

The amendment provides for a special office in the Justice Department to focus on these criminals, more FBI and other agents so we can develop the cases against wrongdoers, and the prosecutors to see that the cases can be properly pursued in court. It also increases the ability of law enforcement officials to acquire information about illegal activities.

I'm also happy to see included a provision that will give this Nation's police officers and firefighters some compensation for their hard work and selflessness. This provision would provide for a benefit payment to public safety officers who are totally and permanently disabled as a result of an injury sustained in the line of duty. Our policy officers put themselves on the line every day to protect our lives, our property, and our communities. It is long overdue that we give something back in return.

One case that has been brought to national attention recently is that of the heroic work of Steven McDonald. Mr. McDonald was a police officer in New York City who became severely paralyzed as a result of a shooting in the line of duty. His wife, Patti Ann, was pregnant at the time with their first child. Today, 4 years after the tragedy, despite his confinement to a wheelchair and the trauma that he has gone through, Steven McDonald continues his courageous work through speaking engagements at schools, warning children about the dangers of drugs.

In the 100th Congress, we reaffirmed our commitment to public safety officers by increasing the death

benefits from $50,000 to $100,000, and providing for future increases to keep pace with inflation. I am happy to see that we are now providing a modest benefit for police and firefighters who are catastrophically injured in the line of duty.

Finally, I am glad to see included in the crime bill the law enforcement amendment that I offered along with Senators BIDEN, SIMON, BAUCUS and PRYOR. This amendment would add 1,000 FBI agents, 100 DEA agents, 500 border patrol officers, and 480 Federal prosecutors to our Nation's arsenal in the war on drugs. Equally important, for rural America, the law enforcement amendment includes the "Rural Drug Initiative" which will dramatically improve the law enforcement capabilities of smaller, rural States like Iowa.

The rural drug initiative targets an additional $20 million for law enforcement assistance for rural areas. It calls for the creation of a rural drug policy coordinator—a rural drug czar—within the Office of National Drug Control Policy. And it would assign not fewer than 10 DEA agents for 18 targeted rural States, including my home State of Iowa. I will work to ensure that one of these DEA agents is assigned to Sioux City, IA.

The number of people admitted for cocaine addiction treatment in Iowa doubled in 1987, doubled again in 1988, and continues to escalate. And the number of drug related deaths in Iowa increased by 17 percent in 1988 over the 1987 level. Drug abuse and the crime that goes along with it is no longer a problem present only in New York and Los Angeles. Inclusion of the rural drug initiative will bring to our rural communities the attention that the current drug crisis deserves.

Also included in the Kerry provision is an increase in the Federal block grant for States and local enforcement agencies to $900 million in fiscal year 1991. This provision more than doubles Federal antidrug aid for Iowa's sheriffs and police from $4.8 million this year to $10.36 million.

Mr. BAUCUS. Mr. President, one of the greatest problems facing our Nation today is the drug crisis. And, as I have said before, this problem is pervasive throughout the country, including my home State of Montana.

I have told you before about the crack house in Helena.

I have told you about members of the drug gang, the Crips, being arrested in Billings.

I have told you about the increase in cocaine arrests and the increase in the number of methamphetamine labs shut down in my home State.

I've told the Senate and the drug czar, the U.S. Attorney General, and the DEA.

But I still don't have what I want—more money and resources for rural areas.

Montana is the fourth largest State in the Union. The distance from Washington, DC, to Maine is less than the distance between Ekalaka, MT, and Eureka, MT.

Despite the size of my State, only three DEA agents are assigned there.

Because of inadequate Federal funding, local law enforcement agents are forced to make up for the lack of a larger Federal presence. And it's very difficult for them to do so, given budget constraints at the State and local levels.

The work facing the Tri-Agency Task Force is a good example of the burdens local law enforcement agencies must bear.

The Tri-Agency Task Force is the drug enforcement agency responsible for Hill and Blaine Counties in northern Montana. Task force officers have a jurisdictional area of over 6,800 square miles.

The task force has two full-time officers and the use of two part-time officers from nearby jurisdictions.

That's four people to cover almost 7,000 square miles.

Let me assure you that the reason they don't have more officers is not because they don't have a drug problem.

The Tri-Agency Task Force has seized cocaine, methamphetamine, prescription narcotics, LSD, and marijuana. All of this from an area with a total population of about 25,000 people.

I have met with Officer Mark Stolen, who's one of the driving forces behind the task force. He's an excellent law enforcement officer. He and his fellow agents are dedicated. They work hard and their investigations are successful.

But they're getting tired of hearing that there's no money to hire more officers.

They find it hard to believe that the war on drugs is such a high national priority when they have to struggle to get adequate funding from the Federal Government.

Their situation is not unique. Many other counties across Montana are going through the same thing.

Kalispell Chief of Police Addison Clark has been working hard to get more Federal resources and he has shown me why they're needed.

Flathead County has only four detectives to work drug enforcement on a full-time basis.

And these four detectives have been very busy.

Since January 1986, the officers in Flathead County have been responsible for the following: Over 100 felony convictions; over $100,000 in fines and forfeitures; and over $250,000 in confiscated drugs, including marijuana, cocaine, LSD, methamphetamine, psychedelic mushrooms, heroin, and prescription drugs.

There have been reports that over one million dollars' worth of drugs go through Flathead County in any given month.

It's obvious that there is a great need for additional Federal resources in Flathead County and the rest of Montana.

Chief Clark, Officer Stolen, and the men and women they work with need our help.

The Federal Government must do more to help rural States.

Today the Senate passed the omnibus crime bill, which contains provisions based on legislation I introduced last year. Those provisions direct the Attorney General to assign more agents to rural States and to increase funding for them.

In addition, the bill contains another measure I authored which directs the U.S. Attorney General to study the feasibility of implementing a 21-day waiting period before the purchase of chemicals which could be used to manufacture methamphetamine.

Methamphetamine producers prefer to set up their labs in secluded areas. Its production has increased dramatically in Montana during the past few years. I hope this legislation will help the Attorney General develop a policy to assist law enforcement efforts in those areas.

The enactment of these provisions is extremely important for rural States. I hope the House moves quickly on similar legislation and that this bill goes to conference soon.

When this bill gets to conference I hope the conferees realize the importance of adequately funding the rural war on drugs and retain the provisions I support.

But I also hope the conferees do one more thing.

I would like them to strip the gun control provisions out of this bill.

I firmly believe that restrictions on gun ownership will not stop drug-related crime. Criminals will always be able to find guns. But law-abiding citizens will obey the law and be denied the right to purchase firearms. That's wrong.

I realize these provisions were proposed out of frustration over the rise in violent crime. I am also very angry about the rising crime rate but firmly believe gun control isn't the answer.

I am asking my colleagues who also oppose gun control to join with me in an effort to persuade the conferees to drop the gun control provisions in the crime bill.

We must protect the rights of law abiding citizens to purchase firearms.

Mr. GRAHAM. Mr. President, I rise to express my support for passage of S. 1970, the omnibus crime bill. This

bill represents a tough, bipartisan response to the needs of law enforcement and the judiciary in fighting the war on crime and drugs.

As with most of my colleagues, there are portions of this comprehensive package which I support and portions which I oppose.

I support the provisions authorizing the death penalty for a number of new crimes and setting forth procedures for implementing capital sentences.

This bill includes my provisions mandating tougher treatment of illegal aliens convicted of heinous crimes—murder, drug trafficking, and weapons trafficking.

I support the provisions authorizing $900 million to the Bureau of Justice Assistance for State and local law enforcement assistance and am pleased the Senate included my proposal to authorize $30 million for educational assistance to local and State law enforcement officers.

I support the provisions requiring stricter prison work rules, increasing the number of FBI and Drug Enforcement Agency agents, requiring drug testing for all defendants released on probation or parole and enhancing protections afforded to child victims of crime.

I am very concerned, however, about the provisions the Senate adopted regarding habeas corpus reform. This is a matter which I have been actively involved with both in the State government and since my first day in the U.S. Senate.

In the 1988 Anti-Drug Abuse Act, the Senate set up procedures for reviewing and acting on the recommendations offered by Chief Justice Lewis Powell's Committee on Habeas Corpus Reform.

After thoroughly reviewing Justice Powell's report, comments from numerous legal experts and the various legislative proposals, Senator DECONCINI and I offered amendment No. 1686 to S. 1970.

Our amendment was guided by the general consensus that the States should have responsibility to provide competent counsel to individuals facing capital sentences and that defendants should, within reasonable time limits and scope of review, be afforded a fair review of their claims.

Senator THURMOND, Senator BIDEN, Senator SPECTER, Senator DECONCINI, and I started off independently on how to reform habeas corpus laws and, I am pleased to report, came to agreement on some of the basic issues that the Senate accepted.

Where we once had significantly varying opinions with regard to the mechanism for appointing competent counsel at the trial level, our final proposals were identical.

Where we once had significantly varying opinions on how to handle the issue of procedural default, our final proposals were identical.

Where we once had varying opinions on the issues of retroactivity, our final proposals both provide for retroactive application of U.S. Supreme Court decisions.

In fact, the language Senator DECONCINI and I offered is more conservative in that it allows retroactivity only in cases where the Court determines such an allowance would not conflict with the interests of finality.

Mr. President, agreement on these issues was no easy feat and I appreciate the work of my colleagues on both sides of the aisle in this effort.

Where Senators BIDEN, DECONCINI, and I disagree with Senators THURMOND and SPECTER are on aspects of their amendment which were never considered by the Senate Judiciary Committee, never considered by Justice Powell's Committee on Habeas Corpus Reform, and as far as I am aware, never proposed by anyone in the Senate until the day of the debate, May 23, 1990.

The Thurmond amendment would require that Federal habeas corpus claims be filed within 60 days from the disposition of U.S. Supreme Court action on direct review. What this means, Mr. President, is that regardless of the progress of the State habeas corpus proceedings, prisoners are required to file their claims in Federal court.

It is unclear how the Federal court could proceed without the benefit of facts which are historically discovered in the State court. By bypassing the State system, the Federal courts will be burdened with resolving what are essentially State court issues.

A Federal judge knowledgable of habeas corpus issues correctly pointed out that the Thurmond amendment effectively eliminates the historical process of exhausting State claims before hearing habeas claims in Federal court. The bill violates principles of sovereignty and federalism.

Mr. President, section 2268 of the Thurmond amendment also places a 110-day time limit on the consideration of habeas claims in the Federal District Court and a 90-day time limit on claims heard in the Appeals Court and the U.S. Supreme Court.

University of Georgia law professor and reporter for the Powell Committee Al Pearson raised the question that I share: How will this provision be enforced? Under the rules of criminal law, cases not handled by the courts in a timely fashion are dismissed. Is the same to be true in capital cases? Will a convicted murderer be freed if a Federal judge is unable to hear the case in the time allowed?

In debating this measure these questions were asked, but never satisfactorily answered. We must close this gigantic loophole, a loophole which would effectively end the death penalty in this country if judges are unable to meet these arbitrary time limits.

I know that the proponents of this amendment share my support for capital punishment laws. I expect that Senator THURMOND and Senator SPECTER, strong supporters of State sovereignty, will realize that requiring Federal habeas proceedings to preceed State habeas proceedings will make a mockery of the traditional relationship between the Federal and State governments.

I am ready to work with my colleagues to develop legislation that meets the public demand for habeas corpus reform in a meaningful and effective manner.

Mr. DECONCINI. Mr. President, I also rise to express my support for final passage of S. 1970, the omnibus crime package of 1990. I applaud my distinguished colleague, Chairman BIDEN, for his fine work on this important legislation. We should commend him, as well as the ranking member of the Judiciary Committee, Senator THURMOND, for their leadership on this bill.

S. 1970 contains a number of provisions designed to reduce both violent crime and illegal drug use. The bill contains provisions that I sponsored, including the Antidrug Assault Weapons Limitation Act, authorization of additional border partrol officers, a prohibitation on advertisements promoting the distribution or transfer of controlled substances, and greater distribution of forfeited assets from U.S. Customs to State and local law enforcement.

I fully support the death penalty provisions of S. 1970. I also support habeas corpus reform. This is an issue that I have been focused on for some time. I am convinced that we must find a solution to the backlog in our Federal courts casued by the repeated collateral view of death penalty convictions. In previous Congresses, I have introduced habeas corpus reform legislation, and this Congress I cosponsored Senator THURMOND's bill, S. 88.

More recently, I worked with Senator GRAHAM in introducing a substitute for the habeas corpus reform provision originally contained in S. 1970. The Senator from Florida has become a leader in the Senate on this issue and his suggestions for reform deserve due consideration. Indeed, as he has just noted, our substitute for habeas corpus reform had few differences from the Thurmond-Specter substitute, which the Senate incorporated into S. 1970.

The areas where these two provisions part, however, should be revisited. As Senator GRAHAM has discussed, the 110-day time limit placed on the consideration of habeas corpus claims in the Thurmond-Specter proposal

could prove to be problematic. I agree wholeheartedly with the intent behind this provision, but I fail to see how it can be enforced. More troublesome is that defendants may consider the court's failure to abide by the time limit prejudicial and may encourage the filing of additional petitions based on time limit violations.

The Thurmond-Specter proposal also delays State post-trial review by permitting prisoners to proceed directly from State court to Federal court. Because this proposal was introduced on the floor, we did not have the benefit of hearings to determine how exactly this novel method would effect federal courts. Will we have a situation where prisoners will be able to raise anything under the Sun and a Federal judge has 50 days to decide the petition? Senator GRAHAM has raised other concerns about the differences between the two bills, differences that indeed need further examination. As Senator GRAHAM has, I would like to hear the views of Federal judges and State prosecutors on whether the bypass of State postconviction relief will in the end alleviate the backlog of habeas petitions in Federal court.

I commend Senator THURMOND and Senator SPECTER for their hard work on drafting a habeas corpus proposal. I believe that the majority of Thurmond-Specter substitute will greatly aid in reducing the overflow of frivolous collateral actions that clog our Federal courts. However, I agree with Senator GRAHAM's assertion that certain provisions of the Thurmond-Specter substitute could possibly frustrate our goal. I hope that we have an opportunity to revisit these provisions in conference.

Mr. THURMOND. Mr. President, If there is no objection I think we are ready for a vote on final passage.

The PRESIDING OFFICER. Under the previous order, the vote will take place at 12:30 on the amendment, to be followed immediately by the vote on final passage with no intervening debate or amendment.

Mr. BIDEN. Mr. President, have the yeas and nays been asked for on that final vote?

The PRESIDING OFFICER. The yeas and nays have not been asked for on the final passage.

Mr. BIDEN. Mr. President, I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, parliamentary inquiry, prior to final passage of the crime bill, is there a vote ordered on the savings and loan amendment?

The PRESIDING OFFICER. There is, and it is a rollcall vote.

Mr. BIDEN. There has been a rollcall vote requested?

The PRESIDING OFFICER. The Senator is correct. The yeas and nays have been ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent there be a period of morning business to extend beyond 11:45 a.m., with Senators permitted to speak therein as previously ordered.

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

V-22 COST AND OPERATIONAL EFFECTIVENESS ANALYSIS STUDY RELEASE

Mr. SPECTER. Mr. President, the V-22 Osprey is a very important plane which is now under consideration by the Congress as to its retention in the budget for fiscal year 1991.

There has been an exhaustive report recently completed by the Institute for Defense Analyses which shows conclusively that the V-22 Osprey is cost effective and is a plane which should be included in preference to all other alternatives available for very important functions in the Department of Defense.

Mr. President, at the conclusion of my remarks I will ask unanimous consent to include an extract which I have made on an unclassified version of a cost and operational effectiveness analysis prepared by the Institute for Defense Analysis for the Department of Defense. But for present purposes I will quote two extracts from the report which establish the preference for the V-22. At page 13, in volume 1, the following appears:

"* * * the V-22's speed, range and survivability advantages could enable even the 356 aircraft fleet to more effective—sometimes signficantly more and other times only slightly more—that all of the proposed helicopter alternatives in each of the four Marine missions examined * * *.

Then, Mr. President, at volume 1, page 22, the following occurs:

The V-22 is more cost effective than helicopter alternatives for the Navy combat search and resuce, Air Force special operations, and DOD or other Government agency drug interdiction missions.

Mr. President, notwithstanding the conclusive nature of the report from the Institute for Defense Analyses, the Secretary of the Defense has insisted on standing by what I think was a predetermined conclusion not to support the further funding of the V-22.

Mr. President, I ask unanimous consent that at the conclusion of my remarks there be printed in full in the RECORD: First, the summary which I have prepared dated July 1, 1990.

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

(See exhibit 1.)

Mr. SPECTER. Second, that there be printed the letter from the Secretary of Defense to me dated June 29, 1990.

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

(See exhibit 2.)

Mr. SPECTER. That there be printed a rebuttal to what the Secretary of Defense has had to say.

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

(See exhibit 3.)

Mr. SPECTER. And, finally, an article which appears in the Philadelphia Inquirer, dated July 4, 1990, be printed.

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

(See exhibit 4.)

Mr. SPECTER. I thank the Chair.

Mr. President, I thank the Secretary of Defense for making available to me the report of the Institute for Defense Analyses on June 29, which was the first date that it was released.

After this report was released and this Senator quoted from the report of the Institute for Defense Analyses, a reply was issued by the Department of Defense in the name of the Secretary by a spokesman, Mr. Pete Williams, who says: "The Secretary has concluded that the decision that he made last year remains valid."

It is my view, Mr. President, that the conclusion of the Secretary of Defense was a predetermined conclusion unwilling to be moved by the plain facts and the conclusive analysis by the Institute for Defense Analyses.

The DOD spokesman, Mr. Williams, said that "Cheney disagreed with the assumptions on which the report was based."

Mr. President, the Department of Defense had ample opportunities to establish the scope of that report and had ample opportunity to provide different assumptions.

When the Armed Services Committee is now marking up the Department of Defense authorization bill, Mr. President, it is my view that the report of the Institute for Defense Analyses is so persuasive, so compelling, so overwhelming that it ought to be adopted and the V-22 Osprey included in the fiscal year 1991 authorization by the Armed Services Committee.

Mr. President, I have requested that hearings be held on the subject by the defense appropriations subcommittee because I believe that the Department of Defense officials who continue their opposition in the face of this conclusive report ought to explain in detail why, under these circumstances, they continue to insist that the V-22 Osprey is not the plane which most effectively meets their needs.

EXHIBIT 1

V-22 COST AND OPERATIONAL EFFECTIVENESS ANALYSIS STUDY RELEASE

On Friday, June 29, 1990, the Department of Defense released a draft report entitled "Assessment of Alternatives for the V-22 Assault Aircraft Program." This study was first requested by Congress July 1, 1989 (exactly a year ago today) in order to effectively evaluate the mission, aircraft survivability, cost, and deployment schedules for the V-22 and alternative aircraft. The report was recently submitted to DOD by the Institute for Defense Analyses (IDA). All quotations and findings referenced in this statement are from the unclassified portion of the study. The studay's summary states unequivocally that for the $24 billion that would be needed to purchase alternative helicopters, *"the V-22's speed, range, and survivability advantages could enable even the 356 aircraft fleet (the number of V-22's that could be purchased for $24 billion) to be more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined."* (page 11, Vol. 1, italics)

This statement dramatically demonstrates that the Department of Defense's sole justification for terminating the V-22 program, that it was too expensive, is unfounded. I mention this because Secretary Cheney himself has stated to me and many of my colleagues on numerous occasions that he likes the V-22, but decided to cancel it only because he thought we couldn't afford it.

Now, with the results of the study that Secretary Cheney himself commissioned, we see that, in fact, the V-22 is more affordable than his own proposed alternative. Based on these findings, I submit that the V-22 Osprey should be reinstated with procurement funding appropriated for Fiscal Year 1991.

The IDA study was requested in both the conference reports to the FY 1990 Defense Authorization and Appropriation's Act. The Defense Authorization report language stated "The Conferees note that the future of the V-22 will be considered on the basis of the information that will be provided as a consequence of the studies and certifications." The Defense Appropriations report language classified this request by stating that "The Conferees believe that this study should be used as a basis for a decision to begin production of the V-22 in Fiscal Year 1991."

Given the overwhelming Congressional interest in this report and its significance based on the FY90 report language, this study should help lay to rest the debate as to the cost-effectiveness of the V-22.

As we face the complex task of scaling down our defense spending, we must be careful not to cancel programs that not only represent a dramatic advancement in capability, such as the V-22, but provide a flexibility in mission that could fulfill requirements for all of the services. As the V-22 study demonstrates, not only could the Marine Corps medium lift and opposed combat assault missions be performed by the V-22 more effectively than alternative helicopter mixes, but it could also perform missions more cost-effectively for the Air Force and the Navy. For example, the study finds that "the V-22 is more cost effective than helicopter alternatives for Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions." This capability is particularly promising for special forces operations such as hostage rescue or combat raid missions. The study concludes that "a rescue raiding party equipped with V-22's could be launched from farther out to sea or sent against targets deeper inland than would be the case with Marine forces equipped with any of the alternatives." Also, the time needed to reach the target from the same initial position offshore is more than 5.5 times greater for the best alternative helicopter.

Although Army missions were not addressed in this study, it should be noted that the V-22 was originally designed as an Army program and is capable of fulfilling many Army missions as well. Clearly, the tiltroter technology utilized in the V-22 represents a revolutionary advancement in aviation technology which will afford us superior capabilities well into the next century.

During a series of hearings this Fall before the Senate and House Appropriations and Authorization Committees, it was made abundantly clear that the V-22, more than almost any other new aircraft program, represents a technological advancement that the services require given anticipated future combat scenarios. The Commandant of the Marine Corps, General Al Gray, for example, stated in testimony before the Senate Appropriations Subcommittee on Defense, that the V-22 "opened up the entire area for us to be able to maneuver and to operate with far greater effectiveness." This statement is typical of the testimony we heard from a variety of witnesses representing the different services. I should also mention that apart from the military, there has also been extraordinary commercial interest in the V-22, probably to help relieve congestion in the airports operating in the Northeast corridor. These advantages, which could potentially outweigh even those of the military, were, of course, not even considered in the IDA study.

BASIS FOR STUDY RESULTS

The Marine Corps in determining an alternative to the V-22 Osprey for their medium-lift aircraft requirements identified a aircraft fleet comprised of a mix of CH-60/CH-53 helicopters. The cost to purchase and operate this helicopter fleet for a period of 20 years was estimated at $24 billion.

In order to accurately compare the cost and operational effectiveness of the alternative helicopter mix with the V-22, the Institute for Defense Analysis calculated the number of V-22s that could be procured and operated for 20 years for the same $24 billion, then compared the operational effectiveness of this quantity of V-22's with the alternative aircraft.

The $24 billion would procure and operate for twenty years either 356 V-22 Ospreys or 240 CH-60(S) and 283 CH-53+.

STUDY RESULTS

Vol. 1, Page 13: ". . . the V-22's speed, range and survivability advantages could enable even the 356 aircraft fleet to more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined . . ."

Vol. 1, Page 13: ". . . the 356 V-22's yield substantial improvement over the Marines' current capabilities for all missions."

Vol. 1, Page 14: "When engaged in the amphibious assault, the substantially higher speed of the V-22 would enable a smaller sized fleet of these aircraft to deliver troops and equipment ashore at approximately the same rate as helicopters fleets containing from 10 to 35 percent more aircraft."

Vol. 1, Page 15: "The V-22's higher speed also contributes, along with the survivability features included in its design, to its being one of the most survivable of the alternatives considered . . ."

Vol. 1, Page 15: While the CH-60(S) attains a comparable loss rate to the V-22, the large CH-53E helicopter is "1.7 to 3.5 times more likely to be downed by enemy air defense than the V-22."

Vol. 1, Page 15: "The substantial survivability differences among the alternatives were not taken into account in previous Marine Corps and Office of the Secretary of Defense assessments of the V-22."

Vol. 1, Page 18: "When supporting Marine combat forces engaged in sustained operations, a fleet of V-22 assault aircraft could fly more sorties over a 30-day period than could fleets of any of the other alternatives [same total fleet cost of $24 billion]."

Vol. 1, Page 18: ". . . the V-22's higher speed would enable it to fly a given distance in a much shorter length of time than any of the helicopter alternatives."

Vol. 1, Page 19: "The V-22's higher speed and lower effective failure rate also pay off in the hostage rescue or combat raid mission. When carrying out this mission, a rescue force or raiding party equipped with V-22's could be launched from farther out to sea or sent against target sites deeper inland than would be the case with Marine forces equipped with any of the other alternatives."

Vol. 1, Page 20: "The V-22 tilt-rotor is the only one of the alternative assault aircraft that has sufficient range and speed to self deploy efficiently to an overseas combat theater."

Vol. 1, Page 22: "The V-22 is more cost effective than helicopter alternatives for the Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions."

Vol. 1, Page 22: "In general, the higher speed of the V-22 would enable a fleet of those aircraft to reach a larger number of downed aircrews in a fixed time interval than could an equal cost of any of the helicopter alternatives."

Vol. 1, Page 23: "The significantly higher speed of the V-22 would enable it to fly farther in the limited time available and thus to complete a larger number of the planned special operations missions than could either helicopter alternative."

Vol. 1, Page 23: "For the [the drug interdiction] mission, the higher speed and longer range of the tilt-rotor would enable a single V-22 to cover a substantially larger area than could be covered by the two helicopters funded for the same total cost. In addition, because the V-22's 275 knot dash speed would be faster than the speeds of the small aircraft most frequently employed by drug couriers, the V-22 would be able to intercept these aircraft while airborne. The much slower helicopter could not do so."

Vol. 1, Page 25: ". . . the near-term cost for all of the alternative fleets examined in the assessment would exceed the amount that has been allocated by the Department for the replacements identified in the FY 1990 President's Budget."

The Institute for Defense Analysis study establishes conclusively that the V-22 is the most cost-effective aircraft.

With these study results now available, it is unfortunate that Secretary of Defense

Cheney continues in his position that "while the V-22 promises to provide excellent capabilities, the investment cost to procure it remains too high." He bases this decision on the assessment that 356 V-22's would cost about $3.7 billion more than the Secretary of the Navy has recommended for Marine Corps medium lift aviation during the planning years FY 1991-1997.

Unfortunately, this representation ignores the principal finding of the study: that for the cost "DOD has budgeted for Marine Corps medium lift aviation" that could be performed by an alternative to the V-22, "the V-22's speed, range, and survivability advantages could enable [it] to be more effective—sometimes significantly more-than all of the proposed helicopter alternatives." Moreover, Secretary Cheney's statement ignores the cost data contained in the study. On page 23 (Vol. 1) of the report it is stated that "the near-term costs for all the alternative fleets examined in the assessment would exceed the amount that has been allocated by the Department for the replacements identified in the FY 1991 President's budget." More specifically, the Department of Defense has allocated no funds over the FY 91-97 period to purchase aircraft for the Air Force's long-range special operations mission or the Marine Corps heavy lift mission. These costs, which could range from $1.8 to $3.2 billion for the alternative, would have to be taken into account. Moreover, the study estimated that about $1.1 billion of the difference in cost between the alternatives to the V-22 examined in the study and the V-22 is due to a $7 million per aircraft increase in the anticipated costs for the CH53E. I caution everyone to keep these facts in mind as they consider the Department of Defense rationale for not reinstating the V-22.

EXHIBIT 2

THE SECRETARY OF DEFENSE,
Washington, DC, June 29, 1990.

Hon. ARLEN SPECTER,
Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR ARLEN: The Institute for Defense Analyses (IDA) has just submitted to the Department of Defense its draft *Assessment of Alternatives for the V-22 Assault Aircraft Program.* Because of the extraordinary Congressional interest, I am informing you of this matter.

I have reviewed the draft report and my assessment is that the decision made last year remains valid. (While the V-22 promises to provide an excellent capability, the investment cost to procure it remains too high) In the current era of declining budgets, we must give up certain capabilities. Marine Corps medium lift requirements can be met in substantial part by alternative means that are much less costly.

The study made a number of assumptions that are critical to its V-22 conclusions. One was that the aircraft could be operated at speeds approaching 200 knots when carrying cargo externally, without adverse effect on the cargo. A second was that sorties per aircraft could be substantially higher than posited in amphibious assault requirements studies. And a third was that a much smaller V-22 program, procured on a much slower schedule, would be acceptable.

Even so, the report's scaled down V-22 program is still more expensive than reasonable quantities of alternative aircraft in the near term. Moreover, during the planning years on which we are focusing currently, Fiscal Years 1991-97, the smallest V-22 program contained in the report would cost about $3.7 billion more than the Secretary of the Navy has recommended for Marine Corps medium lift aviation. You can see this problem most clearly in FY 1991, where the V-22 program in the report requires $698 million while the Administration's budget request only includes $51 million for Marine Corps medium lift aircraft. As a reminder of the expense of this aircraft, the unit cost of the V-22 expressed in constant FY 1988 dollars is estimated in the report to be $38 million; if research and development costs are included, the unit cost would be $45 million.

Procuring the V-22 would force painful tradeoffs. One example is the amphibious warfare mission. To pay for even the slowest V-22 profile examined by IDA—one that if continued would stretch V-22 procurement until 2009—would require us to give up virtually all the amphibious shipping we have planned to build over the next several years.

I appreciate your support as we make tough decisions in this time of tight fiscal constraints and a changing world environment.

Best regards,

DICK CHENEY.

EXHIBIT 3

REBUTTAL

Study clearly supports Marine Corps assertions that V-22 is most cost effective alternative.

Study says that other alternatives fall short of Marine Corps requirements.

SBCDEF memo fails to address V-22 as a Joint Service aircraft.

Study says alternatives also fall short of all Joint Service Operational Requirements.

Study shows that V-22 is the most cost effective alternative for Special Ops, Strike Rescue, drug enforcement.

FACTS

1. True. The V-22 can carry some external loads at approximately 200 knots. However, the only external load carried by the V-22 in the study at these speeds in the assault is the HMMWV.

1988 Bell-Boeing wind tunnel tests indicate that the HMMWV is stable when carried externally up to speeds in the 225 knot range.

Effects on the HMMWV are unknown without flight testing but are expected to be minimal or nonexistent.

A slower speed of 130 knots for externals was used as an excursion in the study (but still allowing the V-22 to fly at 250 knots while carrying troops or returning empty) and the resulting drop in effectiveness is negligible.

2. The COEA uses the same sorties per aircraft as the most current amphibious assault requirements study, the DON Integrated Amphibious Operations and USMC Air Support Requirements Study (DON Lift II).

This study assigns the V-22 three sorties in a 90 minute period, which it can easily accomplish.

An outdated 1983 study, DON Lift I, arbitrarily assigns only two sorties to the V-22 because it was designed to size the amphibious shipbuilding mix and did so without regard to threat, unit integrity, and scheme of maneuver.

3. The procurement of the V-22 on a much slower schedule than was originally planned is acceptable.

The smaller force (356 aircraft vice 502) was only an "equal cost" alternative based on the Office of Secretary of Defense CH-60/N-83 force Life Cycle cost estimated by IDA at $34 billion.

The COEA states, "the V-22's speed, range, and survivability advantages could enable even the 356 aircaft fleet to be more effective—sometimes significantly more and other times only slightly more than all of the proposed helicopter alternatives in each of the four Marine missions."

4. Page 23 of the Executive Overview states, ". . . if a lower production rate were to be used and the V-22 procurement stretched over a longer period of time, the near-term costs for the program would be comparable to these for any of the other alternatives."

5. This statement compares the V-22 program cost in FY 91-97 ($7.7 billion) which includes Marine Corps, Navy, and Air Froce V-22 procurement and Marine Corps CH-53E procurement with an Office of Secretary of Defense alternative ($5.2 billion) containing only Marine Corps and Navy aircraft.

6. The letter compares a slower V-22 cost with the SECNAV recommended POM 92-97 MLR program. The appropriate comparison would be to the H-60/CH-53E alternative contained in the Administration's budget request and the COEA. The actual difference is $0.7 billion, vice the $3.7 billion claimed in the letter.

7. This again compares V-22 R&D and procurement with R&D only for MLR. The figure of $698 billion is not in the report—it is derived from the report using some unknown Office of the Secretary of Defense method.

8. These figures are based on a procurement of 356 aircraft vice the Marine Corps requirement for 502, which inflates the dollar amount by approximately $3 million per aircraft.

9. Since over 85% of the R&D costs ($2.4 billion) are already sunk, it is not appropriate to include these costs. This methodology used to compute the cost has been applied only to the V-22 and not to other programs such as the B-2, Light Helicopter Experimental, and C-17.

EXHIBIT 4

[From the Philadelphia Inquirer, July 4, 1990]

PENTAGON CHIEF UNSWAYED BY STUDY BACKING OSPREY

Secretary of Defense Dick Cheney stands by his opposition to the purchase of V-22 Osprey tilt-rotor aircraft for the Marine Corps, despite a new study indicating it would be a good investment a Pentagon spokesman said yesterday.

The Osprey would be built in part by Boeing Helicopters in Ridley, Delaware County. U.S. Sen. Arlen Specter (R., Pa.) and Rep. Curt Weldon (R., Pa.) whose district covers most of Delaware County, have lobbied hard to save the project.

"The secretary has concluded that the decision that he made last year remains valid," Cheney spokesman Pete Williams told reporters. "That is, that the V-22 is an excellent aircraft, but is simply too expensive to buy."

Specter, in an interview last night, blasted Cheney's apparent refusal to budge on the V-22. "He's categorically wrong," the senator said. "I've called for hearings before our defense appropriations subcommittee, and he's going to find his position totally indefensible in the face of the clear-cut conclusions of the Institute for Defense Analysis."

The institute, a Pentagon-sponsored research group, said in a report to Congress on Friday that the Osprey could perform better on military missions and do so at less cost than helicopter alternatives favored by Cheney.

Williams said Cheney disagreed with assumptions on which the report was based.

The Osprey would be built jointly by Boeing and Bell Helicopter/Textron of Fort Worth, Texas.

It is designed to rise and hover like a helicopter and then fly like an airplane. It would be used largely for military-transport missions.

The institute said costs could be reduced by slowing the rate of production of the Ospreys.

However, even at the reduced rate, Williams said, the Ospreys would cost about $3.7 billion more from fiscal 1991 through 1997 than Secretary of the Navy H. Lawrence Garrett III recommended be spent to meet the Marines' medium airlift requirements.

The report also assumed that the Marine Corps could get by with fewer of the Ospreys than originally proposed by flying more sorties at higher speeds.

Williams said it was not known whether the aircraft could safely carry equipment slung under it at the proposed speed of 200 knots.

MITCH SNYDER—A TRUE AMERICAN HERO

Mr. LEVIN. Mr. President, yesterday we laid to rest a true American hero, Mitch Snyder, who helped focus national attention on the national shame of the homeless.

Mitch Snyder was a person who could make others recognize a problem which they would rather ignore, a person with the spirit to make sacrifices of himself to further his cause. His legacy will live on in the hearts of those who knew him, and those who did not. It will also live in the Community for Creative Non-Violence [CCNV], the organization to which Mitch Snyder devoted his remarkable energy.

Mr. President, in 1981 I stood in this Chamber and praised the efforts of the CCNV, and other groups leading the fight against homelessness. Now, almost a decade later, more Americans are beginning to join in the struggle to provide homes for all members of our society.

The struggle faced by homeless persons could not have been more aptly described than by the words of the CCNV family nearly 10 years ago, which were included in my 1981 remarks before the Senate. They are as follows:

Life on the streets is incapacitating and humiliating. It is both physically and mentally trying. Imagine sleeping on a steam grate, waking in the cold, walking miles to a bathroom or a free meal. All the while you are ignored, shunned, or insulted by passers-by. Your physical appearance deteriorates. You worry about snow and rain and rats, about bottles thrown from passing cars, about police raiding the abandoned house where you find shelter. In welfare offices and hospitals, people make demands for papers, numbers, forms, and addresses. You sit for hours on benches and curbs. Your shoes didn't fit and you had no socks—now your leg is infected and swollen. Conventional medical care is a foreign concept in this environment. It is remote and depersonalized, with no understanding of causes and effects.

Mr. President, Mitch Snyder helped the rest of us recognize the problem of homelessness, and his crusade prompted others to join the fight. His selfless work helped galvanize an often indifferent society into one that has shown in communities large and small across this Nation that it cares.

I first met Mitch Snyder in 1980. Just as his unwavering concern and his limitless energy moved me then, his work has touched countless others who were fortunate enough to know him. It is the measure of his life's work that others beyond this small group have been touched and perhaps permanently changed by Mitch Snyder. We mourn his passing and we celebrate his successes.

PATIENT SELF-DETERMINATION

Mr. DANFORTH. Mr. President, several weeks ago, the U.S. Supreme Court decided a very well publicized case relating to Nancy Cruzan. It is a very tragic personal situation. It involves a young woman who 7 years ago was involved in an automobile accident and for the past 7 years has been in a persistent vegetative state. She is unable to communicate in any way. She is being kept alive by artificial means.

The family has sought to have the artificial feeding terminated. The State has taken the position that in order to terminate the feeding, a clear and convincing case has to be made of the desire of the patient. While Nancy Cruzan had expressed her will orally prior to the accident that if she were ever in this kind of vegetative state she would like the treatment to be terminated, the court held that the evidence before it was not sufficient to constitute clear and convincing evidence, and that, therefore, the State could not be compelled to remove the artificial nutrition and hydration system.

The case of Nancy Cruzan is unfortunately not unique. There are numerous other cases. Many of us know situations personally involving people who are comatose, vegetative, and who are kept alive artificially for very long periods of time. For example, Dan Delio told his wife that he did not even want to be kept alive in a vegetative state for a day. But at age 33, he had cardiac arrest and has lapsed into a human vegetable.

His wife had to go to court, through a very long court struggle, to have the feeding tubes removed. She has stated the intense personal agony of having to go through the situation of pleading in the court for the death of her husband. There are other cases as well.

The Supreme Court in the Cruzan case indicated that if there had been a clear statement, if Nancy Cruzan had executed a so-called "advance directive"—"living will" or durable power of attorney—then that would have resolved the issue. Indeed, the Supreme Court indicated that perhaps there is a constitutional right of a patient to indicate that he or she does not want any more medical attention; to say "Turn off the machine." Presumably, if a person is conscious, that decision can be made for themselves.

According to the Supreme Court, if somebody is no longer able to communicate, but they have an advance directive stating that under certain circumstances they do not want certain kinds of care, such directive must be recognized. Advance directives allow people who can no longer communicate to exercise a constitutional right to tell the doctors, "I do not want anymore of this."

The fact is, however, that while public opinion polls have indicated that 95 percent of the population of the United States wants to provide some advance directive for the amount of health care to be received, only 9 percent of the people of this country have actually executed living wills. And a lesser percentage than that have appointed powers of attorney to be used to make decisions for the person if the person is no longer able to decide for himself or herself.

Most of the people in this country now die in institutions. Something like 75 or 80 percent of people die in institutions. Yet, only 4 percent of hospitals ask patients at admission whether they have an advance directive. So the fact that a person executes a living will or appoints a durable power of attorney does not necessarily mean that the person will be asked, nor will anybody know about it.

In order to address this situation, some time ago, well before the Supreme Court's decision on the Cruzan case, Senator MOYNIHAN and I introduced S. 1766, really a very straightforward mechanism providing that when people are admitted to the hospitals and nursing homes they are told about the possibility of living wills and durable power of attorney and asked if they have one. That really is the gist of the bill that has been introduced.

That bill of course has taken on much greater importance since the Supreme Court's decision in the Cruzan case.

I am pleased to tell the Senate that Senator ROCKEFELLER has agreed to hold a hearing on this bill on July 20 in his Subcommittee on Medicare and

Long-Term Care of the Senate Finance Committee.

So we hope to bring this issue before the Senate at, I hope, an early date. My hope is that after the hearing we can have a markup. I really do not think it is a terribly controversial measure. But I think that in the sweep of legislative business that is coming before us, it is very easy for this to be lost in the shuffle.

A lot of human suffering is involved in this issue. I rise today to call the Senate's attention to S. 1766. Cosponsorship is invited for this legislation. My hope is that we can enact it into law, and therefore further the opportunities people have to think about their own views.

Nothing is mandated for people by this. It will simply further the opportunities that people have to exercise their own judgment, and to state their own intention for the amount of medical care they want, or that they desire.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

CIVIL RIGHTS ACT OF 1990

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

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

Mr. HATCH. I have just a few comments to make. We have been sitting here all morning, prepared to go forward on the Civil Rights Act of 1990, knowing that there cannot be any votes until 12:30. But I have been prepared since yesterday morning to start off with amendments. In fact, I have an amendment ready to go now and am prepared to explain to the U.S. Senate and have a vote on it with a time agreement. I do not see any reason to sit around when we are prepared to go forward, and want to finish this bill.

The only way, it seems to me, that we have a possibility of doing that is to proceed with amendments. I do not want to see delays, nor do I intend to initiate delaying tactics. The amendments are substantive, worthwhile; they are amendments I think everybody in the Senate will understand and I want to support because they will improve this bill. Indeed, my amendments are designed to resolve some of the conflicts on this bill. The amendments will make this a better bill, more conducive to true civil rights accomplishments.

So, I do not know why we are wasting this time. Frankly, we ought to proceed now. If we are not going to proceed before 12:30, then I would like to proceed as soon as those votes are over. I will lay down an amendment, and I am willing to go to an hour or 2-hour time agreement, depending upon who wants to speak on the amendment. I am willing to go to an amendment after that and another after that.

I do not have a lot of amendments at this particular time, but I think if we can get through these amendments, we can resolve many matters surrounding this bill that need to be resolved. If my amendments are voted down, I can live with that. If they are voted up, they will help in the passage of the bill. They will certainly help toward getting my support for the bill, support which I would like to give to any civil rights bill.

To just sit here when both the distinguished Senator from Massachusetts and myself have been here this morning, I think is unproductive. I am not finding fault with anybody, because I am aware of the negotiations that are going on. But that is no reason not to proceed. We have staff who can work on the negotiations while we are proceeding with the intricate and delicate matters surrounding this bill.

So I just need to make this point, because I have been ready since yesterday morning to start offering amendments. I have told my dear friend and colleague, the distinguished majority leader, that I want to offer amendments and that I would not like to have cloture filed until after we have offered a number of these amendments and see what the Senate is going to do about them. If it appears to me or to the majority leader that sometime in the future there is someone trying to delay the Senate on this matter, then I would not find any fault at all with the filing of a cloture motion. But if we do not utilize today and tomorrow in trying to amend, then I wonder if there is an attempt to bar me from having the right to bring important, decent, honorable, substantive, worthwhile, hopefully conciliatory, amendments to this bill.

I have no desire to disrupt the prompt passage of a civil rights bill. I have only the desire to amend this bill and try to correct it. It may be that the Senate, in its wisdom and by a majority vote, will decide not to go along with me on some of these amendments if they do, so be it. But, I think after full discussion, many will come to believe that they are good amendments, and I think some of them perhaps will pass by a majority lead. At least I have high hopes that they will.

To make a long story short, I want to make it clear that I am ready to proceed. I would like to proceed, and I am ready to proceed right to an amendment now. If we cannot proceed right now, then I hope we will proceed immediately following these votes, and then I will file an amendment, and we will go from there. I know the distinguished Senator from Massachusetts should have no objection to this type of approach, because he wants to move ahead with this bill as much as I.

Mr. KENNEDY. Mr. President, I appreciate the desire of the Senator from Utah to move forward. As he is very much aware, we will have two votes starting at 12:30. It is 5 after 12. This quorum call started about 30 minutes ago; and since then we have been attempting to reach a time agreement with our Republican colleagues on the conference report on the Americans with Disabilities Act. It was the hope of the leadership, one which I shared, that we were going to be able to reach that time agreement on that particular bill. Then we can have all the votes in seriatim, and we can start off considering the civil rights bill at the conclusion of those votes.

We have been unable to get that kind of clearance at the present time. I am more than glad to either try to get that clearance with the Senator from North Carolina, or we can begin to have the debate and discussion on the amendments of the Senator from Utah.

So I want to indicate that if he wants to offer an amendment, I will be glad to start in on the substance of any particular amendment at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE GRASSLEY AMENDMENT TO THE CIVIL RIGHTS BILL

Mr. SPECTER. Mr. President, I supported the position taken by the distinguished Senator from Iowa, Senator GRASSLEY, yesterday when he sought to include the Senate and Senators as parties responsible under a private right of action under the civil rights bill, because it is my view that the speech or debate clause of the U.S. Constitution provides no justifiable exception for Senators, and that as a matter of basic fairness Senators should be in the same position on defending such matters as other citizens.

The argument was made that it is important to include Senators in the same status as other citizens so that it would be fully recognized by Members of the U.S. Senate the kinds of responsibilities and burdens which are being imposed on other Americans. I believe that that proposition is sound in terms of fundamental fairness, so that there should not be any unique status that

Senators would avoid responsibilities and obligations which are imposed on other Americans citizens.

The fact that we must run for elective office and may be subjected to embarrassing lawsuits does not in my judgment put us in a different category from other Americans. No matter what group you talk to, you will find that their view of their own situation is a difficult one, and that when we legislate and impose obligation on citizens in a variety of bills, they will say, as I have heard them repeatedly in open housetown meetings across my State, Pennsylvania, that they ought not to be subjected to such burdens.

While we as Senators may see the situation from our own perspective, from the perspective of others they, too, would like to be relieved from the burden. So I think it is inappropriate for us to fashion special rights for ourselves and special exclusions for ourselves.

Mr. President, the Supreme Court of the United States in the case of Forrester versus White held that a judge does not have absolute immunity from damages on his decision to demote and dismiss a court employee. In that case, the Supreme Court of the United States applied what is called a functional approach under which the nature and functions entrusted to particular officials must be examined in order to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions.

The Supreme Court in that case made a specific reference to the speech or debate clause when it pointed out, at page 218 of 484 United States Report, that one species of such legal protection is beyond challenge, the legislative immunity created by the speech or debate clause, referring to the constitutional provision. But even there by analogy, where the function does not relate to speech or debate, there would be not be coverage or immunity as provided by the Constitution.

In a somewhat analogous case in the Court of Appeals for the District of Columbia, Gross versus Winter, the circuit court held that a council member did not enjoy absolute legislative immunity for liability in a variety of situations where allegations of tortious conduct was made, which would be similar to the issue which Senator GRASSLEY was pressing that Senators should have the same kind of obligations under the Civil Rights Act.

So, in sum, Mr. President, it seems to this Senator that when you talk about the speech and debate clause that is very important, that we should have immunity to say on this floor what we please without having any liability attached to us individually, and the speech and debate clause would extend to hearings and in a variety of other contexts which I shall not go into now because of the limit of time.

But when you talk about our relationships, Senators' relationships with employees in variety of contexts, as those encompassed for example under the Civil Rights Act, functionally it does not relate to speech and debate and it ought not to be extended. Once that kind of immunity is eliminated then, Mr. President, it seems to this Senator that we should have no greater rights and no greater exemptions than other Americans. That it would in fact be good for Senators to understand the full scope of what we are enacting here as it imposes burdens and I think rightfully so on Americans generally, but we ought to be included as well.

In conclusion, Mr. President, because I know time draws near for the ordered vote, I commend my distinguished colleague Senator GRASSLEY. I have had the opportunity to sit next to him on the Judiciary Committee for the better part of 10 years now. He enjoys the advantage of not being a lawyer. That gives him I think some special insights which those of us in the legal profession sometimes do not not enjoy.

He has demonstrated the knack of reaching the jugular too often on this floor, Mr. President. I think we are overly concerned. When Senator GRASSLEY articulated these views yesterday, I think he was on target and that is why I supported his position.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The hour of 12:30 having arrived, under the previous order the Senate will now proceed to vote back to back, without any intervening action or debate, on the Wirth amendment No. 2116 to the bill S. 1970, and on final passage of the bill itself.

VOTE ON AMENDMENT NO. 2116, AS MODIFIED

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Colorado [Mr. WIRTH] as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 99, nays 1, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—99

Adams	Bumpers	Daschle
Akaka	Burdick	DeConcini
Baucus	Burns	Dixon
Bentsen	Byrd	Dodd
Biden	Chafee	Dole
Bingaman	Coats	Domenici
Bond	Cochran	Durenberger
Boren	Cohen	Exon
Boschwitz	Conrad	Ford
Bradley	Cranston	Fowler
Breaux	D'Amato	Garn
Bryan	Danforth	Glenn
Gore	Kohl	Pryor
Gorton	Lautenberg	Reid
Graham	Leahy	Riegle
Gramm	Levin	Robb
Grassley	Lieberman	Rockefeller
Harkin	Lott	Roth
Hatch	Lugar	Rudman
Hatfield	Mack	Sanford
Heflin	McCain	Sarbanes
Heinz	McClure	Sasser
Helms	McConnell	Shelby
Hollings	Metzenbaum	Simon
Humphrey	Mikulski	Simpson
Inouye	Mitchell	Specter
Jeffords	Moynihan	Stevens
Johnston	Murkowski	Symms
Kassebaum	Nickles	Thurmond
Kasten	Nunn	Wallop
Kennedy	Packwood	Warner
Kerrey	Pell	Wilson
Kerry	Pressler	Wirth

NAYS—1

Armstrong

So the amendment. (No. 2116), as modified, was agreed to.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Utah [Mr. GARN] be added as a cosponsor.

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

Mr. CONRAD. I ask unanimous consent to be added as a cosponsor.

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—94

Adams	Fowler	McConnell
Akaka	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Packwood
Boschwitz	Harkin	Pell
Bradley	Hatch	Pressler
Breaux	Heflin	Pryor
Bryan	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Robb
Burns	Humphrey	Rockefeller
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Shelby
Conrad	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wilson
Domenici	Mack	Wirth
Exon	McCain	
Ford	McClure	

NAYS—6

Armstrong	Hatfield	Metzenbaum
Durenberger	Kennedy	Roth

So the bill (S. 1970), as amended, was passed.

S. 1970

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

SECTION 1. TABLE OF CONTENTS.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1990".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant did not have a significant prior criminal record.

"(6) The defendant committed the offense under severe mental or emotional disturbance.

"(7) The victim consented to the criminal conduct that resulted in the victim's death.

"(8) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her indi-

vidual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"(g) VICTIM IMPACT STATEMENT.—(1) Prior to hearing any case under this section and as a part of the presentence investigation of such case, a victim impact statement shall be prepared which shall—

"(A) identify the victim of the offense;

"(B) identify the physical injury by the victim as a result of the offense;

"(C) identify any request for psychological services initiated by the victim's family as a result of the offense; and

"(D) contain any other information related to the impact of the offense on the victim or the victim's family as the court may require.

"(2) The information required by paragraph (1) may be obtained from the personal guardian of the victim or such family members of the victim as may be necessary.

"(3) The victim impact statement required by this subsection shall be considered by the court or jury in a hearing held under this section.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Application of chapter in Indian Country

"Notwithstanding sections 1152 and 1153, a death sentence of murder in the first degree committed by or against an Indian in Indian country (as that term is defined in section 1151) may be imposed under this chapter only if there was in effect at the time of the offense an election, by the governing body of the Indian tribe having jurisdiction over the place where the offense was committed, to have this chapter apply in such cases.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 103. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment

for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 104. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 105. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 106. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"§ 2261. Defendants subject to capital punishment and prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply—

"(1) to—

"(A) cases in which the defendant is tried for a capital offense; or

"(B) cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence; and

"(2) only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2266 of this title.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State defendants tried for a capital offense and all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the defendant or prisoner upon a finding that the defendant or prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the defendant or prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant or prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent—

"(1) a State defendant being tried for a capital offense; or

"(2) prisoner under capital sentence during direct appeals in the State courts,

shall have previously represented the defendant or prisoner at trial or on direct appeal in the case for which the appointment is made unless the defendant or prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter. This subsection shall not preclude the appointment of different counsel at any phase of Federal post-conviction proceedings.

"§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2261(c) of this title for a prisoner under capital sentence, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to this chapter. The application must recite that the State has invoked the procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under this chapter within the time required in section 2263 of this title; or

"(2) upon completion of district court and court of appeals review under this chapter, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new fundamental right that is retroactively applicable; or

"(C) is due to the fact the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the filing of any successive petition for a writ of habeas corpus is authorized by the appropriate court of appeals in accordance with section 2264(c) and the facts underlying the claim would be sufficient, if proved, to undermine the court's confidence in the jury's determination of guilt on the

offense or offenses for which the death penalty was imposed or newly discovered facts which are not based upon or include opinion evidence, expert or otherwise, which would be sufficient to undermine the court's confidence in the validity of the death sentence.

"§ 2263. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition filed under this chapter for habeas corpus relief must be filed in the appropriate district court not later than 60 days after the filing in the appropriate State court of record of an order issued in compliance with section 2261(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes; and

"(2) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 60-day period established by this section. A court that finds that good cause has been shown shall explain in writing the basis for such a finding.

"(b) A notice of appeal from a judgment of the district court in a claim under this chapter shall be filed within 20 days of the entry of judgment.

"(c) A petition for a writ of certiorari to the Supreme Court of the United States in a claim under this chapter shall be filed within 20 days of the issuance of the mandate by the court of appeals.

"§ 2264. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court—

"(1) shall determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) may conduct an evidentiary hearing when the court, in its discretion, determines that such hearing is necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it within the time limits established in section 2268 of this title.

"(c)(1) Except as provided in paragraph (2), a district court may not consider a successive claim under this chapter.

"(2) A district court may only consider a successive claim under this chapter if the petitioner seeks leave to file a successive petition in the appropriate court of appeals.

"(3) In a case in which the appropriate court of appeals grants leave to file a successive petition, the time limits established by this chapter shall be applicable to all further proceedings under the successive petition.

"§ 2265. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter.

"§ 2266. Counsel in capital cases; trial and post-conviction standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to indigents charged with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b)(1) Except as provided below, at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth below. The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State law, relying on staff attorneys of a defender organization, members of the private bar, or both; or

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

The certification authority shall—

"(iv) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death; and

"(v) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(vi) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed; or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of section 2261(b) shall have been deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) ensure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed before trial to represent indigents, in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(d) If a State has not elected to establish one or more statewide certification authorities to certify counsel eligible to be appointed after trial to represent indigents, in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State's courts in felony cases.

"(e) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(f) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(g) The court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

"§ 2267. Law controlling in Federal habeas corpus proceedings; retroactivity

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final. A court considering a claim under this chapter shall consider intervening decisions by the Supreme Court of the United States which establish fundamental constitutional rights.

"§ 2268. Habeas corpus time requirements

"(a) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing

"(b) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(c) The Supreme Court shall act on any petition for a writ of certiorari in a case

brought under this chapter within 90 days after the petition is filed.

"(d) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases ..... 2261".

(c) AMENDMENT TO SECTION 2254 OF TITLE 28.—Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

TITLE III—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 301. INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

SEC. 302. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title.

"(j) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 303. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 304. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 305. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a manda-

tory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

TITLE IV—ASSAULT WEAPONS

SEC. 401. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1990".

SEC. 402. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 403. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 404. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

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

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 405. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 406. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 407. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 408. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 409. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

TITLE V—INTERNATIONAL MONEY LAUNDERING

SEC. 501. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

REPORT TO CONGRESS ON USE OF TRANSACTION REPORTS.—Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 502. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number

on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology; and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 503. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 504. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 505. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 506. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 507. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005-07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 508. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a government authority".

SEC. 509. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 510. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

TITLE VI—VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 601. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 655. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 116. Abuse of children in connection with drug offenses

"(a) Whoever, in a circumstance described in subsection (b), commits a crime of violence (as defined in subsection (c)) in violation of the laws of the State in which the act takes place, or of the United States, in which the victim is a person under the age of 18, shall be guilty of a class B felony.

"(b) There is Federal jurisdiction for an offense described in subsection (a) if the offense was committed in furtherance of, during and in relation to, or as part of an attempt to conceal or avoid apprehension for, a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(c) This section only applies to:

"(1) persons who are at least 18 years old and who are at least 4 years older than the victim;

"(2) a crime of violence defined as a felony six offense, a felony offense against a person that has as an element the attempted use or threatened use of physical force.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"116. Abuse of children in connection with drug offenses.".

(c) DIRECTION TO THE ATTORNEY GENERAL.—Not later than 90 days after the date of enactment of this chapter, the Attorney General shall amend the United States Attorneys' Manual to reflect the intent of Congress that Federal prosecution occur only in egregious cases of drug-related abuse and neglect.

(d) DIRECTION TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 116 of title 18, United States Code, who has previously been convicted on 2 separate occasions

in the court of any State or the District of Columbia, or of the United States, of any crime of violence (as defined in said section 16) in which the victim was a person under the age of 18, shall receive the maximum punishment authorized by law.

CHAPTER 2—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 661. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year, drug abuse accounting for one-third of the cases;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 662. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

SEC. 663. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 664. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 1662.

CHAPTER 3—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 665. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 666. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 667. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court- appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

CHAPTER 4—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 671. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 672. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 673. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with chapter 2.

SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), not less than 80 percent shall be used for grants under section 673(b).

CHAPTER 5—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

SEC. 675. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1. Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) Child's Live Testimony by 2-way Closed Circuit Television.—

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense

against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are—

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) PRESUMPTION.—A child is presumed to be competent.

"(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who

may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—

"(1) IN GENERAL.—A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) ROLE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to Grand Jury materials is limited to the access routinely provided to victims and their representative.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—The limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death is 5 years after the child reaches age 18. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1. Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) CHILD'S LIVE TESTIMONY BY 2-WAY CLOSED CIRCUIT TELEVISION.—

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties not including an attorney pro se for

the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment; and

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are—

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court Review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) PRESUMPTION.—A child is presumed to be competent.

"(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties including a defendant acting as an attorney pro se. The court may permit an attorney but not a defendant acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons,

including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representative.) The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(g) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1. Child Victims' and Child Witnesses' Testimony

"(a) HEARSAY EXCEPTION FOR OUT-OF-COURT STATEMENTS.—

"(1) IN GENERAL.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; and

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) GUARANTEES OF TRUSTWORTHINESS.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions; and

"(xii) whether the statement is suggestive due to improperly leading questions.

"(3) NOTICE.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) FINDINGS.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) TESTIMONIAL AIDS.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A knowing or intentional violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 676. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

CHAPTER 6—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 681. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to

submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

TITLE VII—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990

SEC. 701. SHORT TITLE.

This title may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1990".

Subtitle A—Restoration of Recordkeeping Requirement

SEC. 711. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 712. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this title shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

Subtitle B—Sexual Abuse Penalties

SEC. 721. AGGRAVATED SEXUAL ABUSE OF CHILDREN.

Section 2241(c) of title 18, United States Code, is amended by—

(1) striking "any term of years" and inserting "not less than 30 years";

(2) inserting "(1)" before "Whoever"; and

(3) adding at the end thereof the following:

"(2) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

SEC. 722. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 723. ABUSIVE SEXUAL CONDUCT.

Section 2244(a) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(2) inserting after paragraph (1) the following:

"(2) section 2241(c) of this title had the sexual contact been a sexual act shall be fined under this title, imprisoned not more than 30 years, or both;".

SEC. 724. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 725. SELLING OR BUYING OF CHILDREN.

Section 2251A of title 18, United States Code, is amended—

(1) in subsection (a) after paragraph (2) by striking "20 years" and inserting "30 years"; and

(2) in subsection (b) after paragraph (2) by striking "20 years" and inserting "30 years".

SEC. 726. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended to read as follows:

"(b) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 727. TRANSPORTING VISUAL DEPICTIONS.

That section 2252(a) of title 18, United States Code, is amended—

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

(2) by inserting "or" after the ";" at the end of paragraph (2); and

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

"(3) knowingly possesses or views any visual depiction that has been transported or shipped in interstate or foreign commerce, or has reason to know that such visual depiction will be transported or shipped in interstate or foreign commerce, by any means including by computer or mail, if—

"(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual depiction of such conduct;".

Subtitle C—Treatment for Juvenile Offenders Who Have Been the Victims of Child Abuse and Neglect

SEC. 731. TREATMENT FOR JUVENILE OFFENDERS WHO HAVE BEEN THE VICTIMS OF CHILD ABUSE AND NEGLECT.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to public and private nonprofit

organizations with experience in treating the victims of child abuse and neglect to provide treatment for juvenile offenders who have been the victims of child abuse and neglect.

(b) FUNDING.—There are authorized to be appropriated—

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as are necessary for fiscal years 1992 and 1993,

to carry out this section.

TITLE VIII—ICE ENFORCEMENT AND PREVENTION ACT

SECTION 801. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990".

SEC. 802. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline.

(c) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

(d) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) 2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

SEC. 803. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four statewide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other State that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(d) Not later than 18 months after the date of enactment of this section, if the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 804. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,

(2) methamphetamine,

(3) crystal methamphetamine, and

(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (6), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

SEC. 805. PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) RECORDS OF REGULATED TRANSACTIONS.—Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

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

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

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

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General shall not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is

amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

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

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

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

TITLE IX—MANDATORY WORK FOR PRISONERS

SEC. 901. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include—

(A) State and local public works projects and infrastructure repair;

(B) construction and maintenance of prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—A Federal prisoner may be excused from the requirement to work only as necessitated by—

(1) security considerations;

(2) disciplinary action;

(3) medical certification of nearly total disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(4) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

(c) USE OF FUNDS.—Except as provided by other law, any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments, restitution, fines, or other legal liabilities of prisoners. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. 902. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—

"(A) a Federal labor intensive prison work program operated by the Director of the Bureau of Prisons; or

"(B) one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

"(B) reasonable charges for room and board, as determined by regulations issued by the Director of the Bureau of Prisons, in the case of a Federal prisoner, or the chief State correctional officer, in the case of a State prisoner.".

SEC. 903. EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Director of the Bureau of Prisons shall institute a prison work program through contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

SEC. 904. PRISON EXPANSION AND TENT CAMP ACT.

(a) SHORT TITLE.—This section may be cited as the "Prison Expansion and Tent Camp Act".

(b) TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.—

(1) FINDINGS.—The Congress finds that—

(A) the increasing problem of prison overcrowding has reached a point of crisis;

(B) prisoners continue to be released from jail before they have served the full term of their sentences; and

(C) in order to protect society, the Nation must expand the capacity of the Federal and State prison systems through the use of innovative and cost-efficient means, such as old military bases, surplus Federal property, and tent camps.

(2) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—

(A) PURPOSE OF PARAGRAPH.—The purpose of this paragraph is to clarify that the order of priority for acquiring property and facilities under the Base Closure and Realignment Act for use as prison facilities is first to the Attorney General and second to the States, the District of Columbia, and the territories of the United States.

(B) AMENDMENT OF BASE CLOSURE ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title or any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each State, the Mayor of the District of Columbia, and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility; and

"(ii) transfer such real property or facility, or portion thereof, in accordance with the procedure set forth in subparagraphs (B), (C) and (D).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) To the Department of Justice, if the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a Federal prison or other Federal correctional institution.

"(ii) To a State, the District of Columbia, or a territory or possession of the United States, if the Governor of the State, the Mayor of the District of Columbia, or the Governor of the territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) The Secretary shall transfer any real property or facility or any portion thereof referred to in this section in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(D) Before making a decision concerning a transfer of real property or a facility pursuant to this title, the Secretary of Defense shall—

"(i) consult with the Governor of the State and the heads of the local government of the jurisdiction in which the property or facility is located; and

"(ii) consider any plan by the local government concerned for the use of the property or facility.".

(3) SURPLUS FEDERAL PROPERTY.—

(A) Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration, in consultation with the Attorney General, shall identify and make a list of not less than 20 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(B) AVAILABILITY TO STATES.—Notwithstanding any other law, any property that is determined to be suitable for use as a State or local correctional facility under subparagraph (1) shall be made available to a State, the District of Columbia, or a local government, for such use, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) COST-EFFICIENT PRISONS: TENT CAMPS.—

(A) AUTHORIZATION.—The Attorney General may use tent housing, on a temporary basis, for Federal prisoners at the military facilities acquired under the Base Closure and Realignment Act and at any other Federal prison facility. The length of the use of such housing shall be at the discretion of the Attorney General.

(B) STATE USE.—The States are authorized and encouraged to consider using temporary tent housing to house prisoners instead of releasing them before they have completed their full sentences.

(C) APPROPRIATE REMEDIES FOR OVERCROWDING.—

(i) Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing

"(a) A Federal court shall not hold the use of temporary tent housing unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that such housing causes the infliction of cruel and unusual punishment of that particular inmate.".

(ii) The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing.".

(c) COST SAVING MEASURES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons (referred to as the "Director") shall seek to cut the cost of prison construction by reducing expenditures for color television, pool tables, cable television, air conditioning, and other amenities.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the cost saving efforts made pursuant to paragraph (1).

SEC. 905. FUNDS FOR STATE "BOOT CAMP" SHOCK INCARCERATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under this section $20,000,000 in a special discretionary fund for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995, for use by the Director of the Bureau of Justice Assistance (referred to as the "Director") to make grants under this section. The Director is authorized to make grants to States to establish, operate, and support shock incarceration programs, also known as special alternative incarceration or boot camp prisons, as an intermediate sanction or as an alternative to conventional prisons.

(b) DEFINITIONS.—For purposes of this section the term "shock incarceration program" means—

(1) a correctional program in which adult offenders who have been convicted of offenses for which the sentence authorized by State law is 1 year or longer in prison are required to participate in a highly regimented program that provides strict discipline, physical training, hard labor, and drill; and

(2) a program that does not include offenders who are—

(A) convicted of offenses for which probation or parole is not available, if State law provides for probation or parole for certain offenses;

(B) convicted of an offense for which a sentence of life imprisonment or capital punishment is authorized by State law; and

(C) convicted of homicide, sexual assault, or assault with a dangerous weapon.

The State officials responsible for selection or confinement decisions for prisoners in a shock incarceration program may exclude offenders other than offenders described in paragraph (2) who are deemed by such officials to be dangerous or violent offenders.

(c) PROGRAM.—In carrying out a project pursuant to this section, a State shall provide that—

(1) all offenders who are confined to shock incarceration programs shall be offered substance abuse treatment, counseling, and literacy education during confinement, as required, and shall be subject to periodic testing for illegal drug use;

(2) all offenders who successfully complete shock incarceration shall—

(A) serve a form of community confinement or be placed under home detention or intensive supervision upon release;

(B) be subject to periodic testing for illegal drug use;

(C) continue to receive substance abuse treatment, counseling, and literacy education, as required; and

(D) provide restitution and participation in community service programs, as required; and

(3) to the fullest extent possible, all offenders who are confined to shock incarceration programs shall be offered vocational education and job training both during confinement and during community confinement, home detention, or supervised release.

(d) APPLICATION BY STATE.—To request a grant under subsection (a) of this section, the chief executive of a State corrections department shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

(1) a certification that Federal funds made available under this section will not be used to supplant State or local funds that would, in the absence of Federal funds, be made available to carry out such project;

(2) a statement as to whether the State will make use of contributions by private entities, in cash or in kind;

(3) a description of the method the State will use to carry out the evaluation required by paragraph (4); and

(4) an assurance that after each fiscal year in which funds from a grant made under this section are expended, the State shall submit to the Director an evaluation of the impact and the effectiveness of the project for which such grant is made.

(e) SELECTION CRITERIA.—For purposes of determining whether to make a grant under this section, the Director shall—

(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

(f) GRANTS LIMITS.—Notwithstanding subsection (e), the Director shall not approve a grant under this section to any State—

(1) in an amount that exceeds 10 percent of the aggregate amount appropriated for such fiscal year to carry out this section; or

(2) for substance abuse treatment, drug testing, counseling, literacy education, vocational education, or job training independent of a shock incarceration program.

(g) ADDITIONAL FUNDING.—Notwithstanding the amount of any funds appropriated under this section, the Director may grant discretionary funding for shock incarceration projects under his general discretionary funding authority.

TITLE X—OFFENSES INVOLVING CHILDREN

SEC. 1001. SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other

case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph.".

TITLE XI—PROTECTION OF CRIME VICTIMS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1990".

SEC. 1102. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 1103. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1102(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. 1104. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

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

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment,

partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 1105. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

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

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

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

TITLE XII—RACIAL AND ETHNIC BIAS STUDY GRANTS

SEC. 1201. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems and in particular that portion of their criminal justice systems relating to the imposition of the sentence of death in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort or by order of the chief executive officer of the State a plan for analyzing the role of race in that State's criminal justice system, including the imposition of the sentence of death. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General with priority being given to those States whose State law provide for the imposition of death for certain crimes. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

TITLE XIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 1301. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 1302. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 1303. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 1304. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 1316; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 1326.

Subtitle A—Police Corps Program

SEC. 1311. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 1313;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 1316.

SEC. 1312. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 1314, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1314; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 1314.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1313. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1315(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1315, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 1315, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1314. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 1316 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1315. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of educa-

tion and training program established in section 1314 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1312, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1312(d)(1)(C) shall not apply.

SEC. 1316. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1313;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1317. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle B—Law Enforcement Scholarship Program

SEC. 1321. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1322. ALLOTMENT.

From amounts appropriated under the authority of section 1329, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 1323. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 1322 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section 1323 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1324. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 1325. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 1326. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 23.

SEC. 1327. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 1328. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's aca-

demic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 1329. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle C—Reports

SEC. 1331. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

TITLE XIV—DRUG KINGPIN DEATH PENALTY ACT OF 1990

SEC. 1401. SHORT TITLE.

This title may be cited as the "Drug Kingpin Death Penalty Act of 1990".

SEC. 1402. DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence to death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engaged in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense: *Provided further*, That if a defendant described in section 3591 (b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge. The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substance Act (12 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or of any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter that the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record of the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.".

(b) In the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

TITLE XV—LAW ENFORCEMENT AGENCIES

Subtitle A—Maintaining Funding for State and Local Law Enforcement Agencies

SEC. 1501. MAINTAINING FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;".

Subtitle B—National Crime Information Center Project 2000

SEC. 1511. SHORT TITLE.

This section may be cited as the "National Law Enforcement Cooperation Act of 1990".

SEC. 1512. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 1513. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 1514. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

TITLE XVI—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 1601. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

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

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(6) For the United States marshals, $9,000,000; and

(7) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

TITLE XVII—RURAL DRUG ENFORCEMENT

SEC. 1701. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 1702. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 1703. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) SEPARATE GRANT REQUEST.—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—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 1704. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 1703 of this title.

SEC. 1705. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

TITLE XVIII—MANDATORY DETENTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 1802. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 1803. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

TITLE XIX—FORFEITURE

SEC. 1901. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

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

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 1902. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

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

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 1903. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 1904. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 1905. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at

the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 1906. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 1907. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 1908. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 1909. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 1910. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 1911. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1912. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended:

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end the following:

"(f) Any person convicted of a violation of this subsection shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this subsection—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this subsection, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this subsection.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1913. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

TITLE XX—PUBLIC CORRUPTION

SEC. 2001. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1990".

SEC. 2002. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political sub-

division of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 2003. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 2004. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 2005. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE XXI—CIVIL ENFORCEMENT

SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

TITLE XXII—JUVENILE JUSTICE

SEC. 2201. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavorial problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 2202. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 2203 REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 2204. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 2203 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

TITLE XXIII—SHORT-BARRELED SHOTGUNS

SEC. 2301. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by—

(1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years," after "sentenced to imprisonment for five years,"; and

(2) section 924(c)(1) of title 18 of the United States Code, as amended by this Act, is further amended by inserting "or a destructive device," after "a machinegun,", wherever the term "machine gun" appears in section 924(c)(1).

TITLE XXIV—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 2401. RECEIVING STOLEN PROPERTY.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

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

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

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

SEC. 2402. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 2403. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 2404. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 2405. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 2406. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 2407. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 2408. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 2409. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 2410. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 2411. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(a) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(c) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(d) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(e) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(f) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(g) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(h) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(i) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(j) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by

striking out "have become final" and inserting in lieu thereof "has become final";

(k) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(l) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(m) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(n) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(p) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(q) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(r) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(s) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(t) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(u) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(v) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(w) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(x) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(y) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(z) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 2412. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 2413. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grand jury".

SEC. 2414. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

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

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 2415. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 2416. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 2417. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 2418. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472 (i) or (n))".

SEC. 2419. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 2420. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 2421. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 2422. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 2423. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 2424. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 2425. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years not less than thirty or for life, or both.

"(3) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter, except as provided in section 2241(c), after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 2426. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 2427. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 2428. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 2429. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 2430. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 2431. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

SEC. 2432. AMENDMENT TO WIRETAP STATUTE.

(a) IN GENERAL.—Section 2511(1) of title 18, United States Code, is amended by—

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

(2) inserting "or" after the semicolon at the end of paragraph (d); and

(3) adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation;".

(b) ADMISSION OF EVIDENCE.—Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 2433. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) as redesignated by this Act, is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) as redesignated by this Act, is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) as redesignated by this Act, is amended—

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

SEC. 2434. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Notwithstanding section 503 of this Act, section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State or the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 2435. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Notwithstanding section 510 of this Act, section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 2436. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 2437. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE XXV—FEDERAL PRISONER DRUG TESTING

SEC. 2501. SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. 2502. CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence; and

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance";

(4) by adding at the end thereof the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 2503. CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the commencement of service of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 2504. CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

TITLE XXVI—DRUG ENFORCEMENT GRANTS

SEC. 2601. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

TITLE XXVII—CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

SEC. 2701. CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY.

(a) AUTOMATIC STAY NONAPPLICABLE TO CRIMINAL RESTITUTION DEBT.—Section 362(b) is amended—

(1) in paragraph (12) by striking out "or" at the end thereof;

(2) in paragraph (13) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) under subsection (a) of this section, of the payment of any fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(b) CRIMINAL RESTITUTION DEBT EXCEPTION TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9) by striking out "or" at the end thereof;

(2) in paragraph (10) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(11) for a fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(c) PAYMENT OF RESTITUTION IN CHAPTER 13 PLAN.—Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for full payment of all claims which are nondischargeable under section 523(a)(11) of this title.".

(d) NONDISCHARGE OF CRIMINAL RESTITUTION DEBT UNDER CHAPTER 13 OF TITLE 11, UNITED STATES CODE.—Section 1328(a) of title 11, United States Code, is amended in paragraph (2) by inserting "or (11)" after "section 523(a)(5)".

TITLE XXVIII—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

SEC. 2801. SHORT TITLE.

This title may be cited as the "National Child Search Assistance Act of 1990".

SEC. 2802. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18 reported to such agency to the National Crime Information Center of the Department of Justice.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such reports including procedures for carrying out the purpose of this title.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the reports received under this title.

SEC. 2803. STATE REQUIREMENTS.

(a) IN GENERAL.—Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy which requires the observance of any waiting period before accepting a missing child report;

(2) provide that all necessary and available information, which shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date reported missing and the last known location of the child; and

(C) the category by which the child was abducted,

is entered into the State law enforcement system and the National Crime Information Center computer networks and forwarded to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports as established in title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415); and

(3) provide that after receiving reports as provided in paragraph (2), the Missing Children Information Clearinghouse or designated agency shall—

(A) verify and update with any additional information the original entry made into the State law enforcement system and National Crime Information Center computer networks;

(B) institute or assist with appropriate search and investigative procedures; and

(C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.

(b) LIMIT ON GRANTS.—Any State not complying with the provisions of subsection (a) shall be denied any grant, cooperative agreement, or other assistance authorized by the Missing Children's Assistance Act (Public Law 98-473).

TITLE XXIX—FOOD STAMP CRIMINAL PROVISIONS

SEC. 2901. SHORT TITLE.

This title may be cited as the "Food Stamp Trafficking Prevention and Penalty Act of 1990".

SEC. 2902. TAXPAYER IDENTIFYING NUMBERS OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by adding at the end the following: "Such regulations shall require each applicant retail food store or wholesale food concern, and each approved retail food stores or wholesale food concern, to submit to the Secretary the taxpayer identifying number applicable under the Internal Revenue Code of 1986 to such store or concern.".

SEC. 2903. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) For purposes of section 1956 of title 18, United States Code, a violation of this section shall be considered to be a specified unlawful activity (as defined in section 1956(c)(7) of such title) if such violation involves a quantity of coupons that has a value of not less than $5,000.".

SEC. 2904. FORFEITURE OF PROPERTY.

(a) CIVIL AND CRIMINAL FORFEITURE.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 23. FORFEITURE OF PROPERTY.

"(a) PROPERTY SUBJECT TO FORFEITURE.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All coupons which have been used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15.

"(2) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), except that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of subsection (b) or (c) of section 15;

"(B) no conveyance shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed, or omitted without the knowledge, consent, or willful blindness of the owner.

"(3) All books, records, microfilm, tapes, and data which are used, or intended for use, in violation of subsection (b) or (c) of section 15.

"(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for coupons in violation of subsection (b) or (c) of section 15, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of subsection (b) or (c) of section 15, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to

have been committed or omitted without the knowledge or consent of that owner.

"(5) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of subsection (b) or (c) of section 15 punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(6) All coupons which have been involved in violation of subsection (b) or (c) of section 15.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSUANCE OF WARRANT AUTHORIZING SEIZURE.—Any property subject to civil forfeiture to the United States under subsection (a) may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

"(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

"(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under subsection (a).

In the event of seizure pursuant to paragraph (2), proceedings under subsection (d) shall be instituted promptly. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under subsection (a) in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this Act, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—The provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims;

shall apply to seizure and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as applicable and not inconsistent with the provisions hereof, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized to be designated for that purpose by the Attorney General unless such duties arise from seizures and forfeitures effected by any customs officer.

"(e) DISPOSITION OF FORFEITED PROPERTY.—

"(1) METHODS.—Whenever property is civilly or criminally forfeited under this section the Attorney General may—

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, United States Code, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

"(B) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

"(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

"(D) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in a seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 2291(h) of title 22, United States Code.

"(2) USE OF PROCEEDS FROM SALES.—The proceeds from any sale under paragraph (1)(B) and any monies forfeited under this section shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding that caused the sale that produced such proceeds;

"(B) second, to reimburse the Department of Agriculture for any costs incurred by the Department to assist the Department of Justice to initiate or complete such proceeding; and

"(C) third, to reimburse the State agency for any costs incurred by the State agency to assist the Department of Justice, or the Department of Agriculture, to initiate or complete such proceeding.

The amount remaining, if any, shall be available to the Secretary to carry out this Act.

"(3) TRANSFER OF PROPERTY.—The Attorney General shall ensure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local law enforcement agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

"(f) FORFEITURE AND DESTRUCTION OF COUPONS.—All coupons that are used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15 shall be deemed contraband, and seized and summarily forfeited to the United States. Similarly, all coupons which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

"(g) VESTING OF TITLE IN UNITED STATES.—All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF CIVIL FORFEITURE PROCEEDINGS.—The filing of an indictment or information alleging a violation of section 15 which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(j) AGREEMENT BETWEEN ATTORNEY GENERAL AND POSTAL SERVICE FOR PERFORMANCE OF FUNCTIONS.—The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

"(k) EXPEDITED PROCEDURES FOR PROPERTY OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—

"(1) PETITION FOR EXPEDITED DECISION; DETERMINATION.—(A) A retail food store or wholesale food concern may petition the Attorney General for an expedited decision with respect to property used to carry out its food sale operations if such property is seized under this section and if such store or concern filed the requisite claim and cost bond in the manner provided in section 1608 of title 19, United States Code. The Attorney General shall make a determination on a petition under this subsection expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this subsection within 20 days after the date on which the petition is filed, such property shall be returned to the owner pending further forfeiture proceedings.

"(B) With respect to a petition under this subsection, the Attorney General may—

"(i) deny the petition and retain possession of such property;

"(ii) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release such property to such store or concern; or

"(iii) advise the petitioner that there is not adequate information available to deter-

mine the petition and promptly release such property to such store or concern.

"(C) Release of property under subparagraph (A) or (B)(iii) does not affect any forfeiture action with respect to such property.

"(D) The Attorney General shall prescribe regulations to carry out this subsection.

"(2) WRITTEN NOTICE OF PROCEDURES.—At the time of seizure, the officer making the seizure shall furnish to any person in possession of such property a written notice specifying the procedures under this subsection. At the earliest practicable opportunity after determining ownership of the seized property, the head of the department or agency that seizes such property shall furnish a written notice to such store or concern, and other interested parties (including lienholders), of the legal and factual basis of the seizure.

"(3) COMPLAINT FOR FORFEITURE.—Not later than 60 days after a claim and cost bond have been filed under section 1608 of title 19, United States Code, regarding property seized under this section, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of such property to such store or concern and the forfeiture may not take place.

"(4) BOND FOR RELEASE OF PROPERTY USED IN FOOD SALE OPERATION.—Any retail food store or wholesale food concern may obtain release of property used to carry out its food sale operations by providing security in the form of a bond to the Attorney General in an amount equal to the value of such property unless the Attorney General determines such property should be retained (A) as contraband, (B) as evidence of a violation of law, or (C) because, by reason of design or other characteristic, such property is particularly suited for use in illegal activities.".

(b) CONFORMING PROVISIONS.—(1) Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by striking subsection (g).

(2) Sections 981 and 982 of title 18, United States Code, shall not apply with respect to a violation of section 1956 of such title that, as a result of the amendment made by section 2903 of this Act, is based on a violation of section 15 of the Food Stamp Act of 1977.

SEC. 2905. EFFECTIVE DATES.

(a) REGULATIONS.—The amendment made by section 2902 shall take effect 60 days after the date of the enactment of this Act.

(b) LAUNDERING AND FORFEITURE.—The amendments made by sections 2903 and 2904 shall take effect on the date of the enactment of this Act.

TITLE XXX—PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS

SEC. 3001. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer: *Provided,* That the total annual benefits paid under this section may not exceed $5,000,000. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: *Provided further,* That these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or catastrophic injury" after "death".

(c) DEFINITION.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'catastrophic injury' means consequences of an injury that permanently prevent an individual from performing any gainful work;".

SEC. 3002. RESCUE SQUAD AND AMBULANCE PERSONNEL.

Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended in subsection (2) (relating to the definition of firefighter) by—

(a) by adding "." after "ambulance crew"; and

(2) by striking "who was responding to a fire, rescue or police emergency.".

SEC. 3003. EFFECTIVE DATE.

EFFECTIVE DATE.—The amendments made by this title shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

TITLE XXXI—LAW ENFORCEMENT FUNDING

SEC. 3101. LAW ENFORCEMENT FUNDING.

(a) Amendment of section 211 of the Department of Justice Appropriations Act. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act; 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

TITLE XXXII—MONEY LAUNDERING

SEC. 3201. CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 3202. DEFINITION OF "FINANCIAL TRANSACTION".

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "A" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the first place it appears and inserting "(ii)" before "involving" the second place it appears.

SEC. 3203. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 3204. ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

(a) Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "(D)"; and

(2) inserting "; or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)".

(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: "Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and such elements of the Environmental Protection Agency as the Administrator of the Evironmental Protection Agency may direct.

TITLE XXXIII—DEBT COLLECTION

SEC. 3301. SHORT TITLE.

This title may be cited as the "Federal Debt Collection Procedures Act of 1990".

Subtitle A—Debt Collection Procedures

SEC. 3311. DEBT COLLECTION.

Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal

is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shal be released upon the filing

of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed

to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19____, at _____ o'clock ____ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted

sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insol-

vency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

Subtitle B—Amendments to Other Provisions of Law

SEC. 3321. PAYMENT OF TAXES.

Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 3322. DEBTS.

Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation, rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 3323. EDUCATION BENEFIT OVERPAYMENT.

Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 3324. CLAIMS.

(a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 3325. FORFEITURE AGREEMENT.

Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 3326. BAIL BOND.

Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 3327. SECTION 3142(g)(4) OF TITLE 18.

Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 3328. COLLECTING AN ASSESSMENT.

(a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 3329. EXECUTION AGAINST PROPERTY.

Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 3330. SECTION 3579(f)(4) OF TITLE 18.

Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 3331. SECTION 3613 OF TITLE 18.

(a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 3332. SECTION 3663(f)(4) OF TITLE 18.

Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant".

SEC. 3333. SECTION 524 OF TITLE 28.

Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 3334. SECTION 550 OF TITLE 28.

Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 3335. SECTION 1961(c)(1) OF TITLE 28.

Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 3336. SECTION 1962 OF TITLE 28.

Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 3337. SECTION 1963 OF TITLE 28.

Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 3338. PAYMENT OF FINE WITH BOND MONEY.

(a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant

with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 3339. SECTION 2410(c) OF TITLE 28.

Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 3340. SECTION 2413 OF TITLE 28.

Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

TITLE XXXIV—DRUNK DRIVING VICTIMS' PROTECTION ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Drunk Driving Victims' Protection Act".

SEC. 3402. AMEND SECTION 1328(a), TITLE 11, OF THE UNITED STATES CODE.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking out "or";

(2) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) of the kind specified in section 523(a)(9) of this title.".

SEC. 3403. DEBT JUDGMENT.

Paragraph (9) of section 523(a) of title 11, United States Code, is amended to read as follows:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated or impaired by use of alcohol or drugs under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred;".

SEC. 3404. CLAIMS.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (12), by striking out "or";

(2) in paragraph (13), by striking out the period at the end and inserting in lieu thereof "; or"; and

(3) by adding the following new paragraph:

"(14) under subsection (a) of this section, of the commencement or continuation of an action on a claim of the type described at section 523(a)(9) of this title.".

SEC. 3405. CIVIL OR CRIMINAL RESTITUTION.

Section 523(a) of title 11, United States Code (as amended by section 3403 of this Act) is further amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

SEC. 3406. FULL PAYMENT OF CLAIMS.

Section 1322(a) of title 11, United States Code, is amended—

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

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims which would be nondischargeable under section 523(a)(11).".

TITLE XXXV—DRUG-FREE SCHOOL ZONES

SEC. 3501. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.

(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

(7) develop a model coordinated strategy for prosecuting violations within the zones;

(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(9) provide support materials and exemplary program overviews.

(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.

TITLE XXXVI—STEROID TRAFFICKING

SEC. 3601. SHORT TITLE.

This title may be cited as the "Steroid Trafficking Act of 1990".

Subtitle A—Anabolic Steroids

SEC. 3611. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically and pharmacologically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the following chemical designations and their salts, esters, and isomers:

"(i) boldenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) formobulone,
"(x) mesterolone,
"(xi) methandienone,
"(xii) methandranone,
"(xiii) methandriol,
"(xiv) methandrostenolone,
"(xv) methenolone,
"(xvi) methyltestosterone,
"(xvii) mibolerone,
"(xviii) nandrolone,
"(xix) norethandrolone,
"(xx) oxandrolone,
"(xxi) oxymesterone,
"(xxii) oxymetholone,
"(xxiii) stanolone,
"(xxiv) stanozolol,
"(xxv) testolactone,
"(xxvi) testosterone,
"(xxvii) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic ster-

oids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 3612. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 3611 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse, and, at a minimum, shall exempt estrogens, progestins, and corticosteroids.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 3611 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under subsection 3612(a) shall be issued not later than 180 days after the date of enactment of this Act.

Subtitle B—Human Growth Hormone

SEC. 3621. AMENDMENT TO THE FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in clause (A)(i), or any substance labeled as being or containing any such drug; and

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 3622. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

TITLE XXXVII—MISCELLANEOUS CRIMINAL PROVISIONS

Subtitle A—Other Justice Improvements

SEC. 3701. ALTERNATIVE METHODS OF INCARCERATION.

In section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351), as amended by the Anti-Drug Abuse Act of 1988 (Public Law 100-690) (42 U.S.C. 3751(b)), add the following:

"(22) innovative intermediate sanctions programs, in combination with drug testing, including boot camps, house arrest, electronic monitoring, intensive supervision, and community service.".

SEC. 3702. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 3703. ENLARGEMENT OF FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended by striking out "the payment of awards for information or assistance leading to civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.)" and inserting in lieu thereof "the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice.".

SEC. 3704. CONFORMING OF OLDER INNOCENT OWNER PROVISIONS WITH THOSE ENACTED IN THE ANTI-DRUG ABUSE ACT OF 1988.

(1) Sections 511(a) (6) and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (6) and (7)) are each amended by striking "without the knowledge or consent of that owner" and inserting in lieu thereof "without the knowledge, consent, or willful blindness of the owner"; and

(2) Section 981(a)(2) of title 18, United States Code, is amended by striking "without the knowledge of that owner or lienholder" and inserting in lieu thereof "without the knowledge, consent, or willful blindness, of the owner or lienholder".

SEC. 3705. ADDITION OF CONFORMING CRIMINAL FORFEITURE PROVISION FOR CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 3706. CLARIFYING GRAMMATICAL CHANGES IN DEFINITION OF "FINANCIAL TRANSACTION" FOR THE MONEY LAUNDERING STATUTE.

Section 1956(c)(4) of title 18, United States Code, is amended by inserting "(A)" before "a transaction" the first place it appears, inserting "(i)" before "involving" the first place it appears, inserting "(ii)" before "involving" the second place it appears, and inserting (B) before the phrase "or a transaction".

SEC. 3707. LIMITATION OF EXCEPTION TO MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or offenses giving the rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 3708. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a violation of section 401 (d) or (g)(1) of the Controlled Substances Act (21 U.S.C. 841 (d) or (g)(1)) (relating to precursor and essential chemicals)".

SEC. 3709. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

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

SEC. 3710. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 3711. TECHNICAL CORRECTION TO INTERNAL REVENUE CODE.

Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'.".

Subtitle B—Miscellaneous and Technical Amendments

SEC. 3721. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 657 and 1006 of title 18, United States Code, are each amended by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 3722. TECHNICAL AMENDMENTS TO MONEY LAUNDERING OFFENSES.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking out "transportation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer".

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking out "represented by a law enforcement officer" and inserting "represented".

SEC. 3723. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking out "including the mail,".

SEC. 3724. ADDITION OF DRUG CONSPIRACY AND ATTEMPT OFFENSES COMMITTED BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in first undesignated paragraph by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3), or 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), or section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963)"; and

(B) by striking out "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3))", and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)".

SEC. 3725. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 3726. ELIMINATION OF SUPERFLUOUS LANGUAGE IN 18 U.S.C. 510.

Section 510(b) of title 18, United States Code, is amended by striking out "that in fact is stolen or bears a forged or falsely made endorsement or signature".

SEC. 3727. CORRECTION TO REFERENCE TO NONEXISTENT AGENCIES IN 18 U.S.C. 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking out "any officer or employee of the Department of Health, Education, and Welfare," and inserting in lieu thereof "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(2) by striking out "the Federal Savings and Loan Insurance Corporation,".

SEC. 3728. USE OF A SEARCH WARRANT TO OBTAIN CONTENTS OF A STORED WIRE COMMUNICATION.

Section 2703(a) of title 18, United States Code, is amended by inserting "or wire" after "the contents of an electronic" both places those words appear.

SEC. 3729. AUTHORITY FOR STATE GOVERNMENT PERSONNEL TO ASSIST IN CONDUCTING COURT-AUTHORIZED INTERCEPTIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a State or subdivision of a State)" after "Government personnel".

SEC. 3730. TECHNICAL AMENDMENT OF 31 U.S.C. 5325.

(b) Section 5325 of title 31, United States Code, is amended—

(1) by deleting the word "transaction" in subsection (a)(1);

(2) by adding the words ", as defined by the Secretary," after the word "account" in subsection (a)(1); and

(3) by deleting subsection (c).

SEC. 3731. ONDCP TRANSFER AUTHORITY.

Section 1502(d) of title 21, United States Code, enacted by section 1003(d) of the Anti-Drug Act of 1988, is amended by—

(1) deleting the word "and" at the end of subparagraph (6);

(2) deleting the period at the end of subparagraph (7)(B) and inserting in lieu thereof "; and"; and

(3) inserting subparagraphs (8) and (9) as follows:

"(8) transfer funds from the Special Forfeiture Fund referred to in section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), as well as other funds appropriated by Congress to the Office of National Drug Control Policy for assistance to high intensity drug trafficking areas, to Federal agencies and departments for the purpose of executing the National Drug Control Strategy.

"(9) transfer funds appropriated to the Office of National Drug Control Policy for a specified purpose to appropriate Federal agencies and departments for the same purpose.".

SEC. 3732. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" at the beginning before "No person"; and

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

"(b) No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file a report required under section 5316;

"(2) file, or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321 of title 31, United States Code, is amended in subsection (a)(4)(C) by striking "under section 5317(d)".

SEC. 3733. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 3734. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking out the phrase "except that the period of limitation shall be 6 years" and inserting in lieu thereof the phrase "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be 6 years".

SEC. 3735. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18 of the United States Code is amended by inserting the words "or possess" after the words "to receive".

SEC. 3736. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18 of the United States Code is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3), as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge or consent,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

TITLE XXXVIII—DRUG PARAPHERNALIA AMENDMENT

SEC. 3801. DRUG PARAPHERNALIA AMENDMENT.

(a) CIVIL FORFEITURE AND CIVIL ENFORCEMENT.—Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (c), by inserting "pursuant to section 413 of the Controlled Substances Act (21 U.S.C. 853)" after "subject to seizure and forfeiture";

(2) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code;" and

(3) by adding the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

(b) CIVIL FORFEITURE FOR DRUG PARAPHERNALIA.—Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended by inserting the following as a new subsection (h):

"(h) CIVIL FORFEITURE; APPLICABILITY OF THE CUSTOMS LAWS.—Any drug paraphernalia and other property, real or personal, involved in any violation of subsection (a) of this section, and any property traceable to such property, shall be subject to seizure and forfeiture. All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the Customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims and award of compensation to informers in respect to such forfeitures shall apply to seizures and forfeitures incurred under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof.".

TITLE XXXIX—GENERAL PROVISIONS

SEC. 3901. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and

"(B) the availability of Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).".

SEC. 3902. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) as redesignated by this Act, is amended—

(1) in subsection (a) by—

(A) striking "playground"; and

(B) inserting "or a public or private playground" after "university,"; and

(2) in subsection (b) by—

(A) striking "playground,"; and

(B) inserting "or a public or private playground," after "university,".

SEC. 3903. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

SEC. 3904. PAYMENTS FOR ASSISTING CUSTOMS SERVICE.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

SEC. 3905. PROHIBITION OF CERTAIN DRUG ADVERTISEMENTS.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting a new subsection (c) as follows:

"(c)(1) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any direct or indirect advertisement, knowing, or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote or facilitate the distribution or transfer of a Schedule I controlled substance.

"(2) As used in this section, the term 'indirect advertisement' means an advertisement for a catalogue of Schedule I controlled substances, the name, address, phone number, or similar information relating to a contact for obtaining a Schedule I controlled substance, and any similar advertisement whose purpose is to indirectly promote or facilitate the transfer or distribution of a Schedule I controlled substance.".

SEC. 3906. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for the allocation of $1,000,000 for the establishment, in consultation with national organizations that operate annonymous tip hotlines, and oper-

ation of a national drug and related crime tip hotline program, which shall—

(1) provide a means for persons to make annonymous reports of drug and related crimes to a central location for dissemination to Federal, State, and local law enforcement agencies;

(2) assure complete annonymity of reporting persons and confidentiality of the information that is reported;

(3) provide trained professional interviewers;

(4) provide toll-free access;

(5) provide interviewers fluent in languages other than English, as needed;

(6) maintain close liaison and data-sharing facilities in all jurisdictions; and

(7) submit a report to Congress, not later than 6 months after the date of enactment of this Act and thereafter on March 1 of each year, describing the assistance to law enforcement authorities that the program has provided.

SEC. 3907. JURY INSTRUCTIONS.

(a) The Congress finds that—

(1) The historic province of the jury in a criminal trial is solely to determine the issue of guilt or innocence of a defendant;

(2) The historic province of the court in a criminal case is, upon conviction, to impose sentence as provided by law; and

(3) Any provision to a jury of information relating to what sentence may be imposed subverts the historic role of the jury and undermines our system of justice as provided by the Constitution.

(b)(1) The punishment provided by law for the offense or offenses charged in an indictment or information is a matter exclusively within the province of the court, as provided by law, and no information concerning the length of incarceration which may or must be imposed upon conviction may be made available to the jury at any time.

(2) The provisions of paragraph (1) shall not apply in capital cases.

SEC. 3908. EVICTION FOR ENGAGING IN CRIMINAL ACTIVITY.

(a) Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended by adding the following new subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

(b) Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises: *Provided*, That the agency notifies the tenant of the reason for the action to evict or terminate tenancy.

SEC. 3909. CULTIVATING A CONTROLLED SUBSTANCE.

Section 401(b)(5) of the Controlled Substances Act (21 USC 841(b)(5)) is amended by striking "by cultivating a controlled substance".

SEC. 3910. INTERNATIONAL NEGOTIATIONS TO REGULATE PRECURSOR AND ESSENTIAL CHEMICALS.

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (A) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); (B) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (C) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; (D) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from the date of enactment, the Attorney General shall submit a final report to the aforementioned Senate committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) APPLICATION.—This title shall not apply to the manufacture, distribution, sale, import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over-the-counter without prescription.

SEC. 3911. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

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

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case, the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g)(1) CLARIFICATION OF AGGRAVATED FELONY DEFINITION.—Section 101(a)(43) is amended—

(A) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(B) by adding at the end the following: "such term applies to offenses described in

the previous sentence whether in violation of Federal or State law.".

(2) EFFECTIVE DATE.—The amendments made by subsection (g)(1) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

(h) TREATMENT OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.—Section 241(b) is amended by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(i) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is amended by adding the following new subsection:

"(f)(1) Under regulation of the Attorney General, the Commissioner of the Immigration and Nationality Service shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

"(3) The Attorney General, using the authority provided under section 534 of title 28, United States Code, shall acquire, collect, classify, preserve, and exchange records and information pertaining to aliens for whom an arrest warrant has been issued under this title for failure to appear at a proceeding commenced against the alien under section 242 or for failure to appear for deportation ordered under this title.".

(2) Section 264(b) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

SEC. 3912. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the Sentencing Reform Act of 1984;

(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

(6) a detailed empirical research study of the effect of mandatory minimum penalties in the Federal system;

(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

(A) specific statutory instructions to the Sentencing Commission;

(B) general statutory instructions to the Sentencing Commission;

(C) increasing or decreasing the maximum sentence authorized for particular crimes;

(D) Sense of Congress resolutions; and

(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.

SEC. 3913. WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall study the problems associated with the purchase of ephedrine and report to the Congress and the President whether a 21-day waiting period for any purchase of ephedrine would reduce the manufacture of methamphetamine.

(b) SPECIFICS OF REPORT.—The Attorney General shall include in the report required by this section the following:

(1) a recommended uniform purchase application form to be filled out by persons or companies desiring to purchase ephedrine;

(2) a recommendation whether or not vendors of ephedrine should be required to submit purchase applications to the Government or keep private files;

(3) criteria to ensure the privacy of the ephedrine purchaser if the Government has access to the purchase applications;

(4) an estimate of the cost to the vendors of collecting purchase information;

(5) an estimate of the cost to the Government of any application process;

(6) recommendations on how to implement waivers to the waiting period taking into consideration legitimate purchasers of ephedrine and how to ensure their continued access without a waiting period requirement;

(7) a recommendation whether or not a waiting period would be beneficial in reducing the incidence of the purchase of ephedrine for the manufacture of controlled substances; and

(8) any other criteria necessary to ensure a thorough examination of the situation.

SEC. 3914. RAILROAD POLICE OFFICERS.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

TITLE XXXX—PROSECUTION OF THRIFT AND BANK FRAUD

SEC. 4001. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".

Subtitle A—Bank Fraud and Embezzlement Penalties

SEC. 4011. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "two years" and inserting "30 years".

(b) BANK FRAUD.—Section 1344(a) of title 18, United States Code, is amended by striking "five years" and inserting "30 years".

SEC. 4012. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Continuing financial crimes enterprise

"(a) Any person who engages in a continuing financial crime enterprise shall be sentenced to a term of imprisonment of not less than 10 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, or $10,000,000 if the defendant is an individual, or $20,000,000 if the defendant is other than an individual.

"(b) For purposes of subsection (a) of this section, a person is engaged in a continuing financial crime enterprise if—

"(1) the person violates section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title; and

"(2) the violation is a part of a continuing series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title—

"(A) that are undertaken by the person in concert with 3 or more persons with respect to whom the person occupies a position of organizer, supervisor, or other position of management,

"(B) from which the person has received $5,000,000 in gross receipts during any 24-month period.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"226. Continuing Financial Crime Enterprise.".

SEC. 4013. AMENDMENT OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS STATUTE.

(a) ADDITION OF PREDICATE OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for providing loans)," after "section 201 (relating to bribery),";

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),"; and

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

(b) EXCLUSION FROM CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by inserting ", other than a violation involving a violation of section 215, 656, 657, 1004, 1005, 1006, 1007, or 1014," after "of this chapter".

SEC. 4014. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting an insured depository institution, when the offender has derived more than $1,000,000 in gross receipts from the offense, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 4 levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(2) in no event less than level 24.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle B—Broadening Investigative Authority in Bank Crime Cases

SEC. 4051. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(C)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503";

(C) by striking "section 1343 (fraud by wire, radio, or television)," and inserting "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking "the section in chapter 65 relating to destruction of any energy facility,"; and

(2) by redesignating the first paragraph (m), as paragraph (o);

(3) by striking "and" at the end of the second subsection (m);

(4) by striking the period at the end of subsection (n) and inserting "; and"; and

(5) in paragraph (j), striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1742 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or section 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1742 (i) and (n))".

Subtitle C—Restructuring the Federal Attack on Bank Crimes

SEC. 4111. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of section 4111 shall expire no later than five years after the date of enactment: *Provided, however,* That the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 4112. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 4113. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 4114. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 4115. REPORTS.

(a) IN GENERAL.—(1) The Financial Institutions Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 4114(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 4116. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

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

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Subtitle D—Expanding Federal Forfeiture and Money Laundering Laws

SEC. 4151. EXPANDING CIVIL FORFEITURE LAWS IN BANK CRIME CASES.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting an insured depository institution" before the period;

(2) in subsection (b), by inserting "Attorney General or" after "subsection (a)(1)(C) of this section";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 4152. RESTITUTION FOR VICTIMS OF BANK CRIMES.

(a) FORFEITURE PROVISIONS.—Section 981(e) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking "or" at the end thereof;

(2) in paragraph (5) by striking the period at the end thereof and inserting "; or"; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property described in subsection (a)(1)(C), restore forfeited property to the victims of an offense described in subsection (a)(1)(C).".

(b) RESTITUTION PROVISIONS.—Section 3663(a) of title 18, United States Code, as amended by section_____, is amended by adding at the end thereof the following new subsection:

"(_____) For the purposes of this section, the term 'victim of such offense' includes any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

SEC. 4153. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), section 1006 (relating to fraudulent Federal credit institutions entries), section 1007 (relating to Federal Deposit Insurance transactions), section 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications)"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting an insured depository institution," after "section 1203 (relating to hostage taking)".

SEC. 4154. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or appropriate Federal banking agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(13) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11 of the United States Code.".

SEC. 4155. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

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

"(4) The confirmation of a plan does not discharge a debtor of its responsibilities on any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of the Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of governors of the Federal Reserve System, or their predecessors or successors.".

(b) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "or" at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) for any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors;

"(12) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(13) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

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

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (13).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor shall not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, or is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency; or

"(B) the appropriate Federal financial institutions regulatory agency,

may be filed on or before the date specified in paragraph (2).

"(2) The date for the filing of a complaint referred to in paragraph (1) is the date that is the later of—

"(A) 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title; or

"(B) 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(3) This subsection shall not extend the period of limitations prescribed by section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)).

"(h) For purposes of this section—

"(1) the term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) the term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(3) the term 'appropriate Federal financial institutions regulatory agency' has the meaning stated in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity as a conservator or receiver or in its corporate capacity; and

"(4) the term 'institution-affiliated party'—

"(A) with respect to a depository institution, has the meaning stated in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, has the meaning stated in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).".

(c) PLANS UNDER CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (12), or (13) of this title, including debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section

8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D))), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity or a conservator or receiver or in its corporate capacity a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).".

(d) EXEMPTION OF PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (12), or (13) of this title; or

"(B) section 523(a) (2), (4), or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D))), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting in its capacity as a conservator or receiver or in its corporate capacity, or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

(e) REJECTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The debtor may not reject any commitment of the debtor to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

SEC. 4156. DISCLOSURE OF CIVIL ENFORCEMENT ACTIONS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

"(u) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the appropriate Federal banking agency, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and of all notices of charges issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—(1) Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any orders or agreements made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of any determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPTS OF HEARINGS.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the Board may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the Board if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of

all documents described in paragraph (1) and of all notices of charges initiated with respect to any administrative enforcement proceeding initialed by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

Subtitle E—Increasing Investigators and Prosecutors for Bank Fraud and Embezzlement Cases

SEC. 4201. FINDINGS.

The Congress finds that—

(1) the Federal Bureau of Investigation has received more than 20,000 referrals and complaints involving fraud in the financial services industry that the Bureau has been unable to address;

(2) as of February 1990, the Bureau has had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were cases involving potential losses of more than $100,000;

(3) more than 900 pending cases and more than 200 unaddressed referrals and complaints involve potential losses greater than $1,000,000;

(4) the Attorney General recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management; and

(5) officials of the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity.".

SEC. 4202. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) AMENDMENT OF FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—(1) Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $75,000,000 for fiscal year 1990 and $162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.".

(2) Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (105 Stat. 506) is amended—

(A) by striking "$10,000,000" and inserting "$25,000,000"; and

(B) by striking "1992" and inserting "1993".

(3) The additional funds authorized to be appropriated under the amendment made by this subsection shall be allocated among the Federal judicial districts with the highest financial institutions crime case loads for the purposes of—

(A) providing additional United States magistrates;

(B) renovating court facilities;

(C) providing additional law clerks and clerical support staff; and

(D) providing additional deputy clerks.

(b) ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, $16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986 and related statutes involving insured depository institutions.

Subtitle F—Preventing and Prosecuting Fraud in the Sale of Assets by the Resolution Trust Corporation

SEC. 4251. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

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

"§ 1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the Resolution Trust Corporation, whether such agency or corporation is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation or such agency may have a claim, shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both."; and

(2) by amending the table of sections for that chapter by adding at the end thereof the following new item:

"1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation.".

SEC. 4252. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraphs:

"(D) Any property, real or personal, that represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of a violation of the following sections of this title relating to the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation: section 666(a)(1) (Federal program fraud); 1001 (false statements to the Federal Government); 1031 (major fraud against the United States); 1032 (concealment of assets for Federal banking agencies); 1341 (mail fraud); or 1343 (wire fraud).

"(E) With respect to an offense listed in subparagraph (D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is thereby obtained, directly or indirectly.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under section 666(a)(1), 1001, 1031, 1032, 1341, or 1343 involving the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall order that the person forfeit to the United States any property, real or personal, that represents the gross receipts obtained, directly or indirectly, as a result of such violation, or that is traceable to such gross receipts.

"(4) With respect to an offense listed in paragraph (3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is obtained, directly or indirectly, by or through such scheme or artifice to defraud.".

SEC. 4253. CIVIL ACTIONS UNDER THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(b) of title 18, United States Code, is amended by adding ", or the chairman of the Federal Deposit Insurance Corporation or the chairman of the Resolution Trust Corporation or their designees in the case of violations affecting insured depository institutions," after "The Attorney General".

SEC. 4254. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended—

(1) by redesignating subparagraph (I) as subparagraph (J); and

(2) by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution) exercise any power established under section 8(n), and that subsection shall apply with respect to the exercise of any such power under this subparagraph in the same manner as that subsection applies under that section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS OR ITS DESIGNEE.—A subpoena or subpoena duces tecum may be issued under clause (i) only by or with the written approval of the Board of Directors or its designee (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by or with the written approval of the Board of Directors of that Corporation or its designee).".

SEC. 4255. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, acting in a corporate capacity or as conservator or receiver for an insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years (or, in the case the Corporation is acting as conservator or receiver, was made within 5 years of the date on which the Corporation was appointed conservator or receiver) if such party or person voluntarily or involuntarily

made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

SEC. 4256. PREJUDGMENT ATTACHMENTS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—(1) Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)), as amended by section 4255, is amended by adding at the end thereof the following new paragraph:

"(18) PREJUDGMENT ATTACHMENT.—Any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the possibility that—

"(A) such person is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(2) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) In any action brought by an appropriate Federal banking agency or the Resolution Trust Corporation in any capacity pursuant to this section, including actions brought in aid of, or to enforce an order in, any other civil or administrative action for money damages, restitution, or injunctive relief brought by such agency or corporation, the court may, upon application of the agency or corporation, issue ex parte a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or injunctive relief, as sought by such agency or corporation, is appropriate.".

(b) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1345 of title 18, United States Code, is amended by striking the first sentence and inserting the following: "Whenever it shall appear that any person is engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as the violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violation, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin the violation or alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer the restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. 4257. INJUNCTIVE RELIEF.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4154, is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a depository institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Board, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a credit union, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Board demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(c) RESOLUTION TRUST CORPORATION.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding at the end thereof the following new paragraph:

"(15) INJUNCTIVE RELIEF.—(A) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a financial institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(B) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in subparagraph (A) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(i) the defendant is—

"(I) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(II) a debtor of the institution; and

"(ii) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

SEC. 4258. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain a Fraud and Enforcement Review Division to assist and advise the Corporation and other agencies in pursuing criminal cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. The Fraud and Enforcement Review Division shall have such duties as the Corporation establishes, including the compilation and publication of a report to the Committee on Judiciary and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Ju-

diciary of the Senate and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the coordinated pursuit of claims by Federal agencies, including the Department of Justice, the Comptroller of the Currency, the Securities and Exchange Commission, and the Corporation. The report shall be published before December 31, 1990 and updated semiannually thereafter.".

SEC. 4259. PRIORITY OF CERTAIN CLAIMS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4155, is further amended by adding at the end thereof the following new subsection:

"(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of Federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim, or cause of action. However, the Corporation shall have priority if—

"(1) 180 days after receiving written notice the Corporation files with the court a statement that the Corporation intends to file suit and is diligently pursuing its claims; and

"(2) within a year after receiving written notice files suit. If the Corporation requests an extension of time to file such suit, the court shall extend the period for the Corporation to commence its proceeding unless it finds that the harm to the person pursuing a claim from such extension outweighs the harm to the Government from denying such extension.

In making such determination the court shall consider the diligence with which the Corporation is investigating its claim.

The effect of this provision shall be to afford the Corporation priority to the extent the assets involved would be available to the Corporation.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

SEC. 4260. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4259, is amended by adding at the end thereof the following new subsection:

"(s) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 10 days after the date of entry of the order. The hearing of the appeal shall be conducted not later than 60 days after the date of filing of the notice of appeal. The appeal shall be decided not later than 90 days after the date of the notice of appeal.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such a case priority on its docket.

"(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.".

Subtitle G—Increased Authority for United States Magistrates

SEC. 4301. AUTHORITY FOR UNITED STATES MAGISTRATES.

Subsection 636(a) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end thereof;

(2) in paragraph (4) by striking the period at the end thereof and inserting "; and"

(3) by adding at the end thereof the following new paragraph:

"(5) the power to accept a guilty plea to a felony upon the consent of the defendant for the following offenses in title 18, United States Code: section 215, 656, 657, 1005, 1006, 1007, 1014 or 1344, or section 1341 or 1343 affecting an insured depository institution.".

Subtitle H—Interagency Coordination

SEC. 4351. INTERAGENCY COORDINATION.

Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice, subject to the general supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought.

SEC. 4352. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section 4112, is amended by adding at the end thereof the following new subsection:

"(t) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.

SEC. 4353. TECHNICAL AMENDMENT.

Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

Subtitle I—Private Actions Against Persons Committing Bank Fraud Crimes

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Financial Institutions Anti-Fraud Enforcement Act of 1990".

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

SEC. 4411. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person may file a declaration of—

(1) a violation of, or a conspiracy to violate, section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code;

(2) a violation giving rise to an action for civil penalties under section 951 of the Financial Institution Reform, Recovery and Enforcement Act; or

(3) facts giving rise to any other civil right of action on the part of the United States for damages or penalties arising from fraud, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

(c) EXTENSION OF STATUTES OF LIMITATION.—The statutes of limitations upon all current, unexpired civil causes of action referred to in subsection (a) are extended for 5 years.

SEC. 4412. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 4411 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a criminal violation of one of the sections of title 18, United States Code, or any civil cause of action, referred to in section 4411(a);

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a criminal violation or civil cause of action known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

SEC. 4413. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 4411 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4416(b);

(2) the declarant receives notice of an award pursuant to section 4416(c); or

(c) the declarant is granted a contract to pursue an action under section 4415(b) or 4417.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 4414. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section 4411 and in accordance with sections 4412 and 4413 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section 4411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4412, or that a declaration has been disclosed in violation of section 4413, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4415 or 4416.

SEC. 4415. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4411 through 4414 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a cause of action based on the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) CRIMINAL CONVICTION.—(1) When an agency or entity of the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 4411, the declarant shall have the right to receive not less than $10,000 and not more than $250,000, any such award to be paid from the Financial Institution Information Award Fund established under section 4419.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) SHARE OF FUNDS AND ASSETS.—(1) When an agency or entity of the United States acquires funds or assets pursuant to the execution of a civil, criminal, or administrative judgment or order and the Attorney General determines that the judgment or order was based in whole or in part on the information contained in a valid declaration filed under section 4411, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including those enumerated in section 4415(c)(2).

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. 4416. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4411 through 4414 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a civil, criminal, or administrative judgment or order based in whole or in part on a valid declaration filed under section 4411, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4415 (b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4414 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) TIME FOR NOTICES.—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a valid declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4413.

SEC. 4417. UNREVIEWED DECLARATIONS; REQUEST TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section 4416(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4416(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 4418. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 4416.

SEC. 4419. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 4415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) DEPOSIT OF NET FINES.—(1) There shall be deposited in the Fund all net fines that are collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(2) For purposes of paragraph (1), the term "net fines" means fines collected less any amounts paid from the fines to eligible declarants under section 4415(d) or section 4425(c).

(3) Section 1402(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. § 10601(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A)(ii);

(B) by adding "and" at the end of paragraph (B)(iv); and

(C) by inserting at the end thereof the following new subparagraph:

"(C) fines collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;".

(4) If the amount deposited in the Fund during a particular fiscal year reaches $10,000,000, the excess over that sum shall be deposited in the Crime Victims Fund, notwithstanding section 1402(b)(1)(C) of the Victims of Crime Act of 1984.

(c) INVESTMENT OF FUNDS.—Amounts in the Fund which are not currently needed for the purposes of paying awards to declarants pursuant to section 4415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States, and all earnings on such investments shall be deposited in the Fund.

SEC. 4420. SOURCES OF PAYMENTS TO DECLARANTS.

Notwithstanding any other law, an award under this chapter or chapter 2 of this subtitle or under section 34 of the Federal Deposit Insurance Act may be paid to a declarant, or to an individual providing information, from the amounts recovered in satisfaction of an order of restitution, a civil judgment, a forfeiture order, or a criminal fine.

SEC. 4421. GOVERNMENT ACCOUNTABILITY: PUBLIC REPORTS ON PROCESSING OF DECLARATIONS.

(a) IN GENERAL.—In addition to the written statements of reasons provided individual declarants under section 4416, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 4412, 4413, and 4414;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all awards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) CONFIDENTIALITY.—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. 4422. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 4423. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS

SEC. 4431. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.

(a) IN GENERAL.—After the entry of a final judgment in any civil or criminal action referred to in section 4411, any person may file a declaration identifying specific assets which might be recovered by the United States in satisfaction of that judgment.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

SEC. 4432. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 4431 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known

to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 4431.

SEC. 4433. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 4431 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4436(b);

(2) the declarant receives notice of an award pursuant to section 4436(c); or

(3) the declarant is granted a contract to pursue an action under section 4435(b) or 4437.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 4434. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section 4431 and in accordance with sections 4432 and 4433 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section 4411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4432, or that a declaration has been disclosed in violation of section 4433, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4435 or 4436.

SEC. 4435. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4431 through 4434 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—When an agency or entity of the United States recovers any asset or assets specifically identified in a valid declaration filed under section 4431 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(d) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. 4436. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 4431 through 4434 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a final judgment transferring to the United States title to an asset or assets identified in a valid declaration filed under section 4431, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4435(c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4434 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4433.

SEC. 4437. UNREVIEWED DECLARATIONS; REQUEST TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section 4436(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4436(d)(1)(B), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 4438. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 4436.

SEC. 4439. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 4440. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. 4451. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking ", in an amount that exceeds $50,000,"; and

(b) by amending paragraph (2) to read as follows:

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation.".

SEC. 4452. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

"§ 3059A. Special rewards for information relating to certain financial institution offenses

"(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

"(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section 4419 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

"(b) A person is not eligible for a payment under subsection (a) if—

"(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

"(2) the furnished information includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information; or

"(3) the person knowingly participated in the violation of the section with respect to which the payment would be made.

"(c) For the purposes of subsection (b)(2), the term 'original source' means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

"(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(e)(1) A person who—

"(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

"(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

"(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the plaintiff would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) TECHNICAL AMENDMENT.—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

"3059A. Special rewards for information relating to certain financial institution offenses.".

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. 4461. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL.

(a) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 4411.

(b) TERMS AND CONDITIONS.—Each contract under subsection (a) shall include the provisions described in section 4465 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States, including a provision specifying the amount of the fee to be paid private counsel under the contract or the method for calculating the fee.

(c) LIMITATION OF FEE.—The amount of the fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

SEC. 4462. REFERRAL BY REGULATORY AGENCIES.

The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to private counsel retained by the Attorney General pursuant to section 4461 civil actions arising from suspected and actual violations of the sections of title 18, United States Code, or any civil cause of action, referred to in section 4411.

SEC. 4463. CONTRACT DECISIONS NONREVIEWABLE.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General's decision to refuse to enter into a contract for legal services referred to in section 4461.

SEC. 4464. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 4461 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 4465.

SEC. 4465. CONTRACT PROVISIONS.

A contract made with a private counsel under section 4461 shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

SEC. 4466. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 4461 may not be asserted unless the counterclaim has been served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

SEC. 4467. CONTINGENT FEES.

Notwithstanding section 3302(b) of title 31, United States Code, a contract under section 4461 may provide that a fee that private counsel charges to recover indebtedness or civil fines or penalties owed the United States is payable from the amount recovered.

SEC. 4468. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees as part of the costs.

SEC. 4469. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle J—Technical Amendments

SEC. 4501. TITLE 18 OF THE UNITED STATES CODE.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "or a subsidiary of a member bank, national bank, or insured bank" after "insured bank";

(B) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(C) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after "the Federal

Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7) in section 1343—

(A) by inserting ", credit," after "money";

(B) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writing, signs, signals, picture, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(C) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice";

(8) in section 2314, by inserting "or foreign" after "interstate"; and

(9) in section 3289, by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within six calendar months of the expiration of the applicable statute of limitations,".

(b) HEADING.—(1) The heading for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The table of sections for chapter 63, United States Code, is amended by striking the item relating to section 1343 and inserting the following new item:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 4502. RIGHT TO FINANCIAL PRIVACY ACT.

Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking "section 3(f)(1)" and inserting "section 4(f)(1)".

Passed the Senate July 11 (legislative day, July 10), 1990.

Mr. THURMOND. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I repeat my congratulations to Senator BIDEN, the chairman of the Judiciary Committee and Senator THURMOND, the former chairman of the Judiciary Committee, for their outstanding effort in bringing this crime bill to final passage.

The overwhelming vote by the Senate is a tribute to the skill and perseverance of both Senator BIDEN and Senator THURMOND. I know this bill means much to them. I voted for it, as I said earlier, notwithstanding my misgivings about some provisions of the bill, because I believe that on balance it represents a constructive step in helping our society to battle the scourge of crime.

Mr. BIDEN. Mr. President, I would like to publicly thank the majority leader for being willing to stick with us on this bill. After cloture failed on a couple of occasions, he had every reason and every right, and quite frankly, the rationale for not going back to this bill was almost overwhelming. But he asked what the prospects were and if I recall, I could not tell him how we were going to get there, but I believed we would. I wanted publicly thank him for allowing us the opportunity to eventually get this done. I appreciate it very much.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business until 2 p.m., with Senators permitted to speak therein.

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

The majority leader is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL and Mr. MOYNIHAN pertaining to the introduction of S. 2836 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

QUENTIN BURDICK: A 30-YEAR LEGACY OF ACCOMPLISHMENT FOR NORTH DAKOTA AND AMERICA

Mr. SHELBY. Mr. President, for half of North Dakota's history, a Burdick has represented the State in the U.S. Congress. QUENTIN BURDICK carries on a tradition established by his father, the late Usher L. Burdick. This tradition of service began for QUENTIN in 1958 when he successfully won the seat in the U.S. House of Representatives that his father held from 1934 to 1944 and from 1948 to 1958.

The House of Representatives was not to be QUENTIN's only job while in Washington. In 1958, QUENTIN received the endorsement of both the Democrats and the Non-Partisan League, a coalition he helped to shape. With this support behind him, QUENTIN became the first Democrat North Dakota ever sent to Congress.

After a special election held to fill the vacancy left by the death of Senator William Langer, QUENTIN came from the House to the Senate on June 28, 1960. Since that time, Senator BURDICK has been elected to five successive terms. And since that time, QUENTIN has become a valued member of the Senate, held in high regard by his colleagues on both sides of the aisle.

As chairman of the Senate Environment and Public Works Committee and as chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, QUENTIN has critical influence over areas important not only to North Dakota, but to the United States as well. But Senator BURDICK's involvement does not end there. As a member of the Senate Aging and Indian Affairs Committees, QUENTIN BURDICK helps also to represent the interests of two groups of Americans that are frequently overlooked. In addition, as a cofounder of the Senate Rural Health Caucus, Senator BURDICK is leading the way to help ensure that America's health care network reaches everyone—regardless of where they live. As a representative of a State that continues to struggle with the problems associated with lack of access to helath care in many areas, I applaud QUENTIN's efforts to not only raise Senate awareness about this problem, but also to substantively address it.

QUENTIN BURDICK has served his State and his country in the U.S. Senate for 30 years now. And through this period his wife, Jocelyn, has been here too, lending her support to the full time nature of a Senate career.

I hope that if I am lucky enough to be in the Senate for 30 years, that I will be able to be as active a participant, as respected a Member and as influential a leader as QUENTIN BURDICK has been—and will continue to be.

HONORING SENATOR QUENTIN BURDICK OF NORTH DAKOTA

Mr. NICKLES. Mr. President, I rise today to express my admiration for the Honorable QUENTIN BURDICK of North Dakota. BURDICK is no stranger to this Chamber as he is now serving his 30th year as a U.S. Senator.

For more than 50 years, North Dakota has been represented in the U.S. Congress by a Burdick. Senator BURDICK's father served in the U.S. House of Representatives from 1934 to 1944 and from 1948 to 1958. Upon his retirement, QUENTIN BURDICK won his father's House seat in 1958 and was then elected to the U.S. Senate in 1960.

During his time in the Senate, QUENTIN has faithfully served his State and Nation by being an active leader on agricultural, environmental, and health related issues.

It has been my privilege to serve wth QUENTIN on the Senate Appropriations Committee for the last 4 years. His extended service to this body is a testimony of his committment as an untiring public servant.

Mr. President, I yield the floor.

SUMMIT AGREEMENT ON AGRICULTURE SUBSIDIES

Mr. DOLE. Mr. President, according to media reports, the seven leaders at the Houston summit have reached a compromise on the last major issue of contention—the question of agricultural subsidies. Compromise is something we understand around here. We know that some compromises are real; some are rhetorical—they amount to an agreement to disagree.

If the press reports are correct, the language of this compromise is as follows: Each nation will make "substantial, progressive reductions [in farm subsidies] measured by an agreed method."

Whenever I see an agreement with a word like substantial—a word subject to a wide range of definitions—I start to wonder. And whenever I see an agreement that says the issue will be resolved by some subsequent agreement—then I really wonder.

Let me be clear: President Bush was dead right on this matter. Our policy is dead right. We want to see all subsidies eliminated; we want our farmers to compete on a level playing field—because we know if we have that kind of field, our farmers will play a winning game. But we also know that, right now, some of our allies, especially in the EEC, keep trying to tilt that playing field further and further in their own favor—through the use of massive subsidies.

So our operating policy is this: We want to end all subsidies—but until we do, we are going to use all legitimate means at our disposal to give our farmers a fair shot at the world's agricultural import markets.

That is the position President Bush took, and stuck with, in Houston. That is the position he urged on the other six leaders. But, obviously, that is not a view some of our allies are yet ready to embrace.

And so we have a rhetorical compromise, that does not give me much hope for any early breakthrough on this issue—either through negotiations within the Western Alliance, or at GATT.

But at least I hope that some of our allies heard clearly President Bush's strong message: the United States has this issue very near the top of our agenda; we are going to keep pushing hard; and until we get some kind of real agreement, we are going to protect the interests of our Nation and our farmers.

I ask unanimous consent that a letter from the Secretary of Health and Human Services to the Speaker of the House be included in the RECORD.

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

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BRADLEY. Mr. President, I rise to join my colleagues in paying tribute to a remarkable accomplishment: QUENTIN BURDICK's 30 years of service in the U.S. Senate. Only 35 Senators before him, out of the 1,792 citizens who have served in this institution, have ever served for three full decades. QUENTIN BURDICK's achievement of this milestone is remarkable not only because it has been so rare in American history, but because he has continually worked so hard on behalf of the people of North Dakota, America's farmers, our environment, and the ideals of our Nation.

North Dakota is one of the last places where we can see the American frontier; it is a land of open space and vast ambitions. It has only been a State for 100 years, but it has been represented in Congress by Burdicks for more than half of that time—QUENTIN for the last 30 years and his father, Usher Burdick, who was first elected to the House in 1935.

Mr. President, 30 years ago in QUENTIN BURDICK's third week as a Senator, John F. Kennedy, accepting his party's nomination for President, declared that our Nation stood "on the edge of a new frontier—the frontier of the 1960's, a frontier of unknown opportunities and paths." It is no coincidence that QUENTIN BURDICK came to the Senate at the very moment that this new spirit and ambition took hold in American government, for his vigor and integrity has carried Kennedy's promise for the 1960's forward into the 1970's the 1980's, and will continue well in the 1990's. In his work on behalf of civil rights as a member of the Judiciary Committee earlier in his career, and today as chairman of the Committee on the Environment and Public Works, QUENTIN BURDICK has stood for the promise of America as a land in which people were treated fairly, and in which we look after our precious open spaces, air and water because they are both our heritage and our legacy.

It has been a great pleasure to serve with QUENTIN on the Select Committee on Aging, and I look forward many more years of service from this extraordinary legislator. I congratulate Senator BURDICK on achieving this milestone and thank him for his many years of hard work and the spirit he brings to the U.S. Senate.

POST EDITORIAL ON YUGOSLAVIA

Mr. DOLE. Mr. President, this morning, I made a statement on the continuing Communist repression in Romania, Albania, and Yugoslavia.

At that time, I had not yet seen an editorial in today's Washington Post concerning the situation in Yugoslavia, and entitled "Balkanizing Balkans."

One key point the editorial makes is that the vastly changed strategic situation in Europe, caused by the collapse of the Soviet Empire there, means, and I quote:

> The West no longer has the same strategic reason to promote a strong, united Yugoslavia.

I would stress, as the editorial does, that the United States certainly has no interest, either, in promoting the dissolution of Yugoslavia. But the fact is: The key thrust of our policy ought not to be keeping Yugoslavia together, no matter what the cost in human freedom and human rights—but the freedom and self-determination of the people of Yugoslavia's constituent republics and ethnic groups.

I ask unanimous consent that the text of the Post editorial be included in the RECORD.

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

BALKANIZING BALKANS

Yugoslavia, the state Woodrow Wilson assembled out of the fragmented Balkans after World War I, may not be "Balkanizing" all the way back into separate nations, but it is certainly coming under ever sharper strain. In the northwestern, formerly Austro-Hungarian republics, local nationalism has taken a democratic form and produced elected non-Communist governments in both Slovenia and Croatia. This is welcome, but it's not that enlightenment is the only current running there. Enough freedom has arrived finally to permit public

airing of the mass score-settling killings committed by Communist resistance Partisans as World War II ended; the victims included large numbrs of the Croatian Ustashi fascist movement. These revived memories of Communist and ethnic terror are bound to weigh heavily on the progress of the new democratic movements.

In the southern and eastern, formerly Turkish-ruled parts of Yugoslavia, nationalism has taken a darker turn, especially in the dominant republic of Serbia. The party chief, Slobodan Milosevic, playing on his region's economic envy and political ambition, has been seeking to leash the awakened ethnic Albanian majority (90 percent) in Serbian-controlled Kosovo. A crackdown has left dozens of Albanians dead, and the region is on fire. Across the border, meanwhile, long-reclusive Albania itself has begun to seethe in the ways that have been transforming the rest of Eastern Europe in the last year.

Yugoslavia's unity and nationalist resolve were useful to the West in the Cold War years to make that country an effective check on Soviet influence in Europe's sensitive Balkan quarter. In turn, the Cold War enabled a Communist Party, ostensibly one rising above Yugoslavia's ethnic rivalries, to stay in power.

Now no East European country is so threatened by the East-West warming. The glue of fear of Moscow is gone, and the West no longer has the same strategic reason to promote a strong, united Yugoslavia. On the contrary, though the West is certainly not looking to see any East European country split along ethnic lines, its messages of democracy, human rights and respect for local nationalism all tend to work against the old Communist style of centralized rule—a rule more or less repressive, it must be recalled, depending on circumstances of the day. For Yugoslavs, a difficult passage is in train.

Mr. DOLE. Mr. President, in concluding, I would also note that several thousand Albanian-Americans have come to Washington today, from throughout the country, to rally at the White House and here on Capitol Hill. Their main purpose is to highlight the serious human rights abuses in Kosova, Yugoslavia, and to express solidarity with the oppressed Albanian community there.

I addressed the rally with a message of greeting and support. I ask consent to include that message, too, in today's RECORD.

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

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, July 11, 1990.

To Members of the Albanian-American Community:

I want you to know that I stand with you in your cause: that the Albanian people—those in Kosova and those, too, in Albania itself—enjoy the full exercise of their right of self-determination.

There is much to celebrate in the world today. Communist tyranny has collapsed in much of Eastern and Central Europe. New democracies and free market economies are emerging throughout the region. And yet, in our joy over the triumphs of freedom and free enterprise, we must not for a moment forget that millions remain enslaved by Communist tyranny.

While you gather here, free Americans freely exercising your rights, your brothers and sisters in Kosova are still in chains. The world has seen the brutal suppression of the Serbian Government—the end of Kosova's autonomy; the closing of the assembly and other institutions for expressing the will of the people; the murder, mutilation and imprisonment of thousands.

On this fundamental issue of right and wrong, America cannot stand on the sidelines. On this fundamental question of human rights, America cannot take refuge behind some kind of immoral "neutrality." On the practical questions of American policy, we must use all the avenues available to us, including political and economic pressure, to help the people of Kosova win their freedom and regain control of their own future.

Today, your voices—your message—will be heard all over this capital city. Together, our voices—yours, mine and the chorus of all who believe in freedom—our voices and our message can be heard all over this nation and, yes, all the way to Kosova.

BOB DOLE,
U.S. Senate.

STEPHEN K. ELLIOTT, SR.

Mr. DODD. Mr. President, it is with great sorrow that I rise today to note the passing of Stephen Elliott, a longtime friend and distinguished public servant, who for years served both Connecticut and this Nation with great skill and honor. The loss is a profound one for me. My family's friendship with Stephen Elliott goes back to a time before I was born. He was always there in my father's corner and in my corner—a great supporter, an insightful adviser, someone you could always count on. And clearly he was someone others could count on, as is evident in his numerous achievements.

Mr. Elliott proudly served his country during World War II as a lieutenant in the U.S. Navy. He also was a chief naval aide to four Connecticut Governors, and was nominated as the Democratic candidate for Lieutenant Governor in 1946.

Stephen Elliott's legal career spanned 51 years, and it began when he graduated from the University of Connecticut law school. A senior partner in the law firm of Elliott, Stanek & Izzo, he was also a member of the International Society of Barristers, a member of the American, Connecticut, Hartford, Southington, and Waterbury bar associations, and a judge of probate in Hartford, Waterbury, and his home town of Southington.

As attached as Mr. Elliott was to his work, his devotion to family and community went even further. In addition to cochairing a United Way fund drive, he was a member of the board of directors of Bradley Memorial Hospital in Southington and a former trustee of St. Thomas Church. He was also actively involved in such organizations as the Knights of Columbus, the American Legion, and the Veterans of Foreign Wars.

Mr. President, I offer my sincerest condolences to Stephen Elliott's wife Ruth and her entire family. Stephen Elliott made a wonderful contribution to our State. I feel a great sense of loss and sorrow at his passing.

CIVIL RIGHTS ACT OF 1990

Ms. MIKULSKI. Mr. President, yesterday in the CONGRESSIONAL RECORD I expressed my concerns regarding the Civil Rights Act of 1990. My statement highlights my support for retaining the provision that victims of discrimination based on sex, national origin, or religion have the right to sue for punitive damages.

The following op-ed article from the July 10, 1990, Washington Post, submitted by Dr. Dorothy I. Height, president of the National Council of Negro Women, eloquently echoes this view.

As Dr. Height points out, there is no hierarchy of discrimination. Sex discrimination does not rank less onerous or less damaging than racial discrimination, and under no circumstances should this bill pass without this relief.

Any other outcome will fall short of the goals that we have set to pass fair and effective civil rights legislation.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post, July 10, 1990]

CIVIL RIGHTS: NOT JUST FOR BLACKS

(By Dorothy I. Height)

In battle after battle for civil rights in America, fairness has been our nation's guiding principle. It must continue to be our moral compass in our struggle to pass new civil rights legislation protecting against workplace discrimination. That's why I strongly disagree with The Post ["The Civil Rights Bill," editorial, June 25] and others who would leave in place a system of civil rights laws under which some but not all people in this country can secure remedies for wrongs they have suffered.

Race discrimination does have a "special history," which makes it an urgent matter of concern, but that history provides no reason for Congress to refuse an effective remedy for all victims of intentional workplace discrimination. I believe it's high time to wipe away these inequities, and that's why I support the Civil Rights Act of 1990—every word of it.

The act extends to victims of intentional, harmful discrimination based on sex, religion or national origin the same tough legal remedy now available only in cases of race bias: the right to sue an employer for monetary damages. It isn't a new idea. It's an old idea applied more fairly. As such, it is an essential provision of civil rights legislation designed to take us into the 1990s with laws against workplace bias that are strong enough to accomplish their important job.

The current two-tier system for bias cases doesn't make moral or legal sense. Witness the story of Helen Brooms, a black woman victimized by severe sexual discrimination that left her with lasting emotional and physical scars. Because the discrimination she suffered stemmed from her gender, not her race, she could not recover damages. She could, as she says, "get justice as a black person but not as a woman."

Changing the law to remove this inequity would not loose an avalanche of claims upon the courts. We've seen no such deluge of damages claims from racism victims: a recent review of such cases during the 1980s shows them to be infrequent, and the awards reasonable. An entire decade passed with only three plaintiffs winning awards in excess of $200,000—a track record that hardly justifies panic about extending this protection to new groups. Of those who sue for damages, the ones with solid cases will win; others will not.

It is painfully ironic that as of today a man who sues a store because he tripped over a floor display has a better shot at winning decent redress than a woman battered daily by on-the-job discrimination or denied a promotion because of sexual stereotyping. To continue to lock women out is to deny the particularly harmful role discrimination plays in our society. This is not just another civil offense: this is a tear in our social fabric, a violation of our nation's ideals.

I object to the implicit attempt by some critics of this legislation to imply a heirarchy among different forms of discrimination. We don't battle this evil effectively by getting ourselves bogged down in discussions over which form it takes is worse. Such a debate can only further divide us as a people. It splits me, a black woman, in half. I am equally outraged against bigotry, whether directed at me as a woman or as a black American. I demand that my government provide me equally strong protections against both forms of bias.

With votes on the substance of this bill fast approaching, it's time to focus the debate on the real issues. And the question our elected officials must decide in the matter of damages is this: Who will bear the cost of intentional, damaging discrimination based on factors other than race? Under the current system, the victims pay—financially, as well as with their health and well-being. Under the Civil Rights Act, discriminatory employers will pay. I vote for the latter and trust that the president and Congress will too.

TERRY ANDERSON AND IRANIAN POLITICS

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,943d day that Terry Anderson has been held in captivity in Beirut.

I would also like to bring to the attention of the Senate an article discussing the political climate in Iran which appeared in the Washington Post while we were in recess. The piece, written by Steve Coll, contends that the influence of doctrinaire anti-Western clerics in the Iranian Government is diminishing. One of the implications is that the corresponding consolidation of forces of moderation in Iran might help bring about an end to the hostage ordeal. Recent events—the release of Frank Reed and Bruce Polhill, the Tehran Times' call for the unconditional release of all the hostages, and the current move toward releasing another of the hostages—would seem hopefully to indicate that this might indeed be the case.

We must work to ensure that such progress continues.

Mr. President, I ask unanimous consent that the Washington Post article be printed at this point in the RECORD.

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

[From the Washington Post, June 29, 1990]

IRAN'S ENTREMISTS SEEN LOSING POWER IN GOVERNMENT

(By Steve Coll)

TEHRAN, June 28.—One year after the death of Ayatollah Ruhollah Khomenini, some of Iran's most radically anti-American clerics have been shifted to the fringes of power on issues such as release of the U.S. hostages in Lebanon and wider economic contacts between Iran and the West.

The recent debate here over whether Iran should accept earthquake aid from its Western and Arab adversaries is only one aspect of what former interior minister Ali Akbar Mohtashemi called a "psychological war" within Iran for control of the country's Islamic revolution in the wake of Kohomenini's death.

For the moment, the most extreme anti-Western radicals, such as Mohtashemi, appear to be losing that war.

In an interview with The Washington Post and the Japanese daily Yomiuri Shimbun at the offices of his new anti-American magazine, Mohtashemi acknowledged that he was forced to step down from his powerful cabinet post last year. The resignation occurred when President Ali Akbar Hashemi Rafsanjani moved to replace some ideological radicals in the government with a cabinet that shared his commitment to revitalizing Iran's economy with the aid of Western capital.

Mohtashemi also acknowledged that while he was revolutionary Iran's ambassador to Syria during the early 1980s, he helped establish the radical Shiite groups in Lebanon that later attacked the U.S. Marine barracks in Beirut and participated in the kidnapping of U.S. hostages.

Iran helped establish the radical groups and "they were supported by the Islamic Republic of Iran and by me as ambassador of the Islamic Republic of Iran. If you think that is effective in their formation, then let it be so," Mohtashemi said. He denied any personal involvement in the attack on the U.S. Marine barracks or any hostage takings.

Despite the apparent warning of his influence in contemporary Iranian politics, diplomats say Mohtashemi remains a powerful voice to some of the Lebanese Shiites who continue to hold U.S. hostages.

"Imam [Khomeini' was the founder of a revolution," Mohtashemi said. "Following his demise, the enemies, internal and external, have been taking advantage of his absence and thus putting increasing pressures on Iran to give up on its principles and retreat."

Mohtashemi said his political opponents had overstated Iran's economic difficulties "to imply that by breaking the barrier against the return of the United States, economic problems would be solved, but they are making a mistake."

Since stepping down from the post of interior minister, where he controlled Iran's police and revolutionary security committees, or *komitehs*, Mohtashemi has remained a member of Iran's parliament. This month he launched a colorful political magazine that mainly espouses unflinching anti-American views.

But diplomats say Mohtashemi and those who have preached isolationism and appeared to support the holding of U.S. hostages by Lebanese Shiite radicals have become increasingly marginalized. The reason, they say, is that Rafsanjani, regarded as relatively pragmatic and open to the West, has been able to assert himself in parliament and the executive branch.

"Mohtashemi has been the mouth-piece of the radicals. He has a platform," said one diplomat. "But where it's really counted, Rafsanjani has shown that he has the power to do what he wants."

There is no easy way to distinguish between radicals and pragmatists in Iran's parliamentary government. Virtually all of the members share a revolutionary Islamic ideology and express antipathy toward the United States. While leaders considered especially anti-American, such as Mohtashemi, have fallen out of power, other anti-Western radicals have moved into prominent posts, such as the hard-line parliamentary speaker, Mehdi Karrubi.

In recent months Mohtashemi and his radical allies have formed a clearly defined anti-U.S. minority in Iran's government, asserting themselves in key political debates over the future shape of Iran's Islamic revolution and the extent of the country's realtions with the West.

One example, Iranians and diplomats said, was the tangled series of events that surrounded the release this spring of two U.S. hostages who had been held by radical Lebanese Shiites in Beirut.

The move for release appeared to begin in Tehran, where the English-language Tehran Times, which is considered close to Rafsanjani, began to publish editorials saying that U.S. hostages held in Lebanon should be set free without conditions.

Initially, radicals such as Mohtashemi were silent about the issue. But when an ally of Rafsanjani suggested in a Persian-language newspaper article that Iran should hold direct talks with the United States, the anti-Western radicals in Tehran exploded, virtually accusing the writer of treason and warning that any contact with the United States would be disastrous for Iran.

After the hostages were released, with Syrian assistance, and the Bush administration decided against any reciprocal gesture, the radical faction in Iran's parliament again asserted itself. The hostage release, said the radicals, proved that pragmatism toward the United States would do Iran no good.

At one point during the uproar, Mohtashemi's faction introduced a bill in Iran's parliament that would have made it illegal for Iran ever to establish diplomatic ties with the United States. But Rafsanjani's group had the bill dropped in favor of a declaration that Iran's first foreign policy order was to fight against Israel.

During the interview, Mohtashemi reiterated the Iranian government's position that it is not involved with the holding of U.S. hostages in Lebanon. He argued that it would be "a mistake for Iran to interfere in the process of hostage release," because to

do so would only confirm "this propaganda that Iran has influence."

"Iran must not fall into this trap at all," he added. "The problem is basically an internal affair of Lebanon."

Later, however, Mohtashemi acknowledged Iranian influence over the Lebanese Shiites, saying, "Yes, Iran has spiritual influence among all Moslems and if they [Shiite radicals] feel that Iran wishes for something, then they might go along with that."

For most of the years after Iran's 1979 revolution, the political base of anti-Western extremists lay with the often young and radical members of Iran's Islamic revolutionary institutions, such as the Revolutionary Guards and the komitehs.

While they remain powerful forces in Iranian politics and society, there are signs that with the Iraqi war concluded and Rafsanjani firmly in power, those revolutionary institutions may be losing some of their radical edge.

For example, after a vocal fight with radicals in parliament, Rafsanjani's administration has pushed through a merger of komitehs with ordinary police departments. Such a merger would bring the nation's internal security apparatus more under the control of an ordinary bureaucracy.

Mohtashemi said the debate over the future of the komitehs, which have been the guardians of the Iranian revolution's most radical domestic policies, is not one of deep philosopical differences. But he added: "Personally I am opposed to this merger because I think any country needs a committed special force. The merger will make them [komitehs] lose their identify. [Will that be] harmful to the system? I hope not."

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Tennessee is recognized.

THE GLOBAL ENVIRONMENT

Mr. GORE. Mr. President, the declarations that are coming out of the economic summit meeting have been very disappointing to many on the subject of the global environment. Those who remember last year's economic summit remember the ringing endorsement of action by all of the summit leaders in the final statement when they called for a worldwide plan to confront the issue of global climate change and the degradation of the global environment.

Many who have followed this issue and have had growing concerns about the need for action were heartened by the united front presented by the summit leaders a year ago. And many of those same optimists waited to see what this year's meeting would bring by way of a followup, to put flesh on the bones, to add substance to the rhetoric.

But this year, the summit leaders chose not to follow up last year's declarations. Indeed, they chose to retreat from last year's call for action to clean up the global environment. Why? The answer is now in. The United States of America, led by President George Bush, threw a monkey wrench into the process, stood in the path of those who wanted to have action on the global environment.

At last year's summit meeting, President Bush asked his EPA head, his Environmental Protection Administrator, Bill Reilly, to accompany him to the summit, stay by his side, help him make these sweeping proposals and negotiate the statement which was forthcoming last year.

At this year's summit, Mr. Reilly was ordered to stay home, was not allowed to accompany the President to the summit meetings. And when the subject of the environment came up, who was the spokesman for the United States of America? John Sununu, the one person within the administration who has been, by all odds, the most vocal opponent of environmental protection.

President Bush promised over 17 months ago that he would be an environmental President, that he would confront the greenhouse effect with the White House effect. Now we know that President Bush has even less intention of keeping that pledge than he did in keeping his pledge to have no new taxes.

He is less an environmental President than he is a no new taxes President.

Nations and peoples around the world understand clearly that if we are going to successfully confront the challenge to the global environment, leadership from the United States of America will be essential. All Americans understand that, especially in an action of this sort, the United States cannot provide that sort of global leadership unless the President of the United States steps forward to lead the American people in the right direction.

A consortium of 150 environmental groups in the United States cooperated to compile a scorecard of what the various summit nations have done since last year's summit meeting to follow through on the pledges of environmental action last year. The United States was ranked in the poor category. As the accompanying analysis made very clear, and as we in this Chamber know ourselves, the reason is, again, that President Bush has been backtracking on the global environment.

Those of us who have watched this administration drag its feet time and time again, resisting the efforts of other nations to confront these environmental challenges head on in areas like protection of the ozone layer, global climate change, and a host of other environmental challenges, are not entirely surprised by the reports coming out of Houston. But we are disappointed and even more deeply concerned. President Bush is once again allowing the Nation's environmental policy to be established by ideologues in the administration, not by those who have been assigned the responsibility for advising him on environmental policy and science policy. Instead, he has decided to make John Sununu the principal environmental policymaker in this administration.

What about John Sununu's experience and qualifications and viewpoints on this subject? John Sununu has a Ph.D. He believes that he knows a great deal about this subject. News reports have indicated that he is compiling his own global climate model on a personal computer in his office at the White House. U.S. News and World Report provided some details of this in their current issue.

President Bush said a year ago, before we decide how to assess the threat of global warming, let us wait for the international group of scientists charged with making this assessment to come up with their report. That group, the Intergovernmental Panel on Climate Change, established originally under the auspices of the United Nations, issued its report recently. That panel said the problem is real. The time for action is now. What degree of reliability do they place on those conclusions? They said: We are certain of it.

After this international group of distinguished scientists who have devoted their careers to this subject spent several years compiling a definitive report and announced their conclusions, John Sununu announced that he was going to come up with his own study on his personal computer. The clear implication of his statements was that these scientists are not to be trusted. John Sununu's conclusions are more reliable than theirs.

Yogi Berra once said, "What gets us into trouble is not what we don't know, it's what we know for sure that just ain't so."

I think John Sununu's expertise on the subject of the global environment fits Yogi Berra's description of what gets us into trouble so frequently. He has not devoted his lifetime to this subject. He has been a Governor and a White House Chief of Staff. But it is a hobby of his.

I urge the President to rely more on the scientific community, to rely more on his own science adviser, Dr. Allan Bromley, to rely more on his own administrator of the Environmental Protection Agency, William Reilly, and somewhat less on Dr. Sununu and his personal computer and his certain knowledge that he knows more than the world scientific community about this subject.

Other heads of state are listening to the scientific community. Here is what Helmut Kohl, the leader of Germany, had to say at the summit meeting. He said:

We must view the threat of climate change as a global challenge to all mankind.

The world expects the seven summit countries to come up with far reaching, specific proposals.

I will provide later for the RECORD statements by the leaders of other nations, which are very similar in tone and content.

There is only one prominent world leader, among all those at the summit, who wants to stop progress, who wants to stand in the way of the kind of cooperative action so urgently needed to protect the global environment, and that is President George Bush, following the advice of Dr. John Sununu.

Let me elaborate on what this Intergovernmental Panel on Climate change had to say specifically. It says that the effort to stablize the level of most greenhouse gases at current levels in the atmosphere will require reductions of 60 percent or more in current human emissions of greenhouse gases. Furthermore, the scientific assessment of the IPCC says the buildup will lead to temperature increases of 3 to 8 degrees Fahrenheit by the middle of the next century. The science assessment goes on to state that temperature increases in central North America, the American grain belt, are predicted to be higher than the average global increase accompanied by reduced summer precipitation and soil moisture; in other words, more heat and more drought in the heart of America's agricultural sector.

Mr. President, 2 weeks ago in Phoenix, AZ, they were frying eggs on the sidewalk; it was 122 degrees, an alltime record. The 5 hottest years in the history of recorded temperatures have all been in the past decade. Preliminary estimates of the first 6 months of this year indicate that the odds are very high that 1990 will be by all odds the hottest year ever recorded, including the five hottest thus far, which have been in the past decade.

Scientists, the same scientists who tell us global warming is a certainty if our present pattern of activity continues, and that action is needed now, those same scientists say that you cannot take the heat of any given year and say with certainty this is because of global warming. There is too much variation from year to year. But on average the incidence of 100-degree-plus days will increase dramatically. The odds of any given year being a hotter than normal year will increase dramatically.

The odds of a drought in any given year in the middle sections of large continental land masses will increase dramatically. The part of the country from which I come and from which the current occupant of the Chair comes is experiencing another year right now where the moisture level is down dramatically. How many droughts have we had in the last 5 or 6 years? Why are the old timers standing up more and more frequently and saying, for example, "I've lived 70, 80, 90 years. I have never seen weather trends like these"?

Why are the older men and women in our country saying something is amiss with the weather patterns? Why are the most distinguished scientists in the field of global climate research saying exactly the same thing? How long will it take us to wake up and realize that we are facing the most serious problem of the history of our civilization? The answer to that question, Mr. President, depends in part, upon how long we will have to wait for leadership from the President of the United States.

In the absence of that leadership, the evidence will continue to accumulate, and more and more people will see the pattern and demand action, but more and more time will pass before action is taken, and we will have less and less of a chance to succeed in confronting the problem.

Mr. President, as I have said on other occasions, as an example of the dramatic changes underway right now, consider the fact that the air in this Chamber that we are breathing into our lungs at this moment has 600 percent more chlorine atoms in each breath than it did when this Chamber was constructed, than it did 40 years ago, than it did in this space on Earth 3 billion years ago, because in only 40 years' time, our civilization has profoundly changed the nature of the global environment so much that the concentration of chlorine atoms is six times greater than it has been for the entire previous history of the Earth.

Similarly, the concentration of carbon dioxide in the atmosphere everywhere on Earth, from the ground to the top of the sky, at the North Pole, at the South Pole, around the Equator, in Alabama, in Tennessee is higher now than it has been at any time for the last several hundred thousand years. We know from the historical records pulled out of ice cores and geological deposits, which contain an accurate record of past climates, that CO_2 concentrations and temperature levels go up and down in lock step.

The international panel of scientists has reported that the concentrations of carbon dioxide are in the process of doubling worldwide in less than 40 years. What will the implications for temperature be? Again, the international panel of scientists say they are going up. What does that mean? It means a dramatic and catastrophic change in climate patterns.

Does that matter? Of course, it does. Does it require action? Of course, it does. That is why all of the other summit leaders called for action, but action was not forthcoming because the one person, the President of the United States, who is in the position of providing the leadership needed, used his influence and prestige and position to block action. I view it as a tragedy, Mr. President.

Six weeks ago, one of the other summit participants, Margaret Thatcher, made a speech referring to this international scientific assessment. In that speech, Mrs. Thatcher said:

> • • • greenhouse gases are increasing substantially as a result of man's activities; that this will warm the Earth's surface, with serious consequences for us all, and that these consequences are capable of prediction.

She went on to state that if the panel is broadly right, then the world could become "hotter than at any time in the last 100,000 years and just to get our perspectives right, can I remind you that Abraham was around only 5,000 years ago."

Mrs. Thatcher was relying on the international scientific consensus. President Bush, in his timidity and inaction, is relying, instead, on Dr. John Sununu and his hobby, played out on his personal computer.

It is convenient that reliance on Dr. Sununu's hobby carries with it no political risk of proposing actions that might be unpopular in confronting the global environmental challenge. The fact that President Bush, by doing nothing, can hope to keep his popularity levels at record highs may make him more likely to rely on Dr. Sununu's personal computer than the international scientific consensus.

But, Mr. President, it is not leadership. It is not what this country needs. It is not what the world needs.

We are left with an administration which continues to be the world's leader in environmental inaction. The United States, because of President Bush's decision, now stands alone in refusing to cooperate to meet this global challenge. Where the environment is concerned, President Bush is sometimes adept at rhetoric. At last year's summit, he eagerly let the rhetoric on the environment flow from his lips, promising action.

But as is too often the case when it comes to following up the rhetoric with substance, the President has decided that he prefers inaction and timidity.

While Chancellor Kohl appeals for the G–7 nations to urgently work out arrangements to reduce greenhouse gas emissions, President Bush spends his energy on spin control while the truth about his administration's total lack of concern where protecting the global environment is involved becomes clear to the entire world.

Mr. President, I ask unanimous consent to print at the end of my comments articles from the Washington Post and the New York Times, and an editorial from this morning's New York Times and a lengthy dispatch from the Associated Press on this same subject.

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

(See exhibit 1.)

Mr. GORE. Mr. President, in conclusion, let me address one other aspect of this, briefly. The reason publicly offered by Dr. Sununu for the position he has successfully urged upon the President is his claim that a reduction in greenhouse gas emissions, or even a stabilization of greenhouse gas emissions, would bring world economic activity to a halt.

I am quoting from the Associated Press dispatch out of Houston quoting the other summit participants in saying:

The European Economic Community on Tuesday challenged the Bush administration to prove its contention that taking dramatic steps to halt the warming trend will stall economic growth.

Jan Laurens Brinkhorst, Director of Environmental Matters for the European Economic Community, said the facts do not bear out the theory that curbing carbon dioxide emissions will slow economic growth.

Brinkhorst said the world economy grew by 25 percent between 1973 and 1986 while energy consumption remained flat.

Economists agree, he said, that energy use could be reduced 15 percent to 20 percent in the course of a decade without major economic disruption.

I would hope to see, in a serious way, the Europeans and Americans compare notes and actually see what is true.

Mr. President, I have made a number of speeches in this Chamber on this same subject, and I intend to continue this series of speeches. I conclude by saying that on this occasion, it is especially disappointing that we have this major missed opportunity after so many hopes were raised in last year's economic summit between the G-7 participants, and I urge the President of the United States to not rely on John Sununu as his principal environmental adviser, policymaker, and spokesman on the global environment but to rely instead on the individuals, including William Reilly, at EPA, and his science adviser, Dr. Allan Bromley, who have the experience, who have the training, who have the respect of those in their respective fields, and listen to their advice as the basis for policy on this subject.

I yield the floor.

EXHIBIT 1

[From the Washington Post, July 9, 1990]

ENVIRONMENTAL "REPORT CARD" RATES U.S. POOR ON MAJOR GLOBAL ISSUES

(By David Maraniss)

HOUSTON, July 8.—A report card of the world's seven leading industrialized nations released here today gave the United States a "poor" grade of 41.5 percent in meeting the environmental objectives those nations set at last year's Economic Summit in Paris.

On the eve of this year's summit, the seven countries were graded by a consortium of 150 environmental groups on six key issues ranging from global warming to environmental aid for Eastern Europe. West Germany, which has announced plans to reduce carbon dioxide emissions by 25 percent, ranked at the top of the class, with a "good" rating of 65 percent, and Italy was "poorest" with 39 percent. Japan, the United Kingdom and Canada were also rated "poor," while France received a grade of "fair."

But overall, said Jay Hair, president of the National Wildlife Federation, the group of seven nations "failed" to protect the environment. Their actions over the past year, he said, have not lived up to their rhetoric. "If the G-7 were a soccer team and I a sportscaster, I would say the team had a bad season overall." Hair said on the same day that West Germany won soccer's World Cup. "The game plan looked good but the players showed mimimal defense and almost no offense."

Each country, in addition to an overall grade, was ranked on a scale of 1 to 10 on the six major issues.

The highest score for the United States was a 6 on the issue of protection of biodiversity. Included in that category were efforts to stop the destruction of the world's rain forests, which are disappearing at the rate of 27 million acres a year, and to diminish the effects of acid rain. The United States has taken a vocal role at the World Bank and elsewhere in discouraging rain forest destruction.

But on the other issues, said James Tripp of the Environmental Defense Fund, the U.S. response over the past year has been weaker. On the concern that Tripp and the consortium considered most pressing, global warming, the United States was given a failing grade of 3.

While other countries, especially West Germany, were moving to reduce carbon dioxide emissions over the next 20 years, the Bush administration, Tripp said, "was not a leader but a hinderer" in that effort.

The scorecard gave the United States its lowest grade, a 2, on population, which has not been discussed at the Economic Summit since the strongly antiabortion Reagan administration took the issue off the agenda in the early 1980s.

On the issues of environmental aid to Eastern Europe and control of ocean pollution, the United States was given scores of 5, while it received a 4 for a category that was called the global environmental bargain, which included actions to ease debts in Third World countries to allow them to improve long-term management of their natural resources. It was in that category that Italy received the lowest score of any country in any category, a 1.

The environmental report cards were among myriad reports, meetings and symbolic actions in Houston this weekend as hundreds of environmentalists and social activists arrived to stage events in the shadows of the Economic Summit.

There are two key counter-conventions. The first-ever Envirosummit met to monitor the environmental actions or inactions of the seven industrial leaders.

A session known as The Other Economic Summit (TOES) has been convening in summit host cities since 1984 to present Third World and other alternatives to the actions of the industrialized nations.

The TOES conference, held at a hotel near the Astrodome after the University of Houston declined at the last minute to serve as host, featured a gathering of representatives from seven developing countries, including Cuauhtemoc Cardenas, leader of Mexico's Democratic Revolutionary Party, who nearly won the Mexican presidency in 1988. Cardenas said that the new trade alliances being formed among the industrialized nations will only lead a more exploitation of Third World countries.

His view was shared by Martin Khor Kok Peng of Malaysia, coordinator of the World Rain Forest Movement. The Malaysian said underdeveloped countries would have their sovereignty to set environmental and health standards preempted by provisions of the General Agreement on Tariffs and Trade (GATT) being discussed this year. Where in previous generations Third World countries were colonized through the use of force, he said, they are now being colonized through the use of trade agreements. "Trade is the main weapon today—more than weapons," he said.

Texas Agriculture Commissioner Jim Hightower, a keynote speaker at the TOES conference, said the latest GATT proposals setting up international trade rules on agriculture would prove devastating for American farmers. The GATT agreement could cut wheat prices by 44 percent and rice prices by 59 percent, he said.

Hightower said farmers "don't know what GATT means, but they're going to figure out it means 'Gotcha Again!' "

[From the Washington Post, July 9, 1990]

AFTER RHETORIC OF 1989, ENVIRONMENT LIKELY TO TAKE BACK SEAT AT SUMMIT

(By John Lancaster)

Leaders of the seven industrial democracies embraced the environment with the zeal of the newly converted when they gathered in Paris for last year's economic summit. "This summit marked a watershed," President Bush said at the conclusion last year. "We agreed that decisive action is urgently needed to preserve the earth."

But the economic summit that begins in Houston today promises to accord the environment a lower priority. While issues such as global warming and rain forest from destruction still have a place on the agenda, they are not expected to receive nearly as much attention as free trade and the political upheaval in the Soviet Union.

"I think this time we will see an economic summit that is focused to a far greater degree on economics," said Michael R. Deland, chairman of the president's Council on Environmental Quality (CEQ).

The anticipated focus on the Soviet Union and East Bloc economies is not surprising given the events of the last year. But the shift in emphasis has disappointed many environmentalists, who see it as one more sign that industrial nations—and the United States in particular—have failed to follow through on the bold rhetoric in 1989.

A coalition of environmental groups, meeting in the shadow of the Houston summit, gave the seven nations a mixed to poor review for their efforts during the last year.

"I'm a lot more depressed than when we got into this," said George T. Frampton Jr., president of the Wilderness Society. "Forests are being cut just as fast or faster than they were a year ago * * *. There has been virtually no progress on ocean pollution, and absolutely nothing on population. Overall, you'd have to say that these countries simply aren't treating environmental issues as an important priority—in spite of the Paris communique."

Environmentalists cite as an exception last month's agreement by 92 countries to phase out production of chemicals linked to the destruction of the earth's protective ozone layer. Government ministers also

agreed to establish the world's first global environmental fund to help poorer countries make the transition to more benign varieties of chemicals.

But the industrial nations remain divided on a response to global warming, which scientists expect will be a consequence of the buildup of carbon dioxide and other greenhouse gases in the atmosphere. While Britain, the Netherlands and West Germany have established goals for reducing or stabilizing carbon dioxide emissions, Bush administration officials have avoided timetables in favor of continuing scientific study.

Earlier this year, a panel of experts sponsored by the United Nations concluded that worldwide temperatures will rise 2 degrees within 35 years and about 6 degrees by the end of the next century if nothing is done to reduce carbon dioxide emissions. The report, based on the work of more than 300 climate experts worldwide, was seen as a vindication by environmentalist who have been urging quick action to combat the problem.

Environmentalists contend that by failing to follow the lead of Germany and other nations in setting goals to reduce greenhouse gases, the United States has forfeited its role as an international leader on environmental issues.

That charge was disputed by Deland, who said the nation already is working to reduce pollutants that cause global warming. "I don't think the U.S. has forfeited a leadership role and I think it's continuing to play such a role," Deland said.

But he also suggested that cutting greenhouse gases is easier for some countries than it is for the United States. "It's clearly much easier for West Germany to set such goal," he said. "They can flick a switch and tie into French nuclear power * * *. We are clearly more tied to fossil fuels than many other countries that have alternatives such as nuclear and hydroelectric" power.

Many environmentalists had their expectations raised by last year's summit, in which participants devoted more than a third of their final communique to environmental issues. Pundits dubbed it "the environmental summit" and Bush even showed up with Environmental Protection Agency Administrator William K. Reilly, the first time the head of the EPA appeared at a summit.

A draft copy of the communique for this year's meeting reaffirms the global nature of environmental problem and addresses climate change, tropical forest destruction, marine pollution, wetlands loss and other topics.

According to the draft, worked out by advance teams from the countries involved, participants will agree on the need for an international convention addressing global warming to be held by 1992 under the auspices of the United Nations.

Participants also will consider the adoption of "internationally binding regulations" for the protection of tropical forests, which are being destroyed at a rate twice that of 10 years ago, according to the draft communique.

But the summit participants are expected to stop short of a specific, international commitment to reduce greenhouse gases by the end of the decade. "There aren't going to be any surprise," one administration official said.

[From the New York Times, July 11, 1990]

WHITE HOUSE GASES

Reduce greenhouse gases? The Bush Administration has again made clear, at the economic summit meeting in Houston, that it wants no part of an international timetable to limit emissions of carbon dioxide, which many fear will lead to a catastrophic warming of the earth's climate.

There are valid arguments against rushing into speculative, costly fixes. But Mr. Bush and his chief of staff, John Sununu, aren't making them. They cloak their inaction in gaseous language and dubious science. That's an insult to the allies and a political embarrassment for Mr. Bush.

The computer models that predict global warming are full of uncertainties—good reason to resist a draconian program to reduce emissions. But these same models, and many scientists, suggest that some warming is likely. And that's reason enough to take sensible precautions.

Chancellor Helmut Kohl says that Germany is prepared to reduce its carbon dioxide emissions by 25 percent in 15 years and urges the allies to follow suit. Some economists think that's an affordable goal. Mr. Sununu thinks it's a recipe for national suicide that would force the U.S. to abandon fossil fuels and drive it into a depression.

Mr. Sununu, whose impatience with environmentalists stops just short of contempt, adumbrates has dark vision with half-truths. Most carbon dioxide emissions, he says, come from decaying vegetation. That's true; but what threatens to shatter the global balance isn't nature but a century of man-made emissions from automobiles, electrical utilities and industry.

Except for the U.S. every industrial nation represented at the summit meeting has pledged to stabilize greenhouse gases. Mr. Bush's negative response might be understandable if he would offer an alternative. But he's been so busy saying no that he hasn't even opened for public discussion any number of sensible ideas to reduce carbon dioxide that are worth pursuing on their own merits.

Compared with other countries, for example, the U.S. uses energy recklessly. Improved automobile mileage standards would improve energy efficency. So would an energy tax, which, quite apart from its value as insurance against global warming, would ease the deficit. A sensible plan would also include incentives for using forms of energy that don't produce carbon dioxide, like solar and a new generation of safe nuclear plants. There would also be incentives for third world countries to stop the burning of tropical forests, an act of ecological vandalism that releases huge amounts of carbon dioxide.

Mr. Bush takes pride in his innovative clean air bill and his decision to join an international agreement to abolish ozone-threatening chemicals. Those are fine achievements, but they do not unhook him from a campaign promise he made on Aug. 31, 1988.

"Those who think we are powerless to do anything about the 'greenhouse effect' are forgetting about the 'White House effect,'" he said. "As President, I intend to do something about it." Do what?

[From the New York Times, July 10, 1990]

EUROPEANS ACCUSE THE UNITED STATES OF BALKING ON PLANS TO COMBAT GLOBAL WARMING

(By Roberto Suro)

HOUSTON, July 9.—Senior European officials at the economic summit conference accused the United States today of frustrating their efforts to reach a new accord to combat global warming.

The European officials, including members of the British, French and Italian delegations who asked not to be identified, angrily complained that John H. Sununu, the White House chief of staff, had taken the leading role in organizing American opposition to the global warming initiative.

Asked at a news briefing this morning why the United States was resisting a West German proposal to set a target for reducing gases that cause global warming, Mr. Sununu replied, "The issue is being addressed with a level of haste." He added, "There seems to be some propensity to deal with the issue without putting all the data on the table."

KOHL ASKS "RADICAL MEASURES"

In a letter sent to summit leaders last month, Chancellor Helmut Kohl of West Germany called for "internationally binding regulations with "radical measures to limit" gas emissions that contribute to the greenhouse effect.

Chancellor Kohl said: "We must view the threat of climate changes as a global challenge to all mankind. The world expects the seven summit countries to come up with far-reaching, specific proposals."

Mr. Sununu insisted today that the Bush Administration had endorsed limits on some emissions through the clean Air Act, but he opposed new emission limits, contending that they would require major changes in the American way of life and the nation's industrial structure.

He noted, for instance, that because the United States was much larger than Japan or any of the European nations it had a greater reliance on cars and trucks to transport people and products.

Commenting on Mr. Sununu's position, James T. B. Tripp, general counsel of the Environmental Defense Fund, a Washington-based advocacy group said, "These statements may serve to explain why United States per capita consumption of fossil fuels is so high compared to Western Europe and Japan, but they are not legitimate excuses for United States refusal to limit carbon dioxide emissions and take steps to use energy much more efficiently."

Although President Bush has mustered allies to support his views on the two other major issues being addressed at the summit talks—aid to the Soviet Union and international trade—he now stands alone on the third area of the agenda, the environment.

PLEDGES MADE BY OTHERS

As the summit meeting's official sessions began today, European officials worried that the United States would block their effort to win a commitment to stabilize and then reduce emissions of carbon dioxide and other gases that contribute to the greenhouse effect. Many scientists believe that these gases trap heat from the sun that would otherwise escape back into space. The trapped gases then produce a gradual warming of the earth's atmosphere.

Except for the United States, all the industrial nations represented at the summit meeting have now pledged to stabilize

greenhouse gas emissions, at least by early in the next century.

Even Britain and Japan, which formerly sided with Washington in insisting that more scientific and economic information was needed before taking action, are developing plans to reduce carbon dioxide emissions. West Germany has taken the lead, with a goal of reducing such emissions by 25 percent in the next 15 years.

President Bush's apparent determination to block a global warming initiative at this summit meeting stands in sharp contrast to his embrace of major environmental commitments at last year's economic summit talks in Paris.

In the final communiqué of that meeting, the national leaders declared that "decisive action is urgently needed to understand and protect the earth's ecological balance."

"COMMON EFFORTS" URGED

On the issue of global warming the communiqué stated, "We strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases, which threaten to induce climate change, endangering the environment and ultimately the economy."

Even as the summit delegations began gathering here this weekend, European officials hoped that the Houston talks would build on the rhetoric of the Paris communiqué. But at a meeting Sunday night American officials raised a series of paralyzing objections, a European participant said.

"We had thought we were making progress," the European official said today, "but at last night's meeting it was discouragingly obvious that Sununu was back in the ascendancy, and the United States was yielding nothing."

European officials said that the first sign that President Bush would resist a global warming initiative came when William K. Reilly, the administrator of the Environmental Protection Agency was left behind in Washington. Mr. Reilly was a prominent member of the Bush delegation to the Paris talks.

In Mr. Reilly's absence the role of chief adviser on environmental matters has been assumed by Mr. Sununu, who has publicly disagreed with Mr. Reilly on assessments of environmental dangers. At the news briefing this morning, Mr. Sununu rejected the kind of joint commitment to specific limitations on gas emissions that the West Germans among others are pressing the meeting to adopt.

He said, "There is a concern that this idea of a permanent cap in perpetuity does not understand not only our growth needs, but the growth needs of the developing countries of the world."

He added, "so what we are seeking is a commitment that is broader, a commitment that would allow both the industrialized countries and the developing countries to address the broad issue of greenhouse gases without picking them one by one, setting caps on them individually."

SUMMIT NEARS ENVIRONMENT ACCORD THAT'S VAGUE ON GLOBAL WARMING

(By Rita Beamish)

HOUSTON.—The United States and its trading partners neared agreement on an environmental declaration today that obscured sharp differences over global warming in the interest of summit unity, U.S. and European officials said.

Instead, the seven economic summit leaders signed off on a deal struck Tuesday to implement a plan within a year to save Brazil's tropical rain forests, the officials said.

The West Germans did not press their earlier demands to set firm targets for reducing carbon dioxide emissions that are believed to be a major cause of rising global temperatures, U.S. officials said today.

As a result, the provision on global warming was cast in general terms for inclusion in the final summit communique being released later today. The agreement reportedly pledges an international convention on the issue by 1992, a position previously endorsed by President Bush.

Summit negotiators also debated a U.S. proposal to strengthen the tropical forest plan that is administered by the World Bank and various United Nations groups. Environmentalists have criticized the program as ineffectual.

During talks by the summit partners, representing the United States, Britain, France, West Germany, Italy, Canada and Japan, environmental issues were overshadowed by trade, farm subsidies and other matters, but there was general discussion of the so-called greenhouse effect in which man-made pollutants contribute to the increase in the Earth's temperature.

White House press secretary Marlin Fitzwater said there was "a basic commitment" to address pollution control and forestation, with specific mention of the Brazilian rain forests in today's communique.

West German Finance Minister Theo Waigel said the agreement included an urgent pilot project that would lead to a reversal of the current destruction of rain forests. Officials said the World Bank should oversee the project, but no cost estimates or other details were disclosed.

The decision to postpone action on global warming and hold a study conference conforms with President Bush's contention that more research is needed before taking such dramatic steps to curb greenhouse gases.

When the Economic Summit countries met a year ago in Paris, they agreed to "common efforts to limit emissions of carbon dioxide and other greenhouse gases which threaten to induce climate change." Environmental groups have accused the United States of failing to live up to that commitment.

The European Economic Community on Tuesday challenged the Bush administration to prove its contention that taking dramatic steps to halt the warming trend will stall economic growth.

Jan Laurens Brinkhorst, director of environmental matters for the European Economic Community, said the facts do not bear out the theory that curbing carbon dioxide emissions will slow economic growth.

Carbon dioxide is produced by the combustion of all fossil fuels. Brinkhorst said the world economy grew by 25 percent between 1973 and 1986 while energy consumption remained flat.

Economists agree, he said, that energy use could be reduced 15 percent to 20 percent in the course of a decade without major economic disruption.

"I would hope to see, in a serious way, the Europeans and Americans compare notes and acutally see what is true, (whether) you would have this tremendous difficulty in your economic performance if you would do something more" about carbon dioxide emissions, Brinkhorst said.

Carbon dioxide has been estimated to account for about 55 percent of global warming, but the timing and the degree to which the earth is expected to become hotter are uncertain.

QUENTIN BURDICK

Mr. ADAMS. Mr. President, it gives me a great deal of pleasure today to rise to pay tribute to my colleague and old friend, the senior Senator from North Dakota, QUENTIN BURDICK. Thirty years ago, QUENTIN BURDICK, following his family's tradition of long public service, was elected to the U.S. Senate.

QUENTIN BURDICK's appeal to North Dakotans has remained constant, as a champion of the family farmer and a tireless advocate of ethics and the voice for North Dakotans in Washington, DC.

As chairman of the Environment and Public Works Committee, QUENTIN BURDICK has initiated policies and legislation to control or eradicate acid rain and ground water pollution. He has campaigned for stricter guidelines regulating hazardous waste storage—the people of my State are grateful for this because of the nuclear waste we have there—and for legislation forcing oil companies to pay for oilspill cleanup costs. I hope that bill will soon clear so that this will be very much at the top of America's agenda. In this capacity, QUENTIN BURDICK has been in the forefront of legislation which enhances the quality of life for all Americans.

QUENTIN BURDICK is one of only 36 Senators in the Senate's history to serve 30 years. I congratulate and commend him on this tremendous achievement. QUENTIN BURDICK is a man of great strength and of marvelous character, and I am proud to claim him as a friend.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMERICANS WITH DISABILITIES ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, for the information of our colleagues, we have been trying for approximately 2 hours now to reach an agreement concerning the disposition of the conference report S. 933, the Americans With Disabilities Act of 1990. Several Senators have been involved in those discussions.

I regret to inform the Senate that they have been unsuccessful in arriving at an agreement governing the disposition of this matter.

This is a very important bill. This is landmark legislation of importance, not only to those members of our society who are disabled, but to all Americans, because it is reflective of our society as a whole, how we are willing and prepared to deal with those in our society who are disabled and yet who are and can be fully productive and constructive citizens.

Many Senators have labored long and hard over this legislation, and we are now at a critical point. I believe very strongly that we should adopt this conference report and proceed, and therefore I regret very much the inability of the interested Senators to reach agreement governing disposition of this conference report.

That being the case, I have no alternative but to move to the conference report without any such agreement, and we will simply attempt, here, to deal with and I hope enact this important legislation.

Therefore, Mr. President, all Senators who have an interest in this legislation, who may or may not wish to offer motions or amendments with respect to it, are advised to be present on the Senate floor immediately because we are going to take up the legislation.

This discussion on possible agreement has been going on for 2 hours without success, and there is no prospect of success, no matter how long the discussions continue. Therefore, we simply have to move to it.

Mr. President, I submit a report of the committee of conference on S. 933 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 26, 1990.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that during consideration of the conference report on S. 933, debate be signed as part of Senate television coverage today.

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

The Senator from Kentucky.

MOTION TO RECOMMIT S. 933

Mr. FORD. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion of the Senator.

The assistant legislative clerk read as follows:

Mr. FORD, on behalf of himself and Mr. RUDMAN, moves to recommit S. 933, an Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability, to the conference on the disagreeing votes of the two Houses on such bill, with an instruction that the conferees on the part of the Senate strike out the matter contained in section 509 of such Act and insert in lieu thereof the following:

SEC. 509. RIGHTS AND REMEDIES IN THE SENATE.

(a) COMMITMENT OF THE SENATE.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state or physical handicap.".

(b) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(c) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in subsection (b), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(d) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in subsection (b).

(e) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in subsection (b), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in subsection (b). Such remedies shall apply exclusively.

(f) MATTERS OTHER THAN EMPLOYMENT.—

"(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of the Senate regarding matters other than employment.

(2) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, after approval in accordance with paragraph (3).

(3) PROPOSED REMEDIES AND PROCEDURES.—For purposes of paragraph (2), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(g) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in subsection (b) and (f)(1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of subsection (a), (c), (d), (e), (f)(2), and (f)(3) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

Mr. FORD. Mr. President, this motion would recommit the ADA conference report and instruct Senate conferees to strike the language of section 509, regarding congressional coverage, and insert the text of the Ford-Stevens-Heflin-Rudman amendment No. 2112, adopted yesterday. In light of the overwhelming votes in the Senate yesterday on the issue of congressional coverage under the civil rights laws, it is necessary to take this action and to make clear the position of the Senate with regard to private rights of action.

While I had hoped that this procedure would not be necessary, there remains a concern that action needs to be taken to ensure that the Senate does not send an inconsistent signal to the courts and potential parties regarding separation of powers and speech or debate clause concerns under the Constitution. Although the Senate is now clearly on record in support of an exclusive internal remedy under the civil rights laws, the language of the ADA, if left unchanged, would provide a private right of action through the courts.

Let me be clear that I do not make this motion lightly, nor do I offer it to in any way delay the ADA conference report.

It is my understanding that the leadership supports this motion and that this action will expedite, and I underscore expedite, final action on the ADA conference report so that this important legislation can be submitted to the President for his signature.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an issue which was debated and debated fully during the course of last evening. The Senate has expressed its view clearly. As the chairman of the conference, I welcome this procedure for the reasons that have been outlined by the chairman of the Rules Committee. It makes eminently sound sense to avoid any possible confusion

in terms of future challenges that it might take.

As the Senator from Iowa will point out, this legislation was not to go into effect for 2 years. I personally believe the action that was taken last night would stand as the procedures that would be followed. But there has been expressed a concern by others in this body. We welcome the opportunity to return to the conference for that consideration, and we give assurance to the Senate that we would report back forthwith, and we hope perhaps even later in the day, with a conference report that will address this situation.

So I want to express my appreciation to the chairman of the Rules Committee and to Senator RUDMAN, Senator STEVENS, and to the other members of the Rules Committee. This has been a bipartisan recommendation. It makes sense for this institution. I hope it will be acted on favorably by the body.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I told the author of the motion that I am not going to ask for a rollcall vote. I would like to point out to both the author of the motion, as well as my colleagues generally, that for the goals that the Senator from Kentucky seeks, the way that his amendment was worded last night and how his amendment to the Civil Rights Act of 1990 amends the Americans With Disabilities Act and since the Americans With Disabilities Act does not go into effect for 2 years, there is really no necessity for the motion that the Senator makes. But he desires to make that.

Since we debated this issue fully yesterday, I informed him, when asked by Senator HATCH, that I would not ask for a rollcall vote or redebate this issue, but I did ask for a couple of minutes to express again, in summary form and for a short period of time, what I consider the situation to be and where, in the future, I will be coming from on this issue.

I want to underscore, Mr. President, my disappointment at the actions of this Senate on Tuesday night. There is no dispute that over the past 60 years, the U.S. Congress has passed law after law, all imposing onerous compliance and litigation burdens on small businesses and the public at large. But none of these civil rights or labor laws apply to the Congress. Congress has exempted itself every time. So the result, Mr. President, is two sets of laws in America: One for the public on Main Street, another for the Congress on Capitol Hill.

As I made the point last night, I think that this is a scandal and that we should end it. Two hundred years ago, James Madison wrote that it was essential that Congress make no law which would not fully apply to itself as also to the great mass of society. Madison was, of course, one of the chief architects of our form of representative government. He understood that the only way that the rulers and the people could be connected was if the rulers could taste their own legislative medicine. Otherwise, we in Congress would lack the consent of the governed.

We had the chance to end that double standard and the raw hypocrisy of laws that apply only to little people and to the powerless. But faced with my landmark amendment to apply the civil rights laws to Congress, last night we blinked. We rejected my approach in favor of one that allows the Congress to be the sole judge of whether it has violated the civil rights of congressional employees, prospective employees, or visitors to the Capitol. Until we right this wrong and give every citizen access to the courts, true civil rights and equal protection under the law will be but an illusion in America.

We lacked the votes last night, but do not ever confuse might with right. Notwithstanding this temporary setback, I will be back again and again on this issue until we get it right. I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I want to talk about a couple of things. I want to associate myself with the remarks made by my colleague, the senior Senator from Iowa, Senator GRASSLEY. We held the private right of action in the conference on the Americans With Disabilities Act, but obviously the Senate yesterday spoke loudly and very forcefully. The vote was quite overwhelming the other way. I wish the vote had been otherwise because I do believe that Congress ought to be covered in the same way that we cover local government, State government, and private industry with regard to employment and discrimination.

Obviously, the sentiment of the Senate is opposed to that. We had debated this thoroughly. We debated it thoroughly yesterday. I see no reason to debate it thoroughly today. Therefore, we will accept the amendment offered by the Senator from Kentucky and take that back to conference and adopt that in conference.

Beyond that, Mr. President, I want to say how pleased I am that we are now at the point where we can actually see the light at the end of the tunnel on the passage of the Americans With Disabilities Act. It has been a long time aborning, as they say, at least over 2 years since the initial bill had been drafted. We have had Senate hearings and House hearings. It has been through all the committees in the House and Senate, debated on the floor here, in the other body, and through conference. I think every word, every sentence, every paragraph has been thoroughly scrutinized. Some changes have been made to accommodate different interests as it has gone along, but I think what we have now in the Americans With Disabilities Act is a bill that really is the 20th century emancipation proclamation for our disabled Americans.

It gives hope and beyond even giving hope, it gives the assurance that there will be opportunity in the future for disabled Americans, the same opportunity to enjoy all of the facets of life that all Americans enjoy—education, travel, public accommodations, communications, employment or, as one young 14-year-old girl with cerebral palsy said, "All that is fine; I just want to go out and buy a pair of shoes like anybody else."

That is what the ADA does. It provides our disabled Americans the right, the right they should have had many years ago, to enjoy fully all aspects of American life so that they will be judged on the basis of their abilities and not their disabilities, so that they will be able to use those abilities to make our country more productive and to make us a more caring and decent and humane society. It is, as the leader said, a landmark piece of legislation, I think the most important civil rights legislation since 1964, one that is going to change the way we live and the way we associate with one another in all aspects of our livelihood.

So we should get on with the business of moving this legislation forward. There were two sticking points in conference, one regarding the congressional coverage, which now has been taken care of, and the second dealing with the so-called Chapman amendment and dealing with food handlers, and I understand that there will be at least one, if not two, amendment, offered in the Senate this afternoon dealing with that aspect of the conference report. I assume that those amendments will be offered shortly.

Before I yield the floor, I pay a very special thanks and express my admiration to the chairman of our committee and the chairman of the conference, Senator KENNEDY. Senator KENNEDY has shepherded this bill through all of the hearings in our committee, on the floor. He was most kind to allow me, as the author of the bill, to be the floor manager. I thank him for that.

I again publicly thank Senator KENNEDY for carrying this bill forward, for making sure that we acted on it, we deliberated on it, we acted on all the various facets and disagreements that people had on it, bringing people together from the administration and the business community, from the disabled community on both sides, the House and the Senate, to make sure we worked it out and got it to this point. I can honestly say that without his very strong and forceful leadership, we would not have had the Americans With Disabilities Act before us today.

I also thank the ranking minority member of our full committee, Senator HATCH. Like Senator KENNEDY, he, too, has been diligent in making sure that we all worked together to work out the disagreements, various insights that people brought to this bill, to make sure that we made the accommodations to the various interests that would be affected by this bill. Senator HATCH every step of the way has worked very closely with me, Senator KENNEDY, and all of the members of the committee to make sure we would get this bill through. This is truly a bipartisan effort on both sides of the aisle, and Senator HATCH has been in the forefront of leading that bipartisan effort.

I notice my dear friend and colleague from Minnesota here today, who is the ranking member on the Disabilities Subcommittee, Senator DURENBERGER. Again through all of the long sessions, evenings, the long meetings that we have had to work on this bill, Senator DURENBERGER has been a stalwart in making sure that the disabled in this country get this bill through and get it through in a fashion that ensures their rights to, as I said, a full and productive life in our country.

Senator DURENBERGER has been a great supporter of this legislation. I want the record to show that he has with us, in a very bipartisan manner, fought long and hard to make sure the Americans With Disabilities Act gets through and down to the President for his signature, because I know that he cares and cares very deeply about the bill and about the people who will be affected by the bill.

Mr. President, I have nothing further to add. I yield the floor.

Mr. KENNEDY. Mr. President, I will take a moment because we want to expedite consideration of the conference report, return to conference and return in order to get favorable consideration and have this conference report to the President of the United States immediately. I understand he will enthusiastically sign the bill upon arrival.

We reported this legislation out of our Labor and Human Resources Committee, as the floor manager and the principal sponsor of the legislation, Senator HARKIN, will remember, in August of last year. About 1 month later the Americans With Disabilities Act overwhelmingly passed the Senate. So this has been a long and ongoing process.

I too want to commend many of those who have been involved in bringing us to the point we are today.

I thank the Senator from Iowa for his kind works, and I want to point out to the Membership that the Senator from Iowa has been the real spear carrier, the real leader, the real captain of this effort. He has picked up where our former colleague, Senator Weicker, had brought us. Bringing attention and focus to disability issues and to the recommendations that came from various commissions a number of years ago. He has accepted the important responsibility of working for, and with, the handicapped in our society.

This legislation is the culmination of an extraordinary effort on his part, a bipartisan effort in our committee and with the support of the President. We certainly welcome the support of the President.

It really is an extraordinary culmination. It is with a certain sense of irony that we are considering this legislation just at the time we are addressing the Civil Rights Act of 1990. During the period of the late 1950's and in the early 1960's this country made remarkable progress in eliminating many of the attitudinal barriers of discrimination in our society. We did it in the 1957 act, 1964, 1965, 1967, 1968 Civil Rights Act, but we also did it in the beginning with title VII programs. We began to make progress in dealing with discrimination of the disabled at the workplace. We also began to make some important progress in eliminating discrimination against women in our society—the equal pay legislation—all designed to try to eliminate stereotypes that resulted in discrimination, harshness as a result of ignorance.

Mr. President, I think we have made progress. We have important areas where we have to do more. But this legislation is, for 43 million disabled Americans, a most comprehensive, elaborate, and a forthcoming piece of civil rights legislation. It not only deals with physical barriers but it does much to deal with the mental concepts that have captured the minds of too many people in our society. As a result of ignorance, such mindsets have brought about the kind of disability related discrimination that has limited people with disabilities in so many ways and has prevented them from realizing their true potential. People with disabilities have so much to give to our country and to our society.

It is time we do all we can to facilitate opportunity.

So this, as the Senator has pointed out, is a monumental piece of legislation. It is an extraordinary achievement. It is the result of a strong bipartisan effort.

I must say that when this legislation is finally signed into law, the Senator from Iowa will be the one that history will write has been the real spirit behind it. I congratulate him, and look forward to joining with him in completing this process and moving rapidly toward enactment.

I yield the floor.

Mr. DURENBERGER. Mr. President, this is truly a great day for the 43 million Americans with disabilities as we take the final step of ensuring basic civil rights protections for people with disabilities.

As has been said before, it was just over a year ago when our colleagues, Senator HARKIN, Senator KENNEDY, Senator HATCH, Senator BOB DOLE, and I sat down with the administration to develop the bipartisan compromise agreement that is before us today. The strength of that original agreement and the determination of those fighting for the rights of persons with disabilities carried it through what some thought would be an impossible task—that is the rigorous scrutiny of our different House committees.

The reason we are here today is simple—we can no longer tolerate, and we can no longer afford, discrimination on the basis of disability. The time is long overdue that people with disabilities be treated with the dignity and respect they deserve. Eighteen years ago when Congress was debating the Rehabilitation Act, the then senior Senator from Minnesota, Hubert H. Humphrey stated:

> The time has come when we can no longer tolerate the invisibility of the handicapped in America . . . these people have the right to live, to work to the best of their ability—to know the dignity to which every human being is entitled.

As freedom and the fight for human rights swells aboard, it is time to complete the work we began 25 years ago by opening all aspects of life—employment, public accommodations, public services, transportation, and telecommunications for persons with disabilities.

A lot of time has been spent debating what the costs will be under this bill. And, as with any legislation, this is very important. But what sometimes gets overlooked are the many benefits of the bill. This bill is about changing lives in ways that we cannot begin to measure here in the Congress. I began this process by telling a story about a young woman who is a constituent of mine. She has a bachelor of science degree in psychology and home economics and a masters degree in food science and nutrition. On the regis-

tered nutritionalist examination, she ranked in the top 10 in the Nation. But this young woman has cerebral palsy. Job after job she applied for, she was turned down. At a job interview at a metropolitan hospital, she was told why. She was qualified, but her fellow employees would not be comfortable working with a person who is disabled.

This bill will not only change the lives of those like this young women who live with disabilities every day of their lives, but will also change the lives of those of us without disabilities by removing the shades many of us wear and focusing on a persons abilities rather than one's disabilities.

There are also very real and measurable benefits of this bill as well. The economics, Mr. President, are simple. Over the next decade, the United States will be in a fight for our economic survival. We are facing a shortage of educated and trained labor. And we simply cannot afford to waste the talents of people with disabilities. We are also facing a serious budget crisis. And we cannot afford to pay welfare benefits to people who can work and who want to work but are unable to because they are regarded as not being fit enough to work. The ADA will give people with disabilities the level playing field they need to become a full member of society.

Making these simple changes and giving people the opportunity to become self-sufficient we are also decreasing the amount of Federal money being spent to support individuals with disabilities at the same time we are increasing tax revenue.

In the conference agreement before us today, the Senate adopted most of the changes offered by the House—making only minor technical or clarifying changes. The two issues the Senate was not willing to move to the House position on were the addition of the Chapman language that would have allowed employers to move and employee with a contagious disease from a food handling position. And the issue of Senate coverage.

On the issue of the Chapman language, the conferees felt that the addition of this language went against what it was we were trying to accomplish in the bill and would actually do more harm than good. On the issue of Senate coverage, the conferees felt that the Senate should hold the Senate to the same standard under this bill that it is holding the private sector. In doing this it retained an individual's right to a private right of action against the institution.

I understand that there are some who would like to tie up final action on this bill by offering motions to remove these two sections. I hope we will reject these motions and move forward to final passage.

As this legislation comes to a close, I would like to take just a moment, Mr. President to mention a few of the people that have been so important in my education about the needs and problems of persons with disabilities and who I have relied upon on this bill. While there are too many to name them all here, I would just like to thank a few, including:

Mike Erlichman, former director of the Minnesota Council on Disability and currently with the regional transit board who has been tireless in his efforts to advance the rights of persons with disabilities.

Bill Malleris who runs the Southeastern Minnesota Center for Independent Living and who has shown us that the things we are talking about in this bill are possible because he has done them in Rochester.

Dave Schwartzkopf, who was recognized as the President's Committee Disabled American of the Year for his work at IBM and with the State rehabilitation program.

Colleen Weick from the Minnesota Developmental Disabilities Council who has long helped me out on all disability issues. Ralph Neas, who was my former legislative director, and who is currently at the leadership conference on civil rights and who has been instrumental in this legislation. There are others, including Rachel Wobschall, Sue Abderholden, Margo Imdieke, Lea Welch, Elin Ohlsson, Mary O'Hear Anderson, Jay Johnson, Jan Jenkins, and Marge Goldberg and the rest of my disability task force.

I would also be remiss if I did not mention the outstanding work of my distinguished colleague from Iowa. There has not been any Member in this body who has spent as much time as he and his staff have in developing and holding together this bill. He has truly done a textbook job in handling and moving this legislation through Congress. I must also mention the extensive work by the Senator from Massachusetts, the Senator from Utah, and the distinguished minority leader. Also, there is no doubt in my mind that we would not be here today without the deep and firm commitment by President Bush to this legislation.

Again Mr. President, this is a great day in the history of our Nation's continued efforts to lead by example in the expansion of human rights for all people. The President had requested that we finish this bill before we adjourn for the Independence Day recess. We have already missed that deadline once. The time is now, Mr. President, to open our doors and to bring all Americans into the mainstream.

Mr. President, in light of the comments that have already been made I would, as the ranking Republican on the subcommittee, want to say something about several people that is not detailed in this brief statement.

Somebody who used to work for me said to me recently:

> There is almost no question but that Lowell Weicker is going to be the Governor of Connecticut. He is like a 100-pound gorilla and nobody can catch up with him.

I think those of us who came to the Senate while Lowell was sort of back benching there know that every time he stood up he made a substantial impression. It was not so much a matter that he was selective about when he stood up, and it is not just his physical dimension. It was because Lowell Weicker chose to take on the kinds of causes in this place that nobody else would touch. They would usually be presumed to be losing causes. There were only so many folks on this side. There were a lot more on the other side.

He did that all of the time. He made a lot of people mad and angry because we were able to get on about the stuff that the majority of folks care about.

Was George Bush's lips moving or not? Are we not talking about Americans with disabilities today? Or are we talking about raising taxes or the deficit?

Lowell was one of those people who stood up and said, I want to talk to you about somebody who could not be here today.

So I am just very fortunate that when I was appointed to the Labor and Human Resources Committee I could sort of step in the shoes that size, and I am happy about beginning to fill them.

But I was fortunate to stand next to two people who have been doing this long before I—the chairman of the committee, Senator KENNEDY, and the ranking member of the committee, Senator HATCH. But then a very special person who lives right next door to me in the State of Iowa, who again while he is not as tall as Senator Weicker, he is not as wide, he does not have those sort of physical dimensions, but when TOM HARKIN talks about his brother, talks about the folks in his neighborhood, when TOM HARKIN talks about the people that do not have the advantages that he and you and I and others have, he talks about them in the sense that they have advantages we do not have, advantages of their disabilities, whether they were acquired, or they were born with them—the tremendous advantage that people with disabilities have that the rest of us do not have. The current President of the Senate I think understands that.

For those of us who do not consider ourselves blessed by those that do have those disabilities, it is only infrequently that we get to legislation on that particular subject. The Ameri-

cans With Disabilities Act is that kind of a piece of legislation.

I think it is amazing that we are down to two issues today, two very disparate sort of issues. I hope we will be able to resolve them. I certainly hope that my colleagues will reconsider the actions which they took on the amendment when they were here when they were instructing the conferees. It does not represent certainly the will of the majority of the people in the conference.

I hope that they will look carefully at another proposal which is much like it but I think more in tune with the Americans With Disabilities Act that is being presented or will be presented by our colleague from Utah.

Finally, Mr. President, I want to say something about another person who continues to be the champion of people with disabilities, and that is the former majority leader, now the minority leader, the Republican leader of this body.

BOB DOLE continues to surprise everybody by the many seemingly small and certainly not well-publicized ways in which he, not only in his daily personal life but in his life as a political leader in this place, is demonstrating not only the rights of persons with disabilities. And I have had the opportunity in many kind of quiet ways to watch him at work and to see him do it. I see him land in the middle of these impossible conferences and walk up a key time, put people together, and solve problems.

So it will not be a complete testimonial to those in this body who have striven for an awful long time to bring civil rights guarantees to people with disabilities unless we were to credit the senior Senator from Kansas with being the person who today in this body most represents the rights of persons with disabilities.

Having said that, Mr. President, and I compliment my colleague from Iowa once again for his leadership and able assistance in making that leadership possible, I yield the floor.

I suggest the absence of a quorum.

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

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

The Senator from Iowa is recognized.

Mr. HARKIN. I ask unanimous consent that Senator HATCH be recognized to offer a perfecting amendment to the pending motion; that there be 80 minutes, equally divided, for debate on the Hatch amendment; that upon the completion of yielding back of the time on the Hatch amendment, the amendment be laid aside and Senator HELMS be recognized to offer a second perfecting amendment to the pending motion; that there be 80 minutes equally divided for debate on the Helms amendment; that upon the completion of yielding back of time on the Helms amendment, the Senate, without any intervening action or debate, proceed to vote in the following order: the Helms amendment; second, the Hatch amendment; third, the Ford motion to recommit as amended, if amended; and that hopefully will be by voice vote; that the agreement be in the usual form; and that no other motions or amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, it is my understanding that both sides will be given 80 minutes, and my amendment will be called up first, with 80 minutes equally divided, with no amendments thereto, no motions thereto, and then the Helms amendment will be called up under the same terms and conditions, and then at the end of the expiration—his will have 80 minutes as well—of the time, assuming some will be yielded back, then we vote, first, on Helms and, second, the Hatch amendment; is that correct?

Mr. HARKIN. That is correct, yes.

Mr. HATCH. There will be no motions to table either of these, and there will be up-or-down votes back to back. That way our colleagues will have time to know when these amendments are going to come up.

Mr. FORD. Reserving the right to object, Mr. President, the final vote on the recommittal motion will be up or down or a voice vote, as amended, if amended?

Mr. HATCH. Right. Is that all right?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. I want to inform my colleagues that I do not intend, nor do I think anybody on this floor intends, to take the full 80 minutes on the Hatch amendment. I want to explain it so that everybody will know it, and the Senator from North Carolina may take some time on it, and I suspect we will not take the full 40 minutes of our time on the Helms amendment either.

It should be less than the total of 160 minutes. So I inform our colleagues it is going to take 160 minutes.

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

AMENDMENT NO. 2118 TO THE FORD MOTION

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2118 to the Ford motion.

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

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

The amendment is as follows:

At the end of the instructions add the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall—

(1) publish a list of infections and communicable diseases which are transmitted through the handling the food supply;

(2) publish the methods by which such diseases are transmitted; and

(3) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(b) In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under (a) which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(c) Nothing in this Act shall be construed to preempt, modify, or amend any state, country, or local law, ordinance, or regulationj applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accomodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

Mr. HATCH. Mr. President, I am pleased that we now have the opportunity to take action on the conference report on the Americans With Disabilities Act. As a cosponsor of this important legislation, I am proud to have played a part in crafting this legislation. While I do not agree with everything in this bill I think there has been a tremendous effort to try to resolve the problems affecting the communities of persons with disabilities, persons and families and all others who are interested in these issues.

I think there can be no mistake that what is before us is a bill that has been subjected to many long hours of complex negotiations, first in the Senate and then in the House and then finally in conference. As such there has been much give and take which on balance produced a remarkably worthwhile piece of legislation which will provide an estimated 43 million Americans with disabilities, the fundamental rights to equal opportunity which everyone deserves.

Many individuals deserve credit for their efforts but more than anyone I recognize the genuine personal commitment of President Bush on this issue. The President made a genuine commitment from his heart to the citizens of our Nation with disabilities that legislation assuring them equal opportunity would become law. We are

now on the verge of seeing that commitment become reality.

In this bipartisan spirit, I recognize the outstanding leadership of the chairman of the Labor and Human Resources Committee, Senator KENNEDY, the ranking minority member of the Subcommittee on Disability Policy, Senator DURENBERGER, and subcommittee chairman, Senator HARKIN.

These congratulations also go to their respective staffs who have done a terrific job throughout on this bill.

Mr. President, time and time again those individuals with disabilities, with whom I have had the privilege to speak have stressed the fundamental desire to be granted the same opportunity to work and be independent as anyone else. They do not expect anything more. They do not ask for equal results, which is quite a contrast with the civil rights bill of 1990 which is currently before the Senate as well. They do not ask for these equal results. They only expect and deserve equal opportunity, and that is why I think this is a very good bill and that is why I support it.

Mr. President, the issue raised by both Congressman CHAPMAN and Senator HELMS regarding the ability of a restaurant owner to remove someone from a food handling position if they have a communicable or infectious disease has raised many tough issues to resolve for all Members of this body. I would like to briefly raise some of the concerns on the impact of the Americans With Disabilities Act on the public health impact of communicable and infectious disease.

There is no question that we, in Congress, want to protect all citizens from wrongful discrimination. At the same time, there are occasions when there may be a public health threat if we permit certain people with a communicable or infectious disease to expose or transmit the disease to others. The most important question we must pose is how certain diseases are spread and what are the risks of exposure.

In the 19th century, our Nation feared those with leprosy. Isolation was the only known preventive measure. Today, we know that that type of treatment is no longer necessary.

In the 20th century, polio struck with harsh vigor and our fears were only allayed when vaccines were introduced. Today, there are many infectious and communicable diseases that are transmitted in a variety of ways. For example, tuberculosis is transmitted by close contact for protracted periods.

Fear of disease can only be stopped when we all have an understanding of how the disease can be spread and how we can prevent the diseases' transmission. One important protection that our society has created is the development of local ordinances which protect the public from the transmission of diseases by certain workers in specific employment situations. These ordinances have been developed with the help of the Public Health Service at the Department of Health and Human Services to prevent the transmission of certain diseases. For years, these local regulations have provided citizens with protections based on our current understanding of the epidemiological makeup of various illnesses.

I have heard the arguments made by the proponents of this amendment that there may be economic reprisals against those restaurants that employ food handlers with an infectious or contagious disease. And, I have heard the discussion that the Americans With Disabilities Act will unravel and preempt those State laws which provide protections for our citizens against unwarranted exposure to communicable or infectious diseases.

To both of these, I have offered this amendment and my amendment would do three things.

First, it will require that the Secretary of Health and Human Services make available a list of all communicable or infectious diseases within a period of 6 months after the enactment of this bill. In addition to a listing of such diseases, require that the report detail the disease methods of transmission and, in particular, which diseases pose a risk by transmission and, in particular, which diseases pose a risk by transmission through the food supply.

This information should be updated annually because of our knowledge of disease transmission and the etiological aspects in disease transmission may change.

Finally, this listing will have massive distribution so that all Americans will have a greater understanding of how to prevent the transmission of certain diseases and how to treat those with infections and communicable disease.

Second, this amendment states that if an individual has an infectious or communicable disease on the list and is a food handler, that the employee may be reassigned.

Third, this amendment protects appropriate State and local public health ordinances.

Education can reduce fear. Understanding can allay concern. Americans are compassionate and they are a generous people. But, they need the facts. And I believe that we should give them the facts so that they can protect themselves and their families from the transmission of certain diseases. Our public health service has the expertise and the research capacity to provide Americans with this information and it should be broadly distributed. Requiring them to make such information available on communicable or infectious diseases is one way to ensure that there would be no reparations against those who would employ individuals' with infectious or contagious diseases that cannot be transmitted by certain employees conducting certain activities.

The final issue, and one that is more complex, is the legal question that arises over the preemption provisions contained in the Americans With Disabilities Act. The preemption provision is found under section 501(b) and reads:

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

I am concerned that this language may provide for the preemption of State and local ordinances which protect the public health. That is why I am proposing in this amendment that we clarify that nothing in this act shall be construed to preempt, modify, or amend any State, county, or local ordinance applicable to food handlers.

I urge my colleagues to support this amendment. It provides public health protections against diseases that can be transmitted through the food supply and it retains important local and State public health ordinances.

This is an important amendment. Basically, it is geared to do away with fear and prejudice that can be utilized against certain citizens where there is no justification at all for that fear. I do not think there is ever a justification for prejudice, but there is absolutely no justification for the fears that some of our citizens have with regard a misunderstanding of fact.

Second, this amendment places a premium on science. Under the amendment, we send a loud message that we are not just going to rely on blind fear as a basis for decision. Instead, we clarify that we are going to rely on the best available science, and that will be the obligation of the Secretary of Health and Human Services. I think that is an obligation, that he or she, whoever it may be, but certainly Dr. Sullivan will take very seriously and will apply the finest science available to determine what diseases should and what diseases should not be placed on this infectious or communicable disease list.

I think that is very, very important because up to now I have not seen science being used as a major basis for the determination of some of these issues. I think if we would rely more on science and a little less on fears and misperception we would be better off

as a society, as a nation, and there would be less prejudice. And, of even more importance, there would be fewer people hurt in the final analysis and ours would be a far better society.

Clearly, the real purpose of this bill is to provide a remedy for discrimination that has been exhibited against those with disabilities from time immemorial. The real purpose of this bill is to just give them a chance, to warrant their right and their franchise to be equal human beings. The real purpose of this bill is to give them the opportunity to participate like anybody else and to be able to earn their living and to be able to support themselves and to be able above all to be independent.

These are important issues. I think this bill solves them. This amendment includes the Chapman language. It includes the Chapman language. The only difference is that we do require the Secretary of Health and Human Services to come up with this list of infectious and communicable diseases based upon the best available science, not somebody's best available fears or somebody's best available prejudices or somebody's best available discriminatory actions. Science rules.

And, so we have the Chapman language in this amendment and we have added to it the State and local government preemption so that the State and local governments have the right to set their own standards within certain parameters. I think it is the right thing to do, in that sense, as a supporter, a prior supporter of the Chapman amendment, one who worried about whether we should support it or whether we should not, worried about the prejudice that amendment might result in, worried about the cost of that amendment and the cost in human suffering and sacrifice, and voted for it because on balance I considered it a public health amendment.

We have incorporated these public health concerns in here. We will have a list by the Secretary listing the real communicable and infectious diseases which will be prepared and disseminated so that everybody can know the facts. That is the way to do it.

I think this is a good, reasonable approach to resolve this issue and matter, and to do so without prejudice, without fear, without innuendo, without some of the invalid arguments that we have been used to hearing, I might add, at that, while still protecting the public health interests of the people of our Nation. This is unmistakably a public-health oriented amendment. It is not based on fear. It is based on sound science.

I hope our colleagues will consider it and will vote for it, because I think it will do virtually everything that the Helms amendment will do, and be much more fair in the process, or I would not have filed it to begin with.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Will the Senator yield me 10 minutes?

Mr. HARKIN. How much time do we have?

The PRESIDING OFFICER. Forty minutes.

Mr. HATCH. I will yield to the Senator.

Mr. HARKIN. I will yield to the Senator.

We will both yield to the Senator.

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

Mr. President, if you just walked into this body and watched the Senator from Utah work on one bill, it might be a little confusing to you. If you had been here the first time the ADA was around and the Chapman amendment was on the floor, the Senator from Utah voted against the Chapman amendment.

If you had been in the conference committee with us, Mr. President, you would have seen the Senator from Utah argue very, very strongly for the Chapman amendment language. The Chapman amendment language reflected a majority vote in the Senate. And what the Senator from Utah has said about it here today is important.

But today, he is strongly advocating the Chapman language with some changes. And it is a tribute to the Senator from Utah as the ranking member of the full committee, and I think we have seen him do this before, what is really important here is not just how he feels at this particular time about an issue, but how strongly he feels about the underlying issues in the bill.

The Senator from Utah feels very strongly about the work that went into ADA. He was not one of the original sponsors of the bill. He had differences of opinion with a lot of us on this bill. But the bill would not be here today as the civil rights bill for people with disabilities in America if it were not for the Senator from Utah.

So the Chapman language would not be before this body today in a vastly improved form from the one that went to the conference committee from either the House or the Senate if it were not for the Senator from Utah.

What the Senator has done is to take the so-called Chapman language and improve on it in the ways that he has already pointed out: Very specifically, instructing the Secretary of HHS, using the resources of the Center for Communicable Diseases and all the other resources. If he wants to use the National Academy of Sciences, he can do that. All of the resources that are available to us: The Centers for Disease Control, the American Public Health Association expertise, people from the Association of State and Territorial Health Officials, American Medical Association; all these people are involved with the process of making determinations about what kind of disease, what diseases are communicable and under what circumstances.

So the issue of what diseases are communicable, which present a significant risk in the area of food handling, we take it from the area of fear, we take it from the area of misperceptions, we take it from the area of a lot of the restaurant owners being concerned and upset, and some of them angry about the issues they favored, such as equal access, and we put it in the context here where, according to this amendment, those people now will help us all decide under what circumstances certain diseases may or may not pose a significant risk.

In the other issue, and here again a vast improvement on the Chapman language from either the House or the Senate, is the section which in the amendment of the Senator from Utah is subsection (c):

> Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others * * *.

Et cetera. This is a very significant amendment. Where do you think a lot of the protection, particularly in the area of food handling, goes on today? It goes on at the local level. It goes on under the authority of State health officials, county health officials, municipal health officials.

> Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health * * *.

I think that section, too, Mr. President, is a very significant improvement on either the House or the Senate language.

I think those of us who opposed the Chapman language on the floor, who opposed the Chapman language in the conference committee, did so for a couple of reasons. One, because we know from those who stake their professional lives on knowing that the facts about contracting AIDS or other bloodborne diseases through the handling or preparation of food or beverages is very simply that AIDS is not communicated through the handling or preparation of food or beverages.

We have all seen the opinions of Dr. Sullivan, Dr. Bill Roper, and a wide variety of other people on this subject. And as all of us have said, the issue is an issue of public health policy. There are provisions in the Americans With Disabilities Act that protect the rights of restaurant owners and other persons to be able not to hire or to fire persons who have demonstrable communicable diseases.

So the ADA itself has built-in protection. But if you care about the issues of public health, you care about the fear that is potentially prevalent in America around the kind of prohibition that was in the original Chapman language.

You care about the fact that, in the presence of fear, a person who does test HIV positive is not going to seek any kind of advice or assistance, is not going to tell anybody about the result of that test, and the problems that the Nation would be faced with would be even greater than they are.

Mr. President, to be absolutely certain about the issue of the communicable nature of AIDS as it relates to food handlers and so forth, I also checked into other blood-borne diseases. Knowing that hepatitis B, for example, which is also a blood-borne disease and is known to be much more durable, a much more contagious disease than AIDS, I checked on the current policy for this disease as well. The Centers for Disease Control do not require, and actually recommend against, restrictions being placed on food service workers with hepatitis B. They do not believe that there is evidence to warrant such a policy. According to their records, there has never been a reported case of contracting hepatitis B through the handling of food. That is a much more long-lasting and a much more contagious, in that sense, communicable disease than is AIDS.

Past experience with other diseases like cancer, polio, and epilepsy has shown us that there is always fear and prejudice in the early stages of an unknown disease and that only education overcomes those fears and misperceptions.

Mr. President, this year we have spent, I believe, $360 million educating people about the facts of AIDS. What is most significant about the Chapman language is what it does to these efforts to educate people about AIDS, efforts to protect the public health and safety of all Americans.

I said earlier that the Chapman language is about public health, and, as a legislator, I had to ask myself what is in the best interests of protecting the public health of all Americans. After a full review of the matter, I would say the current language in the bill that allows an employer to fire or not hire anyone who poses a direct threat to the health and safety of others is a greater protector of the public health than that contained in the original Chapman amendment.

Finally, Mr. President, I would like to say a few things about the position of the Restaurant Association and others who support the original Chapman amendment and who, I hope, if they had time to read the Hatch language, would be supporting the Hatch language as well. Because I do believe they have pointed out a serious gap in our national efforts to educate people about the facts about AIDS. We spend $363 million on AIDS education, but most of that money, nearly 90 percent of it, is targeted to special populations for counseling, testing, partner notification, and so forth. Only 11 percent of the money is used to educate the general public, and even that is spent primarily on an AIDS clearinghouse and an AIDS hotline.

Mr. President, this is where I believe we need to focus our efforts. We need to do a better job of educating the general public about AIDS and the communicable nature—or the noncommunicable nature, where that is the case—of that disease. And we need to help people like America's restaurant owners, especially in our smaller cities, in their efforts to educate people about AIDS. I think this would be, in combination with the Hatch amendment to the ADA, a much more effective way to handle the problem and would not raise the discriminatory issues that the Chapman amendment does.

As one who opposed the original Chapman amendment while the Senator from Utah was favoring it, I suggest to all my colleagues in the Senate that the Senator from Utah has come up with another miracle and he has found a way to bring us all together around a very difficult issue about which there is much fear and an awful lot of misunderstanding. I hope those on both sides of the aisle and on both sides of the original Chapman language will support the amendment of the Senator from Utah because it takes the original intent of Chapman and strengthens it through the listing process, the authority to the Secretary of Health and Human Services, and it also particularly prevents the Federal preemption from being a problem as well.

I strongly urge the adoption of the amendment of the Senator from Utah.

The PRESIDING OFFICER (Mr. CONRAD). Does the Senator from Minnesota yield the floor?

Mr. DURENBERGER. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield whatever time the distinguished Senator from North Carolina needs.

Mr. HELMS. Mr. President, I have a parliamentary inquiry. The unanimous-consent agreement to which I agreed specified 80 minutes equally divided. Was a different unanimous-consent agreement agreed to?

The PRESIDING OFFICER. The unanimous-consent agreement provided for 80 minutes on each amendment, to be divided equally between the two sides in the usual form.

Mr. HELMS. I thank the Chair. So what the Chair is saying is that I have 40 minutes on the Hatch amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. By the same token, Senator HATCH would have 40 minutes on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I yield myself such time as I may require.

I believe Senator NICKLES may be on his way to the floor and perhaps Mr. ARMSTRONG, Mr. WALLOP, Mr. COATS, Mr. BURNS, Mr. GRAMM, and others who were cosponsors of the original effort to preserve the Chapman amendment.

I was very interested in listening to my dear friend from Utah, and he is my friend, Senator HATCH, when he identified three things which he said his pending amendment does. But he neglected to mention a fourth thing that his amendment will do. It will gut the Chapman amendment. For the purpose of emphasis let me repeat: It will gut the Chapman amendment, render it totally nugatory, which I will demonstrate a little bit later.

Bear in mind that the Senate went on record, by a vote of 53 to 40, to instruct the Senate conferees to preserve the Chapman language, which was then in the House version of the ADA legislation. The Senate conferees, perhaps not all that surprisingly, paid no attention to the Senate's instructions, and the Chapman amendment was dropped by the conferees.

Let me say Senator HATCH voted to preserve the Chapman amendment, as did the distinguished Senator from Iowa [Mr. HARKIN], and I am grateful to them.

This amendment, let me say again, will gut the Chapman amendment. It is cleverly drawn, but I have a habit of reading the fine print in pieces of legislation around this place. I say again, for Senators who may be listening, or their staffs, if the Hatch amendment is approved, then the Chapman amendment is dead.

What did the Chapman amendment say, the amendment that this Senate approved by a vote of 53 to 40? Let me read it. It says:

> It shall not be a violation of this act for an employer to refuse to assign or continue to assign any employee with an infectious disease or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

I do not know how that is discriminatory.

Mr. President, when the time has expired on the Hatch amendment, I am

going to offer an amendment which will preserve the Chapman amendment. My amendment will instruct the conferees, once more, regarding the Americans With Disabilities Act, to adopt and accept an amendment which is vital to the well-being of the American restaurant industry, the American meat packing industry, the American convenience store industry, and the American beverage industry.

But more important, it will address a concern that exists throughout this country. When the Americans With Disabilities Act was debated in the House of Representatives, that body adopted an amendment offered by the distinguished Congressman from Texas, Mr. CHAPMAN. As I have just indicated by reading the Chapman amendment it would allow employers to transfer an employee with AIDS or HIV out of a food-handling position into another job not involving contact with food.

Let me pose a question to the Chair and any Senator who may be interested or anybody who may be watching these Senate proceedings on C-Span. If you knew that the chef of a restaurant which you have been patronizing had AIDS, would you go there? Rightly or wrongly, would you stop going there? I have taken a little poll just this afternoon among people going in and out of the Cloakroon and unanimously they said they would stop. One young man said that his parents stopped patronizing a delicatessen for that very reason. Although they do not know whether AIDS is communicable, because of the hysteria whipped up around here they have been led to believe AIDS is everywhere. They will acknowledge that.

Just suppose a chef in a restaurant who has AIDS or is HIV positive is chopping up a salad and he cuts his finger. Do you want to eat that salad? I would like to poll the people in this Chamber and see whether they would nor not. Restaurants have closed because the patronage dropped to nothing.

Under the provisions of the Chapman amendment, which the pending amendment by Mr. HATCH would destroy, the new position given to this employee with an infectious or communicable disease, specifically AIDS or HIV, must be one for which the individual is qualified and for which the employee would sustain no ecomomic loss.

The owner of the restaurant cannot fire him, but he can transfer him to a job in which he does not handle food. You can call it hysteria all you want to, but you better believe that the vast majority of people who eat in restaurants do not want to have their food prepared or handled by people who have AIDS or who are HIV positive.

Why was the Chapman amendment justified? I think that answer is obvious. In the ADA legislation, as presently drafted, an employer, like an operator of a small restaurant, cannot transfer an employee out of a food-handling position unless that employee poses a significant risk to the health and safety of others.

In the instance of AIDS, there are some who contend that the employee with AIDS or HIV would not pose a significant risk to the health and safety of others because AIDS is supposedly—as far as science knows right now—unable to be transmitted through food. The scientists also do not believe that AIDS is communicable by food, drink, or casual contact. They call that conventional wisdom. The conventional wisdom can't even say why many thousands of American have AIDS. I do not want to go to that convention. I do not want to take the chance. I do not want to put the restaurant operators under that gun, and I certainly do not want to put their customers under that gun.

In other words, Mr. President, just try to explain that reasoning to John Q. Public. It may be wrong or it may be right. Nobody knows, and that is the point. They say as of now we do not think it is. Senator HATCH will come back and say there is no evidence. Maybe not, but I say to him, explain it to John Q. Public. Explain it to the operator of the restaurant. Why not err on the side of the people?

People who operate eating establishments, dining establishments in this country, know their livelihood is dependent largely on public perception. If the public is led to believe that there is a health risk, the business will be destroyed. There is no question about it. This has already happened, and I will allude to that later on.

The reality is that restaurant patrons are alarmed about the spread of AIDS. And well they should be. There has been much publicity and much oratory, political in nature, about the so-called AIDS crisis. It is understandable that the people are concerned about it. I am concerned about it. I think anybody who is honest will say that he or she is concerned about it.

It is remarkable, Mr. President, I think—and get this—that the Health Services Division of the Bureau of Prisons prohibits prisoners who are HIV positive from engaging in any aspect of prison food service operations. They cannot do it. The prison bureau says that the provision is necessary because of the strong perception among the prisoners of HIV carriers handling food.

So what Senator HATCH. is proposing to do here is to let prisoners get along without having HIV positive people preparing food, or people with AIDS, but the American public is not supposed to know and the restaurant operators are not supposed to have the right to transfer out of the kitchen into another job—not handling food—an employee presently working in the kitchen who may cut his finger or otherwise contaminate the food.

The point is that both Houses of Congress—the House of Representatives and the U.S. Senate—have gone on record in support of the Chapman amendment. But the Senate conferees and the House conferees, for that matter, deliberately ignored the will of the House of Representatives and the U.S. Senate when they went into conference. They knew better than the Members of the Senate; they knew better than the Members of the House of Representatives.

As a matter of fact, one conferee was quoted as saying that the vote on this issue was "basically meaningless." That is what he said in conference. When he was leading the conferees from the Senate, the same Senate which by a vote of 53 to 40 had said uphold the Chapman amendment in conference, he said, oh, it does not matter; I do not want this in here; the Chapman amendment is basically meaningless.

I am not going to say that is arrogance. I will let each Senator make his own judgment about that.

In any case, that Senator, I think, would have a hard time explaining to the small convenience store operator that this amendment, the Chapman amendment, is meaningless, or the farmer or the meat packer.

I would like to see him tell the American consumer that this provision, the Chapman amendment is meaningless. Of course it is not meaningless. It is a matter of survival for many, many restaurant operators.

Let me put it in the form of a question again. How many people would be willing to frequent a restaurant whose chef has AIDS or who is HIV positive? You do not need a calculator for that one. They will stay away in droves. I can hear the rumors: do not go down to Joe's cafeteria. The chef has AIDS.

What are the customers going to do? You know what they are going to do. They are going to stay away from Joe's place and go to another restaurant.

You see, Joe, under this bill, and specifically under the Hatch amendment, will not have the right of proprietorship to transfer a food worker in his establishment out of a job handling food into a job in which he does not handle food.

I do not know what point anybody is trying to make but it certainly is not a realistic one, because there is nothing hypothetical about what I am saying, nothing at all.

There is a restaurant in Milwaukee which once was the most popular restaurant in that city, but that restaurant lost almost all of its customers after the restaurant's former owner,

its manager and chef died of AIDS In 1987. People stayed way from the restaurant in droves, and down the restaurant went, bankrupt. Employee health insurance tripled at another restaurant after two of its seven employees were diagnosed as having AIDS-related viruses.

In Eagle, WI, an establishment known as the Inn of the Four Seasons shut its doors last September. That was the end. The owners testified that customers began staying away more than 2 years ago when a false or persistent rumor spread that the owner had AIDS.

So that is why I am convinced that the Chapman amendment strikes a sensitive balance. It is fair. It ought not to have been mutilated and destroyed in conference.

It was passed by the House of Representatives. It was passed by the Senate. All it does is allow employers in the food service industry to respond to current public health concerns by transferring an employee with AIDS, or any other communicable disease for that matter, to an alternative position with no reduction in pay, thereby avoiding any hint of discrimination against carriers of AIDS or those who have other communicable diseases by allowing them to maintain their job and their dignity.

What is wrong with that? I tell you what is wrong with it. The know-it-alls in the Senate want to say to that restaurant, we do not care whether you go out of business or not. We are going to force you to keep that guy in the kitchen.

That is what this bill does. This is what, I am sorry to say, the amendment of my friend from Utah does. If he wants to debate what his amendment says or what it does not say, I will be glad to do that. But he has acknowledged to me in our negotiations on this matter that his amendment does not include AIDS, which makes it a noncommunicable disease in the eyes of HHS. There is no mistake about what will happen if the Hatch amendment is adopted and the Helms amendment is not, because the Helms amendment, which I will offer subsequent to consideration of the Hatch amendment, will reinstate the meaning and the intent of the Chapman amendment from the House of Representatives.

Mr. President, how much more time do I have?

The PRESIDING OFFICER. The Senator has 19 minutes and 10 seconds.

Mr. HELMS. Let us wind up by just identifying who supports the Chapman language, the Chapman intent, the Chapman purpose, which I will reinstate with an amendment that I shall offer after this Hatch amendment has been considered.

The Chapman-Helms proposal has the support of business groups representing over 1 million people in the food service industry. This list includes but is not limited to the following: The National Restaurant Association, the National Federation of Independent Business, the Food Service and Lodging Institute, the National Association of Convenience Stores, the National Turkey Federation, the National Broiler Council, the International Foodservice Distributors Association, the National Licensed Beverage Association, the American Meat Institute, the National Association of Meat Purveyors, the W.R. Grace Co., and on and on.

Mr. President, I ask unanimous consent that two letters from the National Restaurant Association supporting my amendment, a letter from the National Federation of Independent Business, which by the way has declared that this will be one of its key votes in this congressional session, a memorandum from the Bureau of Prisons on its food handling policy, plus an editorial from the Orlando Sentinel supporting the Chapman-Helms amendment.

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

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, July 11, 1990.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: The National Restaurant Association has just learned that a proposal to modify the Chapman foodhandlers amendment may be offered when the motion is made to recommit the Americans with Disabilities Act to conference. I want to put the association on record in the strongest possible opposition to this effort.

What we understand to be the substantive effect of this modification is a simple gutting of the Chapman language. It does absolutely nothing to protect a restaurateur who is faced with the tragic circumstance of a chef, waiter or other foodhandler who has a serious infection or communicable disease such as AIDS. The modified language will not permit the employer to transfer the employee to a non-foodhandling position without exposing him to civil rights litigation. It will ultimately result in business failures and loss of jobs because restaurant employers' hands will be tied in their ability to deal reasonably with workers afflicted with certain communicable diseases.

What is most disturbing, Senator Helms, is that language very similar to that now being offered was proposed several weeks ago to the National Restaurant Association by staff of the Senate Labor and Human Resources Committee who admittedly described it as "smoke and mirrors." They suggested that it might be good enough to convince our industry members that we had actually achieved a compromise that protected their businesses from jeopardy. Needless to say, the offer was rejected because it was meaningless language that didn't change the real effect of the bill.

Please hold the line on the Chapman amendment and convey our strong sentiments to your Senate colleagues. Thank you for all your help.

Sincerely,

MARK GORMAN,
Senior Director, Government Affairs.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, June 26, 1990.

THE CHAPMAN AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT

"FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportuntiy for which the employee is qualified and *for which the employee would sustain no economic damage.*"

DEAR SENATOR: Yesterday, the Chapman amendment was stripped during conference committee action on the Americans with Disabilities Act, S. 933. The motion to eliminate the amendment from the bill was made by the Senate conferees less than three weeks after the full Senate voted to instruct them to *accept* the Chapman language.

The ADA conference report is expected to be on the Senate floor for consideration before the end of this week. At that time, Senator Helms plans to introduce a motion to recommit S. 933 to the conference committee with instructions to include the Chapman language.

The National Restaurant Association strongly supports the Chapman amendment, which passed the House by a vote of 199 to 187, as well as Senator Helms' continued efforts to encourage the conferees to respect the will of the Senate majority. *Your support of the Chapman foodhandlers amendment and the Helms motion to recommit is critically important to the foodservice industry.* The National Restaurant Association supports the concept of the ADA bill, and does not seek to derail this landmark legislation. There is no need to delay final passage of ADA any longer than it will take to retype Section 103 of the Act to include the Chapman language and send it back to the Senate floor.

On behalf of the National Restaurant Association, thank you for your consideration of this important issue.

Sincerely,

MARK GORMAN,
Senior Director, Government Affairs.

VOTE TO RECOMMIT THE ADA CONFERENCE REPORT

Dear SENATOR: The over 500,000 members of the National Federation of Independent Business (NFIB) strongly support the motion to recommit the ADA conference report with instructions to retain the *food handling amendment.*

The food handling amendment permits employers to reassign food handlers with communicable diseases to other positions *with no loss of pay or benefits.*

This is *not* a civil rights issue. Instead, it is a *fair* solution for everyone. If provides protection for those with communicable diseases *and* for small business owners facing the loss of their customers, their business, and the jobs of their other employees because of the public's health concerns.

Just three weeks ago, the Senate voted 53-40 to instruct conferees to accept this important amendment. The amendment had passed the House by 199-187. However, the

conferees are choosing to ignore these votes. *Do not make your small businesses pay the price for their actions.*

Vote to recommit the ADA conference report. This vote will be considered a "Key Small Business Vote" for the 101st Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

FEDERAL BUREAU OF PRISONS

Date: November 30, 1989.
Subject: Human Immunodeficiency Virus (Treatment/Prevention).
Cancellation Date: September 30, 1990.

OPERATIONS MEMORANDUM

I. *Purpose:* To affect changes in Operations Memorandum 99-88 (6100), September 28, 1988, Human Immunodeficiency Virus (HIV).

II. *Operations Memoranda Rescinded:* O.M. 99-88 (6100) Human Immunodeficiency Virus.

III. *Directives Referenced:* P.S. 5214.3 Procedures for Handling of HIV Positive Inmates Who Pose a Danger to Others; and P.S. 5050.41 Procedures for the Implementation of Title 18, Section 4205 (g).

Rules cited in this Operations Memorandum are contained in 28 CFR 541.60 through 541.68 and 549.10 through 549.18.

IV. *Background and Definition:* The prevention and treatment of HIV service to restrict the dissemination of the disease and to improve the quality of life for those suffering from it. The devastation of this disease for the individual, physically, socially and economically has produced an urgency in the pharmaceutical and medical communities for effective treatments. The end to this search will be methods of eradicating or placing in remission the disease and the production of a vaccine to prevent its transmission.

The treatment protocols and modalities are constantly changing. The goal of the Bureau of Prisons is to provide information and to guide the health services units in the current procedures and treatments. It is not the intent to direct clinical judgment nor to mandate specific regimens of treatment. The rigidity of such a structure in light of this disease could only hamper the treatment and care effort.

V. *HIV Treatment Monitoring:* It is imperative that close monitoring of HIV positive inmates is maintained, with particular attention to T-4 counts. Clinical evaluation and review for HIV positive inmates shall not be less frequent than once a month.

Pharmaceuticals approved by the FDA for use in the treatment of AIDS and HIV infected inmates will be offered at the parent institution when indicated. If, in the opinion of the medical staff, the patient requires hospitalization, a request for medical transfer shall be submitted through the medical designator in the Central Office. Males shall ordinarily be referred to the United States Medical Center for Federal Prisoners in Springfield, Missouri, and females shall ordinarily be referred to the Federal Correctional Institution in Lexington, Kentucky.

VI. *Transfer of HIV Infected Cases:* If an HIV positive inmate is being transferred, the accompanying BP-MED-71 shall note in the special instructions section: "Blood and Body Fluid Precautions." For HIV positive inmates being transferred to other jurisdictions, e.g. state or county facilities, a letter shall be sent to the Director of that facility, (See Attachment "A") in addition to, but separate from the BP-MED-71.

VII. *Intake Screening:* During routine intake screening, all new commitments shall be interviewed to identify those who may be HIV infected. The questions should address specific symptoms such as thrush, fevers, night sweats, cough, unexplained weight loss, lymphadenopathy, diarrhea, etc. Inmates identified in this manner shall be tested as clinically indicated.

VIII. *Housing:* With the exception of policy outlined in P.S. 5214.3 "Procedures for Handling of HIV Positive Inmates who Pose Danger to Others", there shall be no special housing or quarantining established for HIV positive inmates.

IX. *Work Assigments:* HIV antibody screening shall not be performed as a criterion for work detail assignments. However, known HIV positive inmates shall not be assigned to Food Service or the Hospital. This policy is established to maintain order within the institution. Under normal circumstances, (casual, work place) there is no possibility of viral transmission.

X. *Communal Implements:* Toothbrushes, razors or other personal implements that could become contaminated with blood shall not be used by more than one inmate. Multiple use items such as bandage scissors, barber equipment, etc. shall be washed in warm soap water, agitated in disinfectant for not less than 15 seconds then dried with a clean cloth following each use.

The Centers for Disease Control believe the virus cannot be easily transmitted through communal use of these instruments; however, the Bureau of Prisons has determined that reasonable precautions should be taken.

XI. *Syringe and Needle Precautions:* In accordance with CDC recommendations: "All health care workers should take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. To prevent needle stick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed in puncture-resistant containers for disposal; the puncture-resistant containers should be located as close as practical to the use area. Large bore reusable needles should be placed in a puncture-resistant container for transport to the reprocessing area."

XII. *Infection Control:* The cleaning of contaminated equipment shall be done as outlined in the communal implements section. Each work area and living unit in the institution shall maintain a sufficient quantity of disposable gloves, disposable airways/CPR masks and gauze dressings. The disposable gloves shall be used only when indicated, i.e., to handle surfaces contaminated with blood or body fluid products. Indiscriminate use of disposable gloves is unnecessary and is viewed as contradictory to HIV education.

Blood/body fluid spills shall be cleaned up using germicidal disinfectants. The Health Service Administrator is responsible for resupplying the items, listed in section XII, to the various areas. Linen soiled with blood/body fluids should be placed and transported in leak proof bags. The linen should be washed in hot water with detergent at a temperature no less than 160 degrees Fahrenheit for 25 minutes. If the washing machines cannot reach or sustain 160 degrees then a detergent suitable for low temperature washing shall be used.

XIII. *Counseling:* Inmates or staff receiving the HIV antibody test shall receive pre and post test counseling, regardless of the test results. Pre and post test counseling shall be the responsibility of the institution provider staff. In addition, all inmates that test positive shall be referred to the psychology department for follow-up counseling. Pre and post test counseling should address the limitations of the test, i.e., the inability to detect early infections, false positives, false negatives, the possible need for additional testing as well as the complications and consequences of a negative and positive test result.

Inmates that test positive shall also be counseled about the disease process, how to maintain their health, and how to avoid transmission to others. Pregnant females that test positive shall also be advised of the likelihood that the virus will be transmitted to the fetus.

XIV. Early Parole Consideration: Inmates who are seriously ill as a result of their HIV infection should be reviewed for early parole consideration pursuant to 18 USC section 4205(g) and 3582(c) if they are not currently eligible for parole. These requests must be handled pursuant to the provisions of Programs Statement 5030.41 dated October 15, 1983.

XV. Costs of Therapy: The costs incurred by each institution and facility for pentamidine, AZT and T-4 testing shall be charged to special project code 02-B-350-400-84U-(appropriate sub-object).

The costs connected with the ELISA and Western Blot testing are to be charged to 02-B-350-400-11U-(appropriate sub-object).

XVI. Autologous Blood Banking: As a matter of general consideration the practice of autologous blood banking for an inmate is not feasible due to the constraints of the security required for the escorted trips, the limitations of storage and the costs entailed. The existing supply of blood and blood products available for transfusion have been deemed safe.

XVII. Coordinator of Infectious Diseases: The Health System Administrator at each institution is ultimately responsible for the success of the HIV program. The HSA shall, however, select a member of the medical staff to serve as Coordinator of Infectious Diseases (CID). The CID shall monitor compliance with all policy concerning infectious diseases. It is also the CID's responsibility to monitor HIV testing, treatment and education of inmates and staff.

KENNETH P. MORITSUGU,
M.D., M.P.H.,
Assistant Surgeon General, Health Services Division.

A NECESSARY AIDS PRECAUTION

In the past 10 years, AIDS researchers have learned that this deadly disease cannot be passed on through casual contact. AIDS is a virus that is transmitted directly through the blood. So should restaurants move food-handlers to other jobs if they are infected with AIDS?

Sen. Edward Kennedy says no. He's fighting attempts by House members to allow restaurants to do this. Mr. Kennedy says moving food-handlers to other jobs is discriminatory.

But the issue here isn't discrimination. It's public health. And that's why restaurants

should be allowed to move AIDS infected food handlers to other jobs.

Remember, the risk from AIDS comes when a person infected with the disease has an open wound. The possible threat here, then, is that a cook, waiter or other food-handler with AIDS would cut himself or herself and have that blood contaminate food. Would it be possible for a restaurant patron who has a small cut in the mouth to get infected by unknowingly eating that contaminated food?

Who knows? And therein lies the problem. Indeed, no one really knows how much contaminated blood it takes to pass on the disease.

In any case, AIDS experts have recommended that, in absence of hard facts on quantities, people should proceed cautiously. That's why the U.S. surgeon general and other health experts have suggested that schools let children with AIDS stay in school so long as they don't have open sores or display aggressive behavior, like biting. That's an appropriate response.

Likewise, moving food-handlers who have AIDS to other jobs should be a necessary precaution that in no way suggests hysteria or overreaction.

Another thing to remember is that the AIDS virus shuts down people's immune systems, making them more susceptible to other communicable diseases like hepatitis and tuberculosis.

Unfortunately, Mr. Kennedy has mistaken a legitimate public health issue for one of civil rights.

Mr. HELMS. Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I do want to clarify a couple matters. First of all, my amendment includes the Chapman amendment. It does not gut the Chapman amendment.

It does do one thing differently. It requires the Secretary of HHS to list the infectious and communicable diseases based upon the best available science.

Now, that is a significant difference, but I hardly think it guts the Chapman amendment. All it says is let us use science. Let us not use conjecture. Let us not use somebody's feelings, fears, or misperceptions. Let us use science.

I have no doubt that the Secretary of Health and Human Services will take that particular suggestion very seriously, because the public health of our country depends upon him doing the very best job that can be done using the best available science. That is hardly gutting the Chapman amendment. As a matter of fact, I think it strengthens the Chapman amendment.

Now, with regard to AIDS, let us be honest about it. The distinguished Senator from North Carolina wants to exclude AIDS. I think such a decision should be based upon science, as is required in my proposal, because HIV infection will have to be examined along with every other infection. If it is communicable or infectious, then it will be covered, and it will have to be on that list. If it is not, it will not be covered and under those circumstances, should not be on the list. Why, simply because people should not be discriminated against if they are no health hazard? Period.

Now, my point is if it is a health hazard, it will be covered. It will be up to the Secretary to put it on that list. It will be incumbent upon him to put it on that list, and he will.

The difference between the approach of the distinguished Senator from North Carolina and mine is that he would put it on the list whether it is infectious or not, whether it is communicable or not, as he admits, based mainly out of fear rather than fact. I am not willing to do that. I am only willing to put truly infectious and communicable diseases on the list of the distinguished Secretary of Health and Human Services. That is the way it ought to be. That is exactly the way it ought to be.

Mr. President, this does not gut that amendment. It makes it better. It makes it more scientific. It makes it more medically oriented. It does away with prejudice. It does away with people's skeptical approaches. It does away with people's fears and it says let science govern, which is the only way to do it.

It also does another thing. It really puts in this bill language that says that real communicable and infectious diseases are covered in a way that permits a restaurant owner or a food-handling business to remove those persons from handling the food. All I am saying is let us believe in science, let us not believe in the courts.

Let me give you an illustration. If the Helms amendment passes and this one does not, the only way that you could keep HIV out, it seems to me, is to go to the courts. That is 2, 3, 4, 5 years away.

If HIV is infectious and communicable, it will be kept out immediately, within 6 months, by my amendment. My amendment makes medical sense, it makes scientific sense, and makes sense from a civil rights and moral standpoint. It makes sense from a nonprejudicial standpoint.

I have to say that infectious or communicable diseases that are transmitted through the food supply are on the list, period. If that is gutting Chapman, something is wrong here. What it says is let us believe in science, and let us let the best science tell us what is right and what is wrong. Let us not leave it to the courts. They are not equipped to judge science and what should and should not be considered an infectious and communicable disease.

I might add, with all due respect to my esteemed colleague from North Carolina, there is not anybody in this body that I know of who is equipped to say what should or should not be on that list—no one.

So why should we not put it in the hands of those who are equipped to tell us what should be on that list and thus equipped to stop discriminatory conduct against those who should not be on that list?

That is what is involved here. This is a civil rights bill. Look, everybody knows that after this bill is through, we go to the Civil Rights Act of 1990.

The principal proponent happens to be the distinguished Senator from Massachusetts, who is a principal proponent of this bill, along with the distinguished Senator from Iowa. Both of them are principal and distinguished proponents of that bill.

The principal opponent of that bill, outside of the White House, happens to be the Senator from Utah. The fact of the matter is I disagree with some of the aspects of that bill which I think discriminate against people. I stand up on these issues. It is not easy to stand up on civil rights issues. This is a civil rights issue where we ought to have science decide it, not courts that are ill-equipped to decide it, and not Senators who are ill-equipped to decide it.

Let us get the best science we can and live by it. If HIV is infectious, if HIV is contagious, then HIV will be on the Secretary of HHS's list based upon science, not somebody's speculation. If it is not, it should not be on that list and people should not be discriminated against because they may have a virus that some in this society did not cause themselves to come upon themselves.

Do we have to revisit the whole issue of AIDS? Because, if so, I think of Elizabeth Glaser who got it through a blood transfusion. I also think of the beautiful lady that Senator HELMS' office had me meet who was exposed to the HIV virus because a doctor did not tell her that her husband was bisexual, that he had AIDS. Should she be discriminated against? Should Elizabeth Glaser be discriminated against? Should some teenager who got it because his mother got it through a blood transfusion be discriminated against? The answer to that is no, not unless science says it is infectious and communicable.

If the distinguished Senator from North Carolina believes that it is, then maybe science will back him up. If it does, I will be the first to stand up and say it should be on that list. But now, I am not going to do it as a nonscientific expert. I do not think the distinguished Senator from North Carolina should do it as a nonscientific expert, as bright as he may be.

Look, this is an important issue. This is an issue about whether the Americans With Disabilities Act is going to be a bill against discrimination. That

is what it is. This is an important issue.

This list that will be developed will be widely disseminated, and circulated among citizens all over this country so that everyone will have the facts. That is why this amendment makes sense. It adopts Chapman, and the best aspects of Chapman. The only thing that it adds is to let the scientists tell us what are the communicable and infectious diseases, and let us live by science and not conjecture. Let us live by equal rights, not discrimination. Let us live by what is the right thing to do, not the wrong thing to do.

If we go with the distinguished Senator from North Carolina, he would exclude HIV just because of the fear. He would say we should permit such exclusions because people are afraid even if there is no medical basis for that fear. But, I submit, we have to educate our people, and the only way to do that is to do what is right—do what is right.

That is why the Hatch amendment is such an important amendment because we are trying to do what is right. If HIV fits, if HIV is communicable, if it is infectious, and the best science tells us that it is, not nonscience, but real science, then it will be on that list. If it is on the list, that is the way it should be.

I reserve the remainder of my time.

Mr. DOLE. Mr. President, will the Senator yield some time?

Mr. HATCH. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I have listened carefully to the Senator from Utah, and I think the Senator from Utah as well as this Senator voted not to table the Helms amendment initially. Like the Senator from Utah, I am trying to find some way out of it now, some way to satisfy the real concern, and the real concern being whether it is infectious and communicable as opposed to what might be based on fear.

Also as one who does not want to hold up the ADA bill after months and months and months wanting it to move forward, I wanted to ask the Senator from Utah a couple of questions because I have some concerns about the Hatch amendment which I would like to support.

If I could have the Senator's attention, the question is I understand that HIV is not infectious and communicable; is that right? AIDS is not infectious or communicable?

Mr. HATCH. I have a letter in my possession from the Secretary of Health and Human Services which I ask unanimous consent to be placed in the RECORD.

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

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restore my position on the need for anti-discimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some proposed that workers who handled food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food services workers infected with HIV need not be restrcited from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for parents for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

Mr. HATCH. It indicates that it is not at this point, that science does not believe it is, and I know of no one in science who believes that HIV is infectious or communicable in food handling.

Mr. DOLE. The broader point is, will this be looked at by the Secretary of HHS and by the scientific experts or do we need to do as Senator HELMS proposes in an amendment to modify the Hatch amendment, add the words "including human immunodeficiency virus?" Does that add anything by adding those words? Will you be protected without adding those words? Will there be a review?

Mr. HATCH. That is a good question and I think one that should have been asked.

Under my amendment all infectious and communicable diseases will have to be reviewed, including HIV. They have to be reviewed in light of the requirements of the Chapman amendment with regard to food handling. HIV will be reviewed. The Secretary of HHS have to review it, and, if he finds it infectious and communicable, it will be on the list.

There is an annual review. This is not just something that sporadically occurs. So if any issue arises with regard to that, shows it is infectious and communicable, it will go on the list, and it will be one of the important protections.

Mr. DOLE. I am advised that it may not be infectious but may be communicable. There are certain conditions. I assume the case would be that they would look at whether it might be communicable through the food supply or any other condition; is that correct?

Mr. HATCH. Yes, that is what the amendment intends to do. It does not want to exclude any infectious or communicable disease. We limit it regarding food handling, because that is the issue involved here. If it is not infectious and communicable with regard to food handling, it will not go on the list. If it is, it will. HIV will have to be reviewed by the Secretary like any other infectious or communicable disease.

Mr. DOLE. Point 2 of your amendment, "to publish the message by which such diseases are transmitted," it would seem to me it would be better to have the words "may be" transmitted, because we do not know. If you have to clearly demonstrate and you have to have all the evidence, I think that would be an unfair burden on the Secretary or on anyone else. I do not know what damage it does to substitute the words "may be" for the word "are."

Mr. HATCH. I suggest that they are legal terms of art which do have a significance.

Mr. DOLE. A-r-e could be a legal term of art.

Mr. HATCH. Ours says basically it has to be infectious and communicable. Let us be honest, this is a stringent list.

Mr. DOLE. I know it is going to be stringent. I am trying to find a way to help the Senator from Utah. I cannot see that we would do any violence by taking that one word, "are" in paragraph 1 and deleting that word and putting in the words "may be." I am not sure to what extent one could ever determine absolutely if they are transmitted. But, maybe so. Maybe I do not understand the scientific process.

I think that is a point we ought to consider, I say to the Senator from Utah. Maybe that can be done before we finally vote on this.

I do believe, having said that—and I have not discussed this at all with the Senator from North Carolina—that we need to move on with the bill. I think my credentials are fairly good in dealing with disabilities. My first speech on the Senate floor way back in 1967, as I recall, and in 1974 and other state-

ments every year for several years, on April 14, I spoke about disability, which happened to be the date I became disabled in 1945. So every year on April 14 I made a speech on the Senate floor about some phase of disability and what we might do to address that.

I do not want to hold up this bill as it relates to disabilities that I have thought about all through the years. I never really focused on this particular problem, but it is a problem. Some say it is an economic problem, and some say it is fear, but I think the Senator from Utah is attempting to address it the way it should be addressed; and that is by scientific means and leaving to the Secretary the determination of what is included on the list which should be updated annually. I am not certain that this means one cannot work. I guess if somebody had an infectious and communicable disease that could be transmitted through the food supply, there is nothing here that says you have to eliminate those people. Just say we are going to disseminate the information.

This modification also contains a paragraph I think is very important: "Nothing in this act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation which applies to food handling which is designed to protect the public health from individuals who pose a significant risk to health or safety," and so forth.

So there is that provision that States and others can still have ordinances or State laws at the city, county, and State level which I believe probably would answer some of the concerns raised.

I say to the Senator from Utah that he has made a significant contribution. I think he can make an even greater contribution with one simply change.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Will the Senator from Utah yield about 4 minutes?

Mr. HATCH. I am out of time, but can I borrow some time?

Mr. HELMS. I will be glad to lend the Senator some time momentarily, but before the distinguished minority leader leaves, if I may have his attention; I certainly agree with Senator DOLE in his concern about the language. I do not know whether he has seen my modification or not, but I address precisely the concern he has stated.

There are ambiguities in the Hatch amendment, which I do not understand, but I will be glad to try to work out something to move this thing along. We will have to have the time to do that.

Before I yield time to the Senator from Utah, I hope he will clarify one section of his amendment. I recognize that he had to work on it with pen and ink, not a typewritten version. Sometimes you get in trouble doing that. In section B, Senator, it reads:

> In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food and that is included on the list developed by the Secretary of HHS under section A and which cannot be eliminated by reasonable accommodation.

That is a convoluted sentence. My question is, I guess, to what does the phrase "eliminate by reasonable accommodation" refer; what does the Senator mean by that?

Mr. HATCH. Taking that language right out of the amendment of the distinguished Senator from North Carolina, which reads, "It shall not be a violation of this act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation," that would offer an alternative employment. We have used exactly the same language, "which cannot be limited by reasonable accommodation."

Mr. HELMS. The Senator left out one vital thing, I think. I am making a suggestion; I am not trying to rewrite the amendment. I suggest the phrase "which 'risk' cannot be eliminated by reasonable accommodation." Is that what the Senator meant?

Mr. HATCH. I do not think the Chapman amendment says that either. Neither does the Senator's. In using this language we were trying to accommodate the distinguished Senator from North Carolina by using basically the same language as this Chapman amendment. We made "by reasonable accommodation" the same meaning that he does when he uses "reasonable accommodation" in his amendment.

Mr. HELMS. We do have which "risk" cannot be eliminated. That is up to the Senator.

Mr. HATCH. The original Chapman amendment does not have that language.

Mr. HELMS. We are talking about the Senator's amendment and my amendment.

Mr. HATCH. I do not have a copy of the Senator's amendment.

Mr. HELMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 11 minutes and 20 seconds.

Mr. HELMS. I want to save time for one or two Senators who indicated they want to speak on behalf of my amendment.

Mr. HATCH. I ask unanimous consent that I be given an additional 5 minutes.

Mr. HELMS. I will be glad to yield 5 minutes, and if we can get a Senator who wishes to speak, I will ask unanimous consent.

The PRESIDING OFFICER. The Senator is yielding an additional 5 minutes to the Senator from California.

Mr. HELMS. Yes. That leaves me with 6 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 4 minutes to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator from Utah and I appreciate his position on the matter before us.

Mr. President, I strongly oppose the amendment of the Senator from North Carolina [Mr. HELMS].

It is altogether right that the conferees on the Americans With Disabilities Act have dropped the so-called Chapman amendment relating to food handlers with AIDS. This amendment was an attempt to legitimize discrimination against people with AIDS. This amendment does not belong on any bill, and it especially does not belong on the Americans With Disabilities Act. The ADA is about nothing if it is not about freeing people with disabilities from discrimination, and that includes people with AIDS.

Mr. President, Senators should be absolutely clear about what this amendment does, why it is a threat to the rights of people with disabilities, and why it is a threat to the public health.

We are enacting the Americans With Disabilities Act in order to protect people with disabilities from discrimination based on ignorance, prejudice, myth, and fear. As Senator HARKIN has observed, people ought to be judged based upon the relevant medical evidence and the abilities they have. That is what the ADA provides. Yet here we have an amendment that is not only based upon ignorance, prejudice, myth, and fear, but actively promotes these debilitating qualities by giving them legal sanction.

When the Senator from North Carolina [Mr. HELMS] spoke on the food handlers issue he said, and I quote: "If the public is led to perceive"—and I want to underscore the Senator from North Carolina's exact words—"if the public is lead to perceive that there will be a health risk to those coming into the restaurant and eating the food, rightly or wrongly, that business could be destroyed."

Mr. President, that is exactly the point. There is no—I repeat—no medical evidence that AIDS is a foodborne disease. There is not a single public health authority that says it is. Yet we are being asked, in this amendment, to enact a law that will lead millions of Americans to perceive—perceive—just

the opposite. In other words, this amendment perpetuates an outrageous lie. If we are truly concerned about the economic welfare of restaurants, let alone the welfare of people with AIDS, why enact a law that leads the public to perceive that there will be a health risk from AIDS when there is not?

Do we understand the consequences to public health from this amendment? This amendment is not benign. At a time when people need to know the truth about how AIDS is spread, this amendment attempts to codify biases that are medically and ethically wrong.

Do we understand the consequences to human rights from this amendment? The other day the Washington Post ran an article in its health section entitled, "AIDS Discrimination on the Rise." Every Member of Congress should read it. The article reports on a new study on AIDS discrimination published by the American Civil Liberties Union AIDS Project, a survey that covered 260 Government and volunteer agencies across the Nation. The ACLU found 13,000 formal AIDS discrimination complaints filed between 1983 and 1988. In 1987 and 1988 the number of discrimination complaints rose 35 percent faster than the actual number of AIDS cases diagnosed in those years. One-third of the discrimination complaints were filed by people who did not have AIDS. One of the chief reasons cited in these complaints was that the complainant was perceived—perceived—to be infected because they cared for people with AIDS—such as a Texas woman who was fired when her employer found that she volunteered in an AIDS service agency.

Mr. President, this Nation pays a heavy price for its unfounded fears of AIDS. These fears divert our time and our resources away from carrying out the enormous task that lies ahead of us in finding a cure for this disease and in caring with compassion for the growing numbers of Americans who suffer from it.

I have been in the fight against AIDS from the beginning. I sponsored the first appropriations floor amendment that increased AIDS research funds. Over the years I have watched with horror as more than 26,000 citizens of my State have died of this disease. I have watched as the national total of people diagnosed with AIDS has mounted—136,204 as of the end of May—with no cure in sight.

And today my heart sinks as I stand on the floor of the Senate, confronting one more ill-conceived amendment, rather than an action that would do something to save lives.

The Senate should defeat the Helms amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum; the time to be charged to neither side.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

I have no objection.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, as I understand it, I have about 5 minutes remaining; is that correct?

The PRESIDING OFFICER. The Senator has just under 6 minutes remaining.

Mr. HELMS. I probably will not take that long.

I think we ought to have order in the Senate.

The PRESIDING OFFICER. The Senator is correct. If we could have order in the Chamber. Those who wish to converse, if they could retire to the cloakroom so the Senator can be heard.

Mr. HELMS. I think it is quiet enough now. I thank the distinguished Presiding Officer.

I listened with great interest to comments made by the distinguished Senator from Utah, who is my friend, and we work together on scores of things. I was particularly intrigued with the remarks made by the distinguished Senator from California, who addressed his remarks to the Chapman amendment, if I understood what he was saying, and I am not sure I did.

But, nevertheless, we are not talking about the Chapman amendment. We are talking about an amendment drafted by the distinguished Senator from Utah, which I modified to take care of the question raised by the distinguished Republican leader, Mr. DOLE.

I was so pleased to hear Senator DOLE bring up exactly what I had stipulated must be in our modified version of the Hatch amendment. We are not talking about the Chapman amendment. We are talking about perhaps the intent and purpose of the Chapman amendment; that is to say, to give a restaurant operator freedom not to be required to keep somebody in his kitchen who has AIDS or HIV.

So the question is—and I think we ought to ask it of ourselves—are we prepared to tell the American people that a restaurant owner or food processor will not be allowed to remove an individual with an infectious or communicable disease, including AIDS from a position which puts him in the position of handling food which goes to the public? That is the question.

And I say again that the Hatch amendment does not respond to that question. It just moves AIDS and HIV out of it with much rhetoric about we have to educate the public, and all that sort of thing. Well, maybe so. But the public has its own perception, and perception in business is just about everything. If you do not believe it, watch the television advertising. They live and sell and grow—if they grow—on the basis of perceptions.

The amendment that I am about to offer is slightly different from the purpose and intent of the Chapman amendment. The Chapman-Helms language, which originally passed in both the House of Representatives and the Senate, was dropped from the conference report. And that is what precipitated all of this here this afternoon.

The conferees paid no attention to what the Senate said when they voted 53 to 40 to keep the Chapman amendment in the bill. And the leader of the conferees on the Senate side said the Chapman amendment is meaningless. Not so; and he knew it was not so.

With the approval of the National Restaurant Association and the National Federation of Independent Business, I have agreed to adopt most of the suggestions offered by my friend from Utah, Mr. HATCH. They are very similar. They differ only with respect, for example, to what Senator DOLE was talking about just now.

The amendment which I will offer will require the Secretary of HHS to publish a list, as a guideline, of infectious and communicable diseases of public health significance, including AIDS and HIV, which may be transmitted through the food supply. That seems to me to be a fair proposition to the restaurant operators and the food processors and particularly to the people who dine in restaurants and who eat the food prepared by food processors. The Secretary would then widely disseminate the information regarding the list of diseases and their modes of transmissibility to the general public. That is good. This list will be updated annually. I thought about making it more frequent than every year, but I decided against that.

Let me emphasize, Mr. President, that the difference between the two versions, the Hatch version and the Helms version which I am going to offer, is that my amendment errs on the side of the public safety. If we are wrong, we are wrong helping the public.

Scientists may make any contention they wish, that, oh, you cannot transmit AIDS by food. I know the story of a very prominent political figure who, years ago, worked in a restaurant and he said he used to spit in the salads

that he made because he did not like his job all that much. Do we want to take that risk with AIDS? With the AIDS terrorists like ACT UP.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. I ask unanimous consent, inasmuch as I yielded time, for a couple of more minutes.

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

Mr. HELMS. Are scientists prepared to tell me that somebody with AIDS, or HIV, who is bitter about the fact he is sick, if he purposely contaminates a salad that he is making, will that not transmit the disease? How do they know?

If I am going to make a mistake, I want to make it on the side of the American people who eat in restaurants. I do not think that does anybody any harm. The Hatch amendment would require the restaurant operator to keep that guy in the kitchen. It would not permit the restaurant operator to transfer him to another job, not handling food, at the same pay.

My amendment retains the original Chapman language and addresses most of the concerns of the Senator from Utah.

I yield back the remainder of my time.

Have the yeas and nays been ordered on the Hatch amendment?

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President; I rise in strong support of Senator HATCH'S amendment which reflects a sound compromise on the Chapman food handlers amendment. I have supported the Americans With Disabilities Act because I believe that this legislation is necessary to bring 43 million disabled Americans into the mainstream of American life. In this bill, we have not made expectations for any particular form of disability. We have included the mentally retarded and those with cerebral palsy, even though many people fear and misunderstand those disabilities. We have included the deaf and the blind, even through many people misunderstand those disabilities and the capabilities of these individuals. We have also included people with AIDS and other diseases, even though there is a lot of fear and misunderstanding around many diseases.

We have included all these people because that is what this bill is all about—replacing musunderstanding with understanding. We have not said that you have to employ a person in a job they really cannot do or in a setting where they will pose a danger to the health or safety of other people. What we have said is that these decisions must be made about individuals, not groups, and must be based on facts, not fears. That is why I support the Hatch amendment which is needed to address legitimate concerns about diseases that can be transmitted through food. Senator HATCH'S proposal has the right idea of basing our decisions on the best available scientific knowledge. Annual updates of the list of infections and or communicable diseases by the Secretary of Health and Human Services, and communicating the known modes of transmission of these diseases is critical to protecting citizens of this Nation. General public education and awareness about contagious diseases will be the ultimate protection of the public. If there is any doubt, the bill already states quite clearly that there is no requirement to employ a person who "poses a direct threat to the health and safety of other person." The Hatch language will go far to provide sound public policy and go far to reach a compromise on this issue. I have received a letter from the health commissioner of my State, and health officers of 26 other States, urging us to adopt the conference report without the Chapman amendment. Secretary Sullivan as well as leading health organizations and the Center for Disease Control have warned that the amendment "does a tragic disservice to the public by contributing to the misperception of AIDS as a disease that can be spread by casual contact." I have also heard from small business, as I am sure many of my colleagues have, concerned that public misperceptions could damage their business. The businesses have said to us "We know that you cannot get AIDS by eating in a restaurant, but not everyone knows that, and if we cannot remove these people from their jobs, we will go out of business."

Well, that sounds like a serious situation, and I will tell you that when this argument was put to me I was concerned about it. I did not think it was fair to ask small businesses to bear the burden of public fears and ignorance about AIDS, or about any other disability. But when you really think about this argument, it begins to fall apart.

When we debated this issue in the Senate a few weeks back, one of our colleagues told us about a restaurant that went out of business because of rumors that an employee had AIDS. Rumors. It wasn't true. Discrimination is not the answer when you have this kind of public panic. I do not believe panic means we have to discriminate against productive citizens who are not disabled. Whenever there is romor that someone has a disease. The Chapman amendment would send a false and dangerous message that would undermine the efforts of our public health officials to calm necessary public fears about AIDS transmission.

Many communicable diseases, however are not foodborne. Extensive studies and scientific research prove that HIV, virus that causes AIDS, is not transmitted by food, handshakes, coughing, sneezing or other daily casual contact. The Centers for Disease Control recommend that persons with HIV infection not be restricted in food-handling duties. Public ignorance has never before been considered a valid excuse for discrimination. That is why I support the Hatch amendment which will go far to prevent discrimination and set a sound public health policy.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER (Mr. PRYOR). Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. In that case, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Now, Mr. President, parliamentary inquiry. All time has been used or yielded back on the Hatch amendment, is that correct?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2119 TO THE FORD MOTION

Mr. HELMS. Now, Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2119 to the Ford motion.

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

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

The amendment is as follows:

At the end of the instructions insert the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall

"(1) publish a list of infectious and communicable diseases, including human immunodeficiency virus, that may be transmitted through the food supply;

"(2) publish the methods by which such diseases are known to be transmitted; and

"(3) widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public. Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is included on the list developed by the Secretary which may pose a significant risk to the health or safety of others, which risk cannot be eliminated by reasonable accommodation as required under this title, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety or others, pursuant to the list developed by the Secretary.".

Mr. HELMS. Mr. President, we have discussed this issue and I see no point in taking up further time of the Senate because the plot thickens, and it is very clear to those who have been following it. So I am perfectly willing to yield back my 40 minutes if the distinguished Senator from Utah is willing to yield his.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina and myself be each granted 2 minutes with all of the time yielded back thereafter, and that the yeas and nays to be granted on both amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, I shall not object, I inquire of the Chair, have the yeas and nays on both amendments been obtained?

The PRESIDING OFFICER. The Chair will inform the Senator from North Carolina that the yeas and nays have been ordered on the Hatch amendment.

Mr. HATCH. I ask for the yeas and nays on the Helms amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I thank the Senator from Utah.

Mr. HATCH. Mr. President, these 2 minutes are just to explain the modification that would have made that the distinguished Senator from North Carolina permitted. But the modification will be made in conference regardless. So I think Senators should treat this Hatch amendment as though this modification were made.

The modification would require the Secretary of HHS to review all infectious or communicable diseases which may be transmitted through handling of the food supply. Then on the basis of such a review, the Secretary must publish a list of information on communicable diseases which are transmitted through the food supply.

This modification will require the Secretary to evaluate every infectious and contagious disease, including AIDS, hepatitis, tuberculosis, et cetera, and then make a scientific determination whether each or any of these diseases can be transmitted through the handling of food. That list will then be published, that list will be reviewed annually, that list will be upgraded annually. As diseases change and our scientific knowledge of the transmission of diseases improves, I expect the Secretary to use such information in updating this list.

I have to say that the current language I think does all of that but because the distinguished minority leader would like us to correct that current language, we will do that in conference, although we are not able to do it here.

So we should vote on the basis that all communicable and infectious diseases will be covered, and those that can be transmitted in the food supply, those diseases, will be put on the list and disseminated throughout the country.

Mr. HELMS. Mr. President, 2 minutes will be entirely adequate. The issue here is whether the Senate is going to vote to deny restaurant operators and the patrons of those restaurants the right to be sure that all communicable diseases, such as HIV, such as AIDS, are not transmitted. Science does not know yet the full story.

So those Senators who voted for the retention of the Chapman amendment by the vote of 53 to 40 not long ago should vote "yes" on the Helms amendment and "no" on the Hatch amendment, which will absolutely render nugatory the Chapman amendment, if the Hatch amendment is adopted here this afternoon.

I say that with all deference to my friend from Utah, but his goal is to strike that HIV AIDS provision stipulated by the Chapman amendment.

Let me reiterate for the purpose of emphasis that the spirit of my amendment has been approved by the House of Representatives and the Senate. It does not, repeat, does not, discriminate against individuals with any communicable or infectious diseases. It gives them job and financial protection, while permitting employers to address a public perception that will threaten their business and their livelihood.

The problem is the public perception that AIDS, among other communicable and infections diseases, is bringing us to a point of crisis in terms of what may happen to many, many small businesses. The public perception and fear is understandable in light of what we hear about AIDS constantly in this U.S. Senate.

So Senators understand that we are not talking about a few isolated cases, let me talk about a few more restaurants which have found it necessary to go out of business or even fire infected workers—by the way, you could not fire infected workers under the Chapman Helms-amendment.

Wisconsin: The Wreck Room, a popular Milwaukee homosexual bar, nearly failed after a manager and another employee died of AIDS. The owner reported, "We went from being one of the most popular bars in Milwaukee to close to zero. There were times when I wasn't sure we were going to make it."

Alabama: A Hardee's unit outside Montgomery was forced to close after a rumor that its managers had AIDS. The rumor was started by a disgruntled employee who was let go. Within 2 months, sales dropped 60 percent. The Hardee's unit, which formerly had been a very popular restaurant, was closed down only 6 months after the rumor was started.

Texas: A popular Chili's restaurant in Amarillo terminated all its employees and closed for 2 months after the public became aware that a foodhandling employee had AIDS. Two years later that restaurant is still not performing as well as before the incident.

Wisconsin: The Inn of the Four Seasons in Eagle closed in 1989, after persistent rumors the owners had AIDS caused business to drop off by 50 percent.

Indiana: Sales dropped 25 percent at a unit of a national fast food franchise when it became known in a small community that the manager had tested positive for HIV. Sales recovered 4 months later after the manager voluntarily quit her job.

Kentucky: As a result of false AIDS rumors, sales at a prominent restaurant in a small Kentucky county dropped 45 percent from the prior year. It was 9 months before customer sales returned to normal levels, and this only occurred after local health officials made public statements that there were no cases of AIDS in the county.

I think the least we can do is to give an employer a way to avoid losing his

business, because of this perception that this Congress and this Senate helped to create.

I yield back the remainder of my time.

Mr. COATS. Mr. President, I rise in support of the Helms-Wallop-Armstrong motion to recommit S. 933, the Americans With Disabilities Act, to the conference committee with instructions to include the Chapman language of the so-called foodhandlers amendment.

This amendment states that it is not a violation of the act "for an employer to refuse to assign or continue to assign an employee with an infectious or communicable disease of public health significance to a job involving food handling, provided"—and this is an important proviso—"that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage."

The Chapman amendment addresses the sensitive question of employees in the food service industry who have contagious or infectious diseases and who directly handle food that reaches the consuming public.

Under this amendment an employer has the option of moving an employee who suffers from an infectious disease or a communicable disease or public health significance out of a position in which he or she handles food and into another job within the same establishment. The employee must be qualified for the alternative position, of course, but would sustain no economic damage from the change of jobs.

Thus, a restaurant owner could assign an employee with AIDS or the flu or chicken pox to some job other than handling food, without fear of being sued for illegal discrimination under the bill. The owner or manager could reasonably determine that it would pose a health hazard to the patrons of the restaurant or create the appearance of a health hazard to assign a person with a contagious or infectious disease to handle food. At the same time, the owner could not commit an act of discrimination by firing or disciplining the employee merely because he or she suffers from such a diseased condition. Instead, the employee would be guaranteed an assignment to other restaurant duties without loss of pay or benefits—without economic damage.

No restaurant would stay in business for very long if the public had reason to believe that the food it served were being handled by someone with such a disease. It would serve no useful purpose for either consumers or the employees—including employees with disabilities—for a good service establishment to be forced out of business because it could not legally reassign employees with certain infectious or communicable diseases to duties other than handling food.

This amendment is vitally important to restaurant operators in Indiana who have written and called my office urging my continued support for this provision.

Mr. President, I am disappointed that this language was dropped by the conference after it was passed by both Houses of Congress, with bipartisan support, and after the full Senate voted to instruct the conferees to accept the foodhandlers amendment. In my opinion, this amendment only strengthens the provisions of the ADA bill by adding an essential degree of flexibility and sensitivity which is needed to enable small businesses to comply easily and speedily.

I urge my colleagues to vote in favor of this motion.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the letter I have received in opposition to Helms/Chapman amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I urge the Senate to support the Hatch instruction and I commend the Senator from Utah for standing up to the irresponsible suggestion that the U.S. Senate should act on the basis of fear and prejudice instead of responsible public health considerations.

I come from a State where men feared witches and hanged women.

That was in the 1690's

This is the 1990's, and I hope the Senate is mature enough and civilized enough to reject the appeals to witchcraft we have just heard and do the right thing.

The Hatch instruction will require the Secretary of Health and Human Services, to publish a list of infectious and communicable diseases that are transmitted through the handling of food. If an individual has a contagiuous disease that is listed on the Secretary's list and the threat of transmission through the handling of food cannot be removed by reasonable accommodation then he or she may be reassigned from a food handling position. This instruction makes sense.

It means that food workers are protected from discrimination unless scientific evidence shows that they have a disease which actually poses a threat of transmission through food. This instruction reaffirms what the ADA already provides, and will guarantee that people will not be discriminated against on the basis of fear, prejudice, or irrationality.

Senator DOLE has proposed a modification which makes very good sense—the Dole modification would explicitly require the Secretary to review all infectious and communicable diseases which may be transmitted through the handling of food; and based on that review publish the list of diseases which actually are transmitted through food handling.

The Dole modification is actually implicit in the Hatch instruction—the Secretary will need to review all diseases that may be transmitted to publish a complete list of diseases that are transmitted through food handling.

It now appears however, that Senator HELMS will not allow the Hatch instruction to be modified by the Dole modification.

I urge the Senate to adopt the Hatch instruction. If the Senate does so, when we return to conference, I will urge the House conferees to accept the Hatch instruction as modified by the Dole modification.

I urge the Senate to defeat the Helms instruction. This instruction would require the Secretary to list any disease that might possibly be transmitted through food, rather than those that actually are so transmitted. The Helms instruction would simply allow discrimination on the basis of possibilities and conjecture and not scientific fact. The instruction would run counter to the whole purpose of the ADA.

EXHIBIT 1

The Chapman amendment is opposed by:
President George Bush.
Dr. Louis Sullivan, Secretary of HHS.
Dr. William Roper, Director, Centers for Disease Control.
Office of Personnel Management.
National Commission on AIDS.
American Medical Association.
Consortium of Citizens with Disabilities.
Leadership Conference on Civil Rights.
U.S. Catholic Conference.
American Jewish Committee.
American Baptist Churches.
AFL-CIO.
United Food & Commercial Workers International Union.
American Federation of State, County and Municipal Employees.
Service Employees International Union.
Food & Allied Service Trades.

OTHER HEALTH, SOCIAL SERVICE, RELIGIOUS, AND DISABILITY ORGANIZATIONS

Affiliated Leadership League of and for the Blind.
AIDS Action Council.
AIDS National Interfaith Network.
Alexander Graham Bell Association for the Deaf.
American Academy of Child and Adolescent Psychiatry.
American Academy of Otolaryngology, Head and Neck Surgery.
American Academy of Pediatrics.
American Academy of Physical Medicine and Rehabilitation.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of the Deaf-Blind.
American Association on Mental Retardation.
American Association of University Affiliated Programs.

American Civil Liberties Union.
American Congress of Rehabilitation Medicine.
American Council of the Blind.
American Deafness and Rehabilitation Association.
American Diabetes Association.
American Foundation for AIDS Research.
American Foundation for the Blind.
American Jewish Congress.
American Medical Student Association.
American Nurses Association.
American Occupational Therapy Association.
American Psychiatric Association.
American Psychological Association.
American Public Health Association.
American Society for Deaf Children.
American Speech-Language-Hearing Association.
Association for Retarded Citizens of the United States.
Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Association for the Education of Rehabilitation Facility Personnel.
Association for Retarded Citizens of the United States.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Autism Society of America.
Center for Population Options.
Center for Women's Policy Studies.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute, Inc.
Church of the Brethren.
Church Women United.
Citizens Commission on AIDS.
Coalition for the Homeless.
Committee for Children.
Conference of Educational Administrators Serving the Deaf.
Council for Exceptional Children.
Convention of American Instructors of the Deaf.
Deafness Research Foundation.
Disabled But Able to Vote.
Disability Focus, Inc.
Disability Rights Education and Defense Fund, Inc.
Epilepsy Foundation of America.
Evangelical Lutheran Church in America.
Federation of Parents and Friends of Lesbians and Gays.
Friends Committee on National Legislation.
Gallaudet University Alumni Association.
Gazette International Networking Institute.
Goodwill Industries of America, Inc.
Human Rights Campaign Fund.
International Association of Parents of the Deaf.
International Polio Network.
International Ventilator User Network.
Jesuit Social Ministries.
Juvenile Diabetes Foundation.
Learning How, Inc.
Legal Action Center.
Mennonite Central Committee.
Mental Health Law Project.
National Alliance for the Mentally Ill.
National Assembly of State Arts Agencies.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Professionals in the Private Sector.
National Association of Social Workers.
National Association of State Alcohol and Drug Abuse Directors.
National Association of State Mental Retardation Program Directors.
National Association of the Deaf.
National Center for Law and the Deaf.
National Coalition for Cancer Survivorship.
National Council of Churches.
National Council of Jewish Women.
National Council on Independent Living.
National Council on La Raza.
National Council on Rehabilitation Education.
National Down Syndrome Congress.
National Easter Seal Society.
National Federation of the Blind.
National Fraternal Society of the Deaf.
National Gay and Lesbian Task Force.
National Handicapped Sports and Recreation Association.
National Head Injury Foundation.
National Hemophilia Foundation.
National Industries for the Severely Handicapped, Inc.
National Mental Health Association.
National Mental Health Consumers' Association.
National Minority AIDS Council.
National Multiple Sclerosis Society.
National Network of Learning Disabled Adults.
National Network of Runaway and Youth Services.
National Organization for Rare Disorders.
National Organization on Disability.
National Ostomy Association.
National Rehabilitation Association.
National Spinal Cord Injury Association.
Paralyzed Veterans of America.
People First Internationa.
Planned Parenthood Federation of America.
Presbyterian Church, USA.
Self-Help for Hard of Hearing People, Inc.
Sex Information and Education Council of the US.
Spina Bifida Association of America.
Synagogue Council of America.
The Association for Persons with Severe Handicaps.
The Episcopal Church.
The United Methodist Church.
Tourette Syndrome Association.
Union of American Hebrew Congregations.
United Cerebral Palsy Associations, Inc.
United Church of Christ.
World Institute on Disability.

SECRETARY OF HEALTH AND HUMAN SERVICES,
WASHINGTON, DC, MAY 1, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives is preparing to take legislative action on the Americans with Disabilities Act (the Act), I wish to restate my position on the need for anti-discrimination protection for people with AIDS and HIV infection. There is strong evidence that bloodborne infections such as HIV infection are not spread by casual contact, and there is no medical reason for singling out individuals with AIDS or HIV infection for differential treatment under the Act.

While some have proposed that workers who handle food be treated differently under the Act, evidence indicates that bloodborne and sexually-transmitted infections such as HIV are not transmitted during the preparation or serving of food or beverages. Food service workers infected with HIV need not be restricted from work unless they have other infections or illnesses for which any food service worker should be restricted. Since the Act limits coverage for persons who pose a direct threat to others, relaxing the anti-discrimination protection for food service workers is not needed or justified in terms of the protection of the public health.

Further, I would add that any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health. We need to defeat discrimination rather than to submit to it. The Administration is strongly committed to ensuring that all Americans with disabilities, including HIV infection, are protected from discrimination, and believes that the Americans with Disabilities Act should furnish that protection.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

REMARKS BY PRESIDENT BUSH TO BUSINESS LEADERSHIP, MARCH 29, 1990

Our goal is to turn irrational fear into rational acts. Every American must learn what AIDS is, and what AIDS is not. The HIV virus is not spread by handshakes or hugs. You can't get it from food or drink, coughing, sneezing, or by sharing bathrooms or conversations.

I call on the Congress to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—that prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we won't tolerate discrimination.

DEPARTMENT OF HEALTH & HUMAN SERVICES,
CENTERS FOR DISEASE CONTROL,
June 15, 1990.

Hon. EDWARD M. KENNEDY,
U.S. States Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for your letter requesting information about the transmission of human immunodeficiency virus (HIV), with particular reference to the occupational setting.

National and international epidemiologic studies backed up by laboratory findings have consistently shown that HIV has three routes of transmission: sexual contact with an infected person, exposure to blood or blood components (in the U.S., primarily through needle sharing among intravenous drug users), and perinatal transmission from an infected woman to her fetus or infant.

No known risk of transmission through other means to co-workers, clients, or consumers exists from HIV-infected workers in offices, schools, factories, or other non-health-care-related work settings. Epidemiologic and laboratory evidence indicates that bloodborne and sexually-transmitted disease agents such as HIV or hepatitis B virus are not transmitted during the growing, harvesting, transportation, storage, preparation, or serving of food or beverages: and no

instances of HIV transmission have been documented in these settings. The scientific data clearly show lack of threat to food safety by HIV infection or HIV-infected persons. Food-service workers known to be infected with HIV need not be restricted from work unless they have evidence of *other* infections or illnesses for which a non HIV-infected food-service worker should also be restricted. The Public Health Service recommends that all food-service workers follow recommended standards and practices of good personal hygiene and food sanitation and avoid injury to the hands when preparing food. Should such an injury occur, workers are advised to discard any food contaminated with blood as a matter of good hygiene practice rather than out of concern for transmission of HIV infection.

I am enclosing a copy of the *Morbidity and Mortality Weekly Report (MMWR)* of November 15, 1985, that gives recommendations for preventing transmission of HIV infection in the workplace. Guidelines for food-service workers are on page 7 of the report. These guidelines remain valid today, with even stronger scientific evidence now than when they were first published 5 years ago.

The previously described transmission routes clearly account for most of the HIV infections in the United States. However, public health officials and health-care providers continue to encounter community concerns about other, perhaps unknown, modes of HIV transmission. In particular, the isolation of HIV from body fluids such as saliva, tears, and urine has led to concern that HIV might be spread through exposure to these fluids. However, there is no evidence that saliva, tears, or urine have transmitted HIV infection. The concentration of virus in these fluids is very low. In studies of households where more than 700 family members lived with and/or cared for persons with HIV infection and AIDS, no instances of casual transmission have been reported, despite the sharing of kitchen and bathroom facilities, meals, and eating and drinking utensils. In these studies, exposures were repeated, prolonged, and involved contact with the body secretions of infected persons, often when HIV infection was unknown to household contacts such as parents, siblings, or children for months or years. If HIV is not transmitted in the household setting, it would be even less likely to occur in other social or workplace settings. Although HIV has been kept viable under certain laboratory conditions, medical authorities agree that the virus is fragile and does not survive well in the environment. The pattern of cases would be much different from what is observed if casual contact resulted in HIV transmission.

Researchers at the Centers for Disease Control (CDC) are currently pursuing a variety of transmission studies. I understand that you have also written to Dr. William Raub regarding studies that National Institutes of Health is conducting on transmission of HIV. A list of CDC studies is attached for your information. Transmission studies in the occupational setting mainly concern health-care workers. The reasons public health scientists pursue such studies is to seek out potential opportunities for prevention. Why do 25% to 35% of babies born to infected women acquire HIV infection while the other children escape infection? Why have an average of 24% of steady heterosexual partners of HIV-infected persons become infected while the others have not? What is the quantitative role of cofactors, such as the presence of other sexually transmitted diseases, or protective factors such as condoms or spermicide, in facilitating or preventing HIV transmissions? These are key transmission questions. By conducting these studies, we are likely to answer these questions. We do not anticipate identifying any major new route of transmission through these or any other studies.

Thank you for the opportunity to provide you with information concerning this issue of concern to the public.

Sincerely yours,

WILLIAM L. ROPER, M.D., M.P.H.,
Director.

[Public Health Service, from the MMWR, Nov. 15, 1985, vol. 34, No. 45]

SUMMARY: RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

The information and recommendations contained in this document have been developed with particular emphasis on health-care workers and others in related occupations in which exposure might occur to blood from persons infected with HTLV-III/LAV, the "AIDS virus." Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and those preparing and serving food and beverages, this document also addresses personal-service and food-service workers. Finally, it addresses "other workers"—persons in settings, such as offices, schools, factories, and construction sites, where there is no known risk of AIDS virus transmission.

Because AIDS is a bloodborne, sexually transmitted disease that is not spread by casual contact, this document does not recommend routine HTLV-III/LAV antibody screening for the groups addressed. Because AIDS is not transmitted through preparation or serving of food and beverages, these recommendations state that food-service workers known to be infected with AIDS should not be restricted from work unless they have another infection or illness for which such restriction would be warranted.

This document contains detailed recommendations for precautions appropriate to prevent transmission of all bloodborne infectious diseases to people exposed—in the course of their duties—to blood from persons who may be infected with HTLV-III/LAV. They emphasize that health-care workers should take all possible precautions to prevent needlestick injury. The recommendations are based on the well-documented modes of HTLV-III/LAV transmission and incorporate a "worst case" scenario, the hepatitis B model of transmission. Because the hepatitis B virus is also bloodborne and is both hardier and more infectious than HTLV-III/LAV, recommendations that would prevent transmission of hepatitis B will also prevent transmission of AIDS.

Formulation of specific recommendations for health-care workers who perform invasive procedures is in progress.

Food-service workers (FSWs). FSWs are defined as individuals whose occupations involve the preparation or serving of food and beverages (e.g., cooks, caterers, servers, waiters, bartenders, airline attendants). All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections are not transmitted during the preparation or serving of food and beverages, and no instances of HBV or HTLV-III/LAV transmission have been documented in this setting.

All FSWs should follow recommended standards and practices of good personal hygiene and food sanitation (26). All FSWs should exercise care to avoid injury to hands when preparing food. Should such an injury occur, both aesthetic and sanitary considerations would dictate that food contaminated with blood be discarded. FSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infection or illness or which any FSW should also be restricted.

Routine serologic testing of FSWs for antibody to HTLV-III/LAV is not recommended to prevent disease transmission from FSWs to consumers.

AIDS ADVISORY COMMITTEE OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION

June 8, 1990.

DEAR CONFEREE: As members of the Health Resources and Services Administration's AIDS Advisory Committee, we would like to express to you our extreme concern and dismay at the possibility that the food-handlers' exemption amendment may be added to the Americans with Disabilities Act.

There is no scientific evidence to support this exemption. Other sections of the ADA provide for the removal of employees from positions if they pose a direct threat to the health and safety of others.

We feel that this amendment violates the basic premises of decisions made on sound public health policy, and will encourage the very prejudices that all of us have been attempting to alleviate. We urge you to vote against this amendment in conference.

Sincerely,

Molly J. Coye, M.D., M.P.H., Co-Chairman, Chairman, Division of Public Health, Johns Hopkins University; Iris L. Davis, M.D., New York Hospital, Center for Special Studies; John E. Arradondo, M.D., Director, Department of Health and Human Services, City of Houston; Eunice Diaz, M.S., M.P.H., Vice Chairman, Los Angeles County AIDs Commission; Gloria F. Donnelly, R.N., Ph.D., Chairman, Department of Nursing, La Salle University; Charles M. Helms, M.D., Ph.D, Associate Dean, College of Medicine, University of Iowa; Anne A. Scitovsky, M.A., Chief, Health Economics Department, Palo Alto Medical Foundation; Anne B. Williams, Ed.D., School of Nursing, University of California, San Francisco; Richard D. Dunne, M.P.A., New York, New York; Veneita Porter, Planned Parenthood, Alameda/San Francisco; Jeffrey Stall, M.D., Sarasota, Florida.

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,

McLean, VA, July 6, 1990.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the chief health officers in our states we, the undersigned, applaud you for deleting the Chapman Amendment from the Americans With Disabilities Act during conference. We feel strongly that this amendment, which permits food service industry employers to transfer workers who are infected with the AIDS virus out of jobs that involve food handling, is discriminatory. Such action un-

dermines the fundamental premise of the entire bill.

We concur with the unequivocal statements you have already heard many times from our colleagues in the Department of Health and Human Services and the Centers for Disease Control that the HIV infection cannot be transmitted through food. Inclusion of this amendment does a tragic disservice to the public by contributing to the misperception of AIDS as a disease that can be spread by casual contact. The Public Health Service and public health departments throughout the country have mounted extensive educational efforts to inform the American public about modes of transmission of HIV disease, and to combat inaccurate perceptions of risks posed by HIV positive persons. The appropriate response to public fear is ongoing education, not legitimizing further discrimination in statute. For these reasons, the Chapman amendment is not only unnecessary, but is counterproductive.

We strongly support the Americans with Disabilities Act as it clearly addresses legitimate public health concerns. As currently drafted, Section 103 does not preempt our existing state public health laws with regard to individuals who "pose a direct threat to the health or safety of others." We feel that only with the removal of the Chapman amendment can public health and safety be well served in a truly non-discriminatory fashion.

Again, we strongly urge you to protect the integrity of the Americans with Disabilities Act and the sound public health principles it sets forth by securing its final passage without the Chapman Amendment.

Sincerely,

Robert Bernstein, M.D., Texas State Department of Health; Jan Carney, M.D., Vermont State Department of Health; Suzanne Dandoy, M.D., Utah State Department of Health; Ronald D. Eckoff, M.D., Iowa State Department of Health; Charles Konigsberg, M.D., M.P.H., Kansas State Department of Health; N. Mark Richards, M.D., Pennslyvania State Department of Health; Lloyd F. Novick, M.D., M.P.H., New York State Department of Health; Bernard J. Turnock, M.D., Illinois State Department of Health; Sister Mary Madonna Ashton, Minnesota State Department of Health; Raj Wiener, Michigan State Department of Health; Adele Wilzack, R.N., M.S., Maryland State Department of Health; David Mulligan, Massachusetts State Department of Health; M. Joycelyn Elders, M.D., Arkansas State Department of Health; Theodore E. Williams, J.D., Arizona State Department of Health; John R. Bagby, Ph.D., Missouri State Department of Health; Frederick G. Adams, D.D.S., M.P.H., Connecticut Department of Health Services; Donald E. Pizzini, M.E.S., Montana State Department of Health; William T. Wallace, M.D., New Hampshire State Department of Health; Ronald Fletcher, M.D., Ohio State Department of Health; H. Denman Scott, M.D., M.P.H., Rhode Island State Department of Health; Thomas Vernon, M.D., Colorado State Department of Health; Robert M. Wentz, M.D., North Dakota State Department of Health; Morris Green, M.D., Indiana State Department of Health; Ronald H. Levine, M.D., North Carolina State Department of Health; James W. Alley, M.D., Georgia State Department of Health; Charles Mahan, M.D., Florida State Department of Health; Kristine Gebble, R.N., Washington State Department of Health; Joel Nitzkin, M.D., Louisiana State Department of Health; George Reynolds, M.D., Nevada State Department of Health; C. Hernandez, M.D., M.P.H., Kentucky State Department of Health; Lani Graham, M.D., M.P.H., Maine State Department of Health; Georges C. Benjamin, M.D., District of Columbia Department of Health; Lester N. Wright, M.D., M.P.H., Delaware State Department of Health; Kathrine Kelley, D.P.H., Alaska State Department of Health; Frances J. Dunston, M.D., M.P.H., New Jersey State Department of Health; J.W. Luna, Tennessee State Department of Health; Charles A. Anderson, Ed.D., South Dakota State Department of Health; Taunja Willis Miller, West Virginia State Department of Health; Kenneth W. Kizer, M.D., M.P.H., California State Department of Health; Alton B. Cobb, M.D., M.P.H., Mississippi State Department of Health; R. Larry Meuli, M.D., Wyoming State Division of Health and Medical Services; Michael D. Jarrett, M.H.A, South Carolina Department of Health; John C. Lewin, M.D., Hawaii State Department of Health; C. Earl Fox, M.D., M.P.H., Alabama State Department of Health.

COUNCIL OF STATE AND TERRITORIAL EPIDEMIOLOGISTS,
June 12, 1990.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Council of State and Territorial Epidemiologists (CSTE) I am writing to express our concern regarding the inclusion of the Chapman amendment in the Americans with Disabilities Act (ADA). The inclusion of the Chapman amendment in the version of the ADA passed by the House based on arguments related to the fear of transmission of the human immunodeficiency virus (HIV) by mechanisms not grounded in scientific fact or sound public health practice is extremely disconcerting.

As I am sure all members of the House and Senate know at this point in time there is no evidence of transmission of HIV through food or beverage or in the workplace via casual contact. This amendment is based on public perception alone and primarily on public ignorance. It is critical to educate the public regarding this important misconception rather than discriminate against those infected with HIV.

As is probably already apparent to the Conferees, there are existing state and local laws or regulations regarding food handlers ill with infectious diseases transmissible through food. These existing laws make any potentially relevant features of the Chapman amendment totally unnecessary. Individuals that prepare food while ill with a communicable disease such as gastrointestinal infection that can be transmitted in food or beverage are working against regulations that already exist in states and municipalities. Such regulations are not applicable for persons with infections such as Hepatitis B and HIV where food is not involved in transmission.

We are concerned that the inclusion of the Chapman amendment will serve to discourage employed individuals who are at high risk of HIV infection from seeking appropriate testing, counseling and the consequent benefits of early intervention because of fear of disclosure of an HIV infection to an employer with attendant loss of a job or profession. Since the Chapman amendment does not add to existing state or local laws or regulations regarding food handlers with an infectious illness transmissible through food, the Chapman amendment only reflects a discriminatory attitude. Worse yet, it tends to endorse and institutionalize such unfounded discrimination.

We urge that the House and Senate pass the ADA without the Chapman amendment. Thank you very much for the opportunity to register our concern regarding this amendment and our overwhelming support for the other general provisions of the ADA.

Sincerely,

DALE L. MORSE, M.D., M.S.,
Director, Bureau of Communicable Disease Control & State Epidemiologist.
President, U.S. Council of State & Territorial Epidemiologists.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,
Washington, DC, May 24, 1990.

Hon. EDWARD M. KENNEDY,
Hon. ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: We are writing to underscore our support for the Americans with Disabilities Act and to reiterate our concern about any amendment reducing its scope of coverage for persons with HIV infection. As you may recall, the National Commission on AIDS issued a statement to that effect at the outset of its work in September, 1989, a copy of which is attached.

As Secretary of HHS, Dr. Louis Sullivan has stated, "Any policy based on fears and misconceptions about HIV will only complicate and confuse disease control efforts without adding any protection to the public health." The amendment concerning foodhandlers narrowly adopted by the House only reinforces unwarranted fear and perpetuates the discrimination that the ADA is designed to end. All evidence indicates that bloodborne and sexually transmitted diseases such as HIV are *not* transmitted through food-handling processes. Simply put, this amendment is bad public health policy.

We hope that the conference deliberations can yield a bill that fully protects persons with HIV infection from fear and discrimination, without exception.

Sincerely,

JUNE E. OSBORN, M.D.,
Chairman.
DAVID E. ROGERS, M.D.,
Vice-Chairman.

JUNE 5, 1990.

DEAR SENATORS HATCH AND KENNEDY: Although nothing can bring back Ryan, I would like to express by gratitude to you for the Senate's overwhelming endorsement of the recent C.A.R.E. bill, dedicated to my son. It is my dearest hope that Ryan will be remembered as an ordinary boy who bravely faced a devasting disease—and in doing helped educate America about AIDS.

Ryan's message was simple: it is safe to live, or work, or study with someone with AIDS.

Yet Ryan's message has yet to be fully understood. I am tremendously disturbed by

the amendment to the Americans with Disabilities Act (ADA) which was approved by the House.

People who work with food and have HIV don't pose a threat to anybody. This bad amendment would allow discrimination against these workers simply because people are afraid.

I know a lot about irrational fear and I know how much it can hurt. Ryan had to bravely struggle against exactly this kind of fear in simply to go to school. If discrimination against people who work in restaurants is acceptable, then why not school children?

Both President Reagan and Bush have supported this law to ban to discrimination against people with AIDS. It's what Ryan's struggle was all about.

I implore you to defeat this bad amendment.

Yours truly,

JEANNE WHITE.

U.S. SENATE,
Washington, DC.

DEDICATION

S. 2240 is dedicated by the Senate Labor and Human Resources Committee to the memory of Ryan White who died on April 8, 1990 after a six year battle against AIDS.

Beginning at the age of 13, Ryan valiantly fought not only the human immunodeficiency virus itself but also fears about AIDS that were based on ignorance and senseless discrimination against people with AIDS and HIV disease. With dignity, patience and almost unvarying good cheer, Ryan White introduced to people across America and across the world a face of AIDS that caring human beings could not turn their backs upon. First through his courageous fight to be allowed to go to school with his peers, then through his tireless efforts to educate and explain the realities of his illness, young Ryan White changed our world. By dedicating this legislation to Ryan, the Committee affirms its commitment to provide care, compassion and understanding to people with AIDS everywhere. Ryan would have expected no less.

In memory of Ryan White, and the 70,000 Americans who have lost their lives to AIDS. And with the hope for all people living with AIDS.

AMERICAN PUBLIC
HEALTH ASSOCIATION,
Washington, DC, June 11, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: The American Public Health Association, with a national and affiliate membership of over 50,000 health professionals, scientists, and community health leaders, opposes the House language which reduces coverage under the Americans With Disabilities Act for individuals with infectious or communicable diseases working in food handling positions. Our opposition to this amendment is based on several reasons:

Since 1917, APHA has brought together infection control experts from around the world to publish the premier reference book on infectious diseases, "Control of Communicable Diseases in Man." With respect to the transmissibility of HIV via food and food handlers, this text and all other scientific authorities indicates that HIV is not a food-borne illness.

The House language is unnecessary since the Senate provision in Section 103(b) already deals with the issue of individuals with contagious disease who pose a threat to public health. This provision is similar to provisions in Section 504 of the Rehabilitation Act, the Civil Rights Restoration Act, and the Fair Housing Amendments. The language has served the public well and new language is not needed.

The House language is vague and undermines the whole purpose of the ADA. The Senate language is more precise and is consistent with public health practice.

All states codify those illness that are restrictable in specific workplaces. For example, Salmonella, Active TB, and Hepatitis A, among others, are food service restrictable diseases. It is quite common to have regulations listing health care setting, school, and day care restrictable diseases. The determinations as to which diseases are restrictable in given settings is based on scientific knowledge of the transmission of those diseases. HIV is not transmitted through casual contact and does not grow in food, therefore it is not a food service restrictable disease. The Senate provisions would allow health authorities to continue to protect worksites against contagious diseases which do pose a direct threat to the health or safety of others.

The intent of the House language is mean spirited and perpetuates the harmful and unscientific notion that fear of disease is a reason to discriminate against individuals. Such a policy will do nothing to promote public health or prevent the spread of infectious diseases such as HIV.

Very truly yours,
WILLIAM H. MCBEATH, MD, MPH,
Executive Director.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 24, 1990.

Re the Americans with Disabilities Act.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have requested the American Medical Association's views on the House amended version of the Americans with Disabilities Act (ADA) with regard to the provision involving food handlers. As we understand the provision, its inclusion in the ADA would not improve the legislation and the AMA does not support it.

The ADA employment discrimination provision already allows employers to require that an individual with a currently contagious disease or infection not pose a direct threat to the health or safety of others. The AMA supports this general exception to the prohibition against employment discrimination. When appropriately applied, it will provide protection to the health of co-workers and the public.

In this regard, there is no need for an amendment concerning food handlers. The existing ADA language provides appropriate protection from individuals, including food handlers, with contagious infectious diseases.

Sincerely,

JAMES S. TODD, MD.

SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO, CLC,
Washington, DC, May 31, 1990.

DEAR SENATOR: On behalf of the 925,000 members of the Service Employees International Union, I urge you to vote against the motion to instruct the conferees on the Americans with Disabilities Act to be offered by Senator Helms relating to the Chapman amendment. Many of our members work in the preparation of food and the amendment would adversely affect their civil rights.

The Chapman amendment was added to the Americans with Disability Act by the House of Representatives.

The amendment would allow discrimination in "food-handling" jobs against employees with communicable diseases—even those diseases that can not be transmitted through food.

Victims of many diseases, including AIDs, would be subject to the overly broad exemption set out by the amendment. An employer could force a person out of a job with food-handling duties, even when that person remains qualified for, and wishes to continue in, the food-handling job.

Please vote against discrimination by defeating the motion to instruct the conferees regarding the Chapman amendment.

Yours sincerely,

NED MCCULLOCH,
Senior Legislative Representative.

UNITED FOOD & COMMERCIAL
WORKER INTERNATIONAL UNION,
AFL-CIO & CLC,
Washington, DC, May 17, 1990.

Hon. STENY HOYER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE HOYER: The United Food and Commercial Workers International Union has 1.3 million members organized in over 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with employers throughout the food industry, including retail sales, meat packing, poultry and fish processing, and other food processing. We also have members in the health, leather, fur, shoe manufacturing and other industries.

We strongly urge your opposition to the "food handler" amendment that will be offered by Representative Chapman of Texas to the Americans with Disabilities Act. This amendment would reinforce the very kind of irrational discrimination that the Americans with Disabilities Act is designed to eliminate, and it should be defeated.

The amendment would allow discrimination in "food-handling" jobs against employees with "communicable diseases." It does not specify that those diseases be communicable through food. An employer could force a person out of a job with food-handling duties, even when that person remains qualified for, and wishes to continue in, the food-handling job.

The Chapman amendment purports to provide "alternative employment" to employees and to protect them from "economic damage." Most employers in the industry, however, have a small number of jobs that do not involve food handling. Many employees who work in such positions will not be qualified for alternative work.

Even if no employee suffered economic harm as a result of this discrimination, the Chapman amendment would still send a false and dangerous message that would undermine the efforts of our public health officials to calm unnecessary public fears about AIDS transmission.

As President Bush has said, "Every American must learn what AIDS is—and what AIDS is not . . . you can't get it from food or drink. * * * While the ignorant may discriminate against AIDS, AIDS won't discriminate among the ignorant."

Please vote against discrimination and against AIDS hysteria by defeating the Chapman amendment.

Sincerely,

WILLIE L. BAKER, Jr.,
International Vice President,
Director, Public Affairs Department.

FOOD & ALLIED SERVICE TRADES,
Washington, DC, May 17, 1990.

Hon. STENY HOYER,
Longworth House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HOYER: On behalf of the 3.5 million working men and women associated with the Food and Allied Service Trades Department, AFL-CIO, I am writing to urge you and your colleagues to vote against the Chapman Amendment to the Americans with Disabilities Act (ADA).

This amendment has been designed to allow employers to move an employee with a communicable or infectious disease of a public health significance out of a food handling position.

However the amendment is not necessary—food handlers who pose a risk to others are already excluded from the ADA. But the Chapman amendment would expand allowable discrimination to include workers that do not represent a risk to the public.

The amendment would facilitate the discrimination of workers employed in the food business that may have certain diseases although those maladies may not be communicable via food.

The amendment is clearly an attempt to discriminate against workers with certain disabilities. For these reasons we oppose the inclusion of such an amendment in the ADA. We encourage you to vote against the Chapman amendment.

Sincerely,

ROBERT F. HARBRANT,
President.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,
Washington, DC, May 17, 1990.

Hon. STENY H. HOYER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HOYER: The American Federation of State, County and Municipal Employees (AFSCME) urges you to oppose an amendment to H.R. 2273 which may be offered by Representative Chapman which would allow employers to deny jobs with food-handling duties to persons with "communicable diseases."

The Chapman amendment has no legitimate purpose and would only serve to weaken this important legislation. It is not needed to deal with the issue of food-borne diseases as the legislation does not cover persons who "pose a direct threat to the health or safety of other individuals." This standard is sufficient to ensure that a person with a food-borne or airborne disease will not be employed in a food-handling job.

The Chapman amendment would serve to reinforce the very kind of irrational discrimination that this legislation is designed to eliminate, and it should be defeated.

Sincerely,

JERRY B. KLEPNER,
Director of Legislation.

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION,
Washington, DC, June 22, 1990.

DEAR SENATOR: The Hotel Employees and Restaurant Employees International Union, urges you to vote for the final conference report on the Americans with Disabilities Act (S. 933) minus the Chapman amendment which was brought to the attention of the Senate by Senator Jesse Helms.

This International Union is proud to represent approximately 400,000 members in North America. On many of the issues that we have worked during the past 17 years, while fighting for the rights of our members, we also have fought vigorously to protect the livelihood and rights of the 6 million workers employed in the tourism industry. No group has fought harder or accomplished more for the tourism industry than our union. Apparently, some proponents of the Chapman amendment (National Restaurant Association) are couching this insidious amendment in terms of their concern for the welfare of the industry. I wish they were as vigilant when we have been fighting for funding for tourism promotion and trying to convince our government of the importance of the tourism industry.

We are appalled that many groups would push this concept of worker relocation which would create absolute havoc in the work place. Certainly the (ADA) bill itself provides safeguards and makes clear that anyone with a contagious disease who poses a direct threat to the health and safety of others is not covered.

We would like to take this opportunity to commend both Houses of Congress for their diligent efforts in bringing to final passage such an outstanding bill which will benefit millions of disabled Americans. We urge all of you to vote with reason, not fear, for the final passage of the conference report without the Chapman amendment.

Thank you for consideration.

Cordially,

BOB JULIANO,
Legislative Representative.

MAY 16, 1990.

DEAR CONFEREE: We, the undersigned representatives of governing bodies within our respective faith groups, urge you to support and pass the Americans With Disabilities Act [ADA]. We oppose any amendments which will serve to weaken the present bill. We especially urge you to oppose the "food handler" amendment that will be offered by Representative Jim Chapman.

This amendment fosters the same type of irrational discrimination that the ADA is intended to eliminate. There is no medical reason to bar people with the HIV disease from working as food handlers. All research concludes that the virus cannot be spread through food, handshakes, coughing, sneezing or other daily casual contact. Recently, Dr. William Roper, Director of the Centers for Disease Control, wrote a letter which states clearly that people with AIDS do not pose a risk to others by handling food. The proposed amendment would undermine the education efforts of the federal government and our various faith groups, which are trying to educate the public about how AIDS is contracted and how it is not.

The amendment will have a disproportionate impact on poor and racial/ethnic minority workers who rely on employment in the food service sector to care for themselves and their families. Adoption of this amendment will increase dependency upon federal income support payments and significantly decrease the opportunity for individuals to live independent lives.

The proposed amendment is also directly contrary to the stated position of President Bush. Our President has publicly stated, on more than one occasion, that all people with AIDS should be covered by ADA. Exceptions due to public ignorance are not countenanced by President Bush.

ADA already contains specific language that any worker who poses a direct threat (now defined as significant risk) to others is excluded from coverage in the employment section of the bill. We, as people of faith, cannot endorse this amendment which reinforces precisely the type of irrational discrimination ADA is designed to eliminate. It responds to public misperception and fear by legitimizing that fear through explicit accommodation in the law.

Thank you for considering our views.

Sincerely,

Rev. Ken South, Washington Representative, AIDS National Interfaith Network; Carol B. Franklin, American Baptist Churches, USA; Judith Golub, Legislative Director, American Jewish Committee; Mark J. Pelavin, Washington Representative, American Jewish Congress; Melva B. Jimerson, Acting Director, Church of the Bretheren, Washington Office; Sally Timmel, Director, Washington Office, Church Women United; Dr. Kay Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Joe Volk, Executive Secretary, Friends Committee on National Legislation; Joseph R. Hacala, S.J., Jesuit Social Ministries, National Office; Delton Franz, Director, Mennonite Central Committee, Washington Office; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Joan Bronk, National President, National Council of Jewish Women; Rev. Elenora Giddings Ivory, Director, Washington Office, Presbyterian Church (USA); Jane Hull Harvey, Director, Department of Human Welfare, General Board of Church & Society, The United Methodist Church; Joyce V. Hamlin, Women's Division, General Board of Global Ministries, The United Methodist Church; Rev. Jay Linter, Director, Office for Church in Society, United Church of Christ; Father Robert J. Brooks, Washington Office of the Episcopal Church.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE, OFFICE OF DOMESTIC SOCIAL DEVELOPMENT,
Washington, DC, June 5, 1990.

Hon. EDWARD KENNEDY,
Chair, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The U.S. Catholic Conference, the public policy arm of the nation's Roman Catholic bishops, urges you to oppose Senate approval of the Chapman amendment adopted by the House of Representatives to the Americans with Disabilities Act (ADA). As you know the bishops' conference strongly supported the ADA bill when it was considered by the Senate because of the urgent need to help disabled people, including those suffering from HIV infection, to participate fully in our society.

The Chapman amendment should be resisted by the Senate for two reasons: first, it is unnecessary; and second, such an amendment would set a pernicious precedent that

could undermine the principles embodied in the civil rights protections of this nation.

The Chapman amendment is unnecessary because the ADA bill already includes provisions to cover situations in which employees with communicable diseases could pose a health threat to others. Clearly, the ADA would not require restaurants to employ food handlers whose contagious illnesses could be transmitted through preparing or serving food.

The amendment is also dangerous because it would codify the idea that employers may discriminate against disabled people solely on the basis of the ignorance and prejudice of others. Proponents of this amendment have argued that, while there is no evidence that HIV infection can be transmitted through food handling, that food establishments must be free to cater to the fears and misunderstanding of some of their customers. Federal law, especially precedent setting civil rights laws should be based on higher principles and higher goals for our people.

Sincerely,

SHARON M. DALY.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, June 27, 1990.

DEAR SENATOR: We understand that the Senate soon will be voting on the conference report to the Americans with Disabilities Act. We urge the Senate to accept the conference report and reject any attempt to recommit the bill to conference with instructions to reconsider the Chapman Amendment. This amendment would allow employers to transfer employees with contagious diseases out of food-handling jobs.

The American Bar Association continues to oppose this discriminatory and unnecessary amendment. The conference report to the Americans with Disabilities Act already provides that its antidiscriminatory protections would not apply to workers whose contagious diseases pose a direct threat to the health or safety of others. The Chapman Amendment does not differentiate between employees with contagious diseases that can be spread through casual contact with food products and other employees with contagious diseases, like HIV infection, which medical science has determined cannot be spread by casual contact. It, therefore, does nothing more than perpetuate discrimination against disabled individuals and undermine the very purpose of the Americans with Disabilities Act.

This vital legislation finally will provide a national mandate to end discrimination on the basis of disability. We urge you to act promptly and accept the conference report.

Sincerely,

ROBERT D. EVANS.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, D.C., June 26, 1990.

Hon. Edward M. Kennedy,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: The National Council of Senior Citizens is in strong support of the Americans with Disabilities Act (ADA). This legislation contains needed protections which millions of Americans, many of them elderly, have waited too long for.

It is our hope that the Senate will act quickly when this legislation returns from Conference Committee and reject any unnecessary and frivolous amendments. In particular, we join with the labor, church, disability and civil rights organizations who have opposed Senate approval of the Chapman Amendment which allows discrimination against HIV+ persons and others in the food service industry.

This amendment has no legitimate purpose and will only serve to weaken the ADA bill. It is not needed to deal with food-borne diseases, and would simply serve to reinforce the very kind of irrational discrimination the Americans with Disability Act is designed to eliminate.

Sincerely,

ERIC SHULMAN,
Director, Legislative Liaison and Research.

WASHINGTON, DC,
June 28, 1990.

U.S. SENATE,
Washington, D.C.

DEAR SENATOR: The American Association of Retired Persons (AARP) urges you to support and vote for the Americans with Disabilities Act (ADA), as reported by the Conference Committee, and to oppose any efforts to delay *immediate* passage of this important bill.

Speedy passage of this crucial civil rights legislation is needed to improve the quality of life and expand the opportunities for the millions of persons who have some form of disabling condition. More than 50 percent of people over age 65 are included in this group.

The bill reported by the Conference Committee establishes a workable and fair framework for insuring that all citizens with disabilities, regardless of age, fully participate in the mainstream of society.

AARP supports the Conference agreement and urges you to vote for the Conference bill.

Sincerely,

HORACE B. DEETS.

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
June 6, 1990.

DEAR SENATOR: The Consortium for Citizens with Disabilities (CCD) urges you to oppose a motion to instruct on the "foodhandlers amendment" to the Americans with Disabilities Act (ADA). Contrary to the claims of the National Restaurant Association, the foodhandlers amendment wholly contradicts the spirit of the ADA by undermining the protections of the bill and perpetuating needless discrimination.

The foodhandlers amendment is based on irrational fears and misperceptions about people with AIDS and HIV disease. People with disabilities are all too familiar with such prejudicial attitudes because they have been similarly shunned by the same kinds of stereotypes.

For instance, people with mental retardation have often been institutionalized based on numerous misperceptions, including the unfounded fear that this condition is contagious. In the same vein, people with polio, in other generations, were subjected to panic-induced discrimination even though this viral disease has a limited contagion period of two weeks. Because massive misperceptions about the disease persisted, individuals with the disease were isolated and segregated. Even decades after the epidemic, children with polio were separated from other children in schools and adults were denied employment.

Although it's hard to believe today, the fear of epilepsy was once so great that people with this disease were believed to be possessed by the devil and were shut out of schools and the workforce. Even cancer was once thought to be contagious and resulted in discrimination.

The foodhandling amendment reinforces misperceptions about diseases that do not pose a risk to the public. It will send a message to the public that AIDS can be transmitted through food, even though this is not true. This is irresponsible. It undercuts all the public education efforts that have been spear-headed by the government over the last five years to teach people the facts about the disease.

If Members of the Senate have concerns about diseases that do pose a direct threat to the health and safety of the public, they should rest assured that this has already been addressed by the legislation. The Senate-passed version of the ADA (S. 933) already explicitly states that any individual with a contagious disease would not receive protections under the Act if they pose a direct threat to the health and safety of other that cannot be removed by reasonable accommodation. The Senate voted to incorporate this language in the Civil Rights Restoration Act and Fair Housing Amendments Act to allay fears about the contagiousness of the disease.

Proponents of the foodhandlers amendment contend that it is needed because of perceptions that HIV disease can be transmitted through the handling of food, even though they themselves admit that these perceptions are false. The ADA is intended to prohibit employment discrimination based on irrational fears and stereotypical perceptions.

We strongly disagree with the National Restaurant Association's assertion that this amendment is "fully in the spirit" of the Americans with Disabilities Act. Persons with disabilities and their friends and families believe that the spirit of the ADA is to end discrimination based on ignorance and prejudice; not to foster it.

For people with disabilities, including those with HIV disease and AIDS, the ADA offers promise that they will no longer be shunned and isolated because of the ignorance of others. We strongly urge you, on behalf of millions of citizens with disabilities, to oppose any motion to instruct on the foodhandlers amendment. Thank you.

Sincerely,

Affiliated Leadership League of and for the Blind, Alexander Graham Bell Association for the Deaf, American Academy of Child and Adolescent Psychiatry, American Academy of Otolaryngology Head and Neck Surgery, American Academy of Physical Medicine and Rehabilitation, American Association for Counseling and Development, American Association of the Deaf-Blind, American Association on Mental Retardation, American Association of University Affiliated Programs, American Congress of Rehabilitation Medicine, American Council of the Blind, American Deafness and Rehabilitation Association, American Diabetes Association, and American Foundation for the Blind.

American Occupational Therapy Association.

American Psychiatric Association.

American Psychological Association.

American Society for Deaf Children.

American Speech-Language-Hearing Association.

Association for the Education and Rehabilitation of the Blind and Visually Impaired.

Association for the Education of Rehabilitation Facility Personnel.
Association for Retarded Citizens of the United States.
Autism Society of America.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute, Inc.
Conference of Educational Administrators Serving the Deaf.
Council for Exceptional Children.
Convention of American Instructors of the Deaf.
Deafness Research Foundation.
Disabled But Able to Vote.
Disability Focus, Inc.
Disability Rights Education and Defense Fund, Inc.
Epilepsy Foundation of America.
Gallaudet University Alumni Association.
Gazette International Networking Institute.
Goodwill Industries of America, Inc.
International Association of Parents of the Deaf.
International Polio Network.
International Ventilator User Network.
Juvenile Diabetes Foundation.
Learning, How, Inc.
Mental Health Law Project.
National Alliance for the Mentally Ill.
National Association of the Deaf.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Professionals in the Private Sector.
National Association of State Mental Retardation Program Directors.
National Center for Law and the Deaf.
National Coalition for Cancer Survivorship.
National Council on Independent Living.
National Council on Rehabilitation Education.
National Down Syndrome Congress.
National Easter Seal Society.
National Federation of the Blind.
National Fraternal Society of the Deaf.
National Handicapped Sports and Recreation Association.
National Head Injury Foundation.
National Industries for the Severely Handicapped, Inc.
National Mental Health Association.
National Mental Health Consumers' Association.
National Multiple Sclerosis Society.
National Network of Learning Disabled Adults.
National Organization for Rare Disorders.
National Organization on Disability.
National Ostomy Association.
National Rehabilitation Association.
National Spinal Cord Injury Association.
Paralyzed Veterans of America.
People First International.
Self-Help for Hard of Hearing People, Inc.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
Tourette Syndrome Association.
United Cerebral Palsy Associations, Inc.
World Institute on Disability.

NEW ENGLAND CORPORATE CONSORTIUM FOR AIDS EDUCATION.

On behalf of the New England Consortium for Aids Education I am writing to express our strong opposition to the Chapman Food Handler Amendment to the Americans with Disabilities Act currently under consideration and debate.

In a time of increased recognition of the need to educate the public about the realities of AIDS and HIV, legislation that fosters misinformation, condones ignorance and encourages discriminatory behavior in any sector of American life is dangerous and counterproductive. It is also contrary to the fundamental principles of the American legislative process and judicial responsibility.

As such, the New England AIDS Consortium, which represents 15 major employers including: Digital Equipment Corporation; Polaroid Corporation; DAKA, International; Textron; The Stubbins Associates; and nearly one million employees throughout the Northeast, urges your immediate attention and support to delete consideration of the Chapman Amendment from the Americans with Disabilities Act. Further, we entreat your support and endorsement of any action that would move substantively toward altering public misperceptions about AIDS through increased educational efforts rather than reinforcing and codifying ignorance and fear.

PAUL A. ROSS, Ed.D.,
Chair, New England Corporate Consortium for AIDS Education.

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
Washington, DC, June 11, 1990.

DEAR CONFEREE: The undersigned members of the National Organizations Responding to AIDS (NORA) coalition strongly urge you to drop the "food handler" amendment that was passed by the House of Representatives on H.R. 2273, the Americans with Disabilities Act (ADA).

This amendment was designed to allow food establishments to force a person with AIDS out of a certain job in the establishment and into another, even when the person remains qualified to do the first job and wishes to remain in that position.

The provision reinforces precisely the type of irrational discrimination that the ADA is designed to eliminate. It responds to public misperception and fear by legitimizing that fear through an explicit accommodation in the law. We strongly believe that the narrow margin by which the amendment succeeded is evidence that the "Chapman amendment" does not enjoy broad support.

The inclusion of the food handlers provision is also seriously counter-productive to the efforts of the federal government, and the efforts of the undersigned groups, to educate the general public that AIDS is *not* spread through casual contact—including food preparation. This provision sends precisely the *opposite* message to the American public. Attached are letters from Dr. Louis Sullivan, Secretary of Health and Human Services and Dr. William Roper, formerly with the Domestic Policy Council in the Control (CDC), which sets forth clearly that people with AIDS do not pose a risk in food handling. The letter from Dr. Sullivan states the Bush administration's opposition to the amendment. The provision in question would undermine the millions of dollars that CDC is spending to get out this responsible message.

We urge you to remove the "Chapman amendment" in conference. It represents bad civil rights policy and bad public health policy.

Sincerely,
AIDS Action Council.
AIDS National Interfaith Network.
American Academy of Pediatrics.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of University Affiliated Programs.
American Civil Liberties Union.
American Federation of State, County, and Municipal Employees.
American Foundation for AIDS Research.
American Jewish Committee.
American Medical Student Association.
American Nurses' Association.
American Psychological Association.
American Public Health Association.
Association for Retarded Citizens of the United States.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Center for Population Options.
Center for Women's Policy Studies.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute Inc.
Citizens Commission on AIDS.
City of New York.
Coalition for the Homeless.
Committee for Children.
Federation of Parents and Friends of Lesbians and Gays.
Human Rights Campaign Fund.
Legal Action Center.
National Assembly of State Arts Agencies.
National Association of State Alcohol and Drug Abuse Directors.
National Association of Community Health Centers Inc.
National Association of Protection and Advocacy Systems.
National Association of Social Workers.
National Council of Jewish Women.
National Council on La Raza.
National Gay and Lesbian Task Force.
National Hemophilia Foundation.
National Mental Health Association.
National Minority AIDS Council.
National Network of Runaway and Youth Services.
Planned Parenthood Federation of America.
Sex Information and Education Council of the U.S.
Synagogue Council of America.
Union of American Hebrew Congregations.

TRANSMISSIBILITY

Let us lay to rest right now—once and for all—the mistaken notion that the experts have been repeatedly changing their minds about the essential facts about AIDS. Such an allegation is not supported by facts. In 1981, we started with no knowledge about a brand new disease; and month-by-month, year-by-year, painstaking medical research has given us better, more concrete knowledge about the illness.

Because of time constrains and the desire to hear from our witnesses I will not review with you—right now—all the official statements, warnings or guidelines about AIDS transmission published by the U.S. Public Health Service and the Centers for Disease Control—starting in June 1981 right through today. Instead, I will submit them for the record as ample documentation of the fact that HIV is not casually transmitted.

You will not find any screeching U-turns or overnight about-faces.

What you will see is the careful evolution of scientific understanding and the systematic building of consensus among researchers and virtually all public health experts.

No one has been lied to. There are no big uncertainties being covered up.

However, in science, there are no ironclad guarantees—about AIDS or about anything. What science relies upon is evidence. The overwhelming weight of evidence about AIDS and the human immunodeficiency virus tells us that the illness is not casually transmitted.

Those who ask for proof that AIDS can never be transmitted in other ways have an unrealistic expectation of biomedical research. In science, it is not possible to prove a negative.

As one AIDS epidemiologist has noted: under the right circumstances, water can be made to run up hill—but it doesn't happen very easily. Let us deal with the known facts about AIDS.

I quote from the New England Journal of Medicine of October 1987 in its exhaustive review on Transmission of HIV:

"The accumulated data strongly support the conclusion that transmission of HIV occurs only through blood, sexual activity, and perinatal events * * * An unrealistic requirement for absolute certainty about the lack of transmission by other routes persists, despite the knowledge that it is not scientifically possible to prove that an event cannot occur.

"Although we are confronted by a public health problem of potentially catastrophic dimensions, it is essential to appreciate that unwarranted fears of HIV transmission have compounded the suffering of young men, women, and children infected with HIV and have blunted an appropriate societal response aimed at reduction of transmission."

The Surgeon General's report states that, "AIDS is an infectious disease. It is contagious, but it cannot be spread in the same manner as a common cold or measles or chicken pox. It is contagious in the same way sexually transmitted diseases, such as syphilis and gonorrhea, are contagious. AIDS can also be spread through the sharing of intravenous drug needles and syringes used for injecting illicit drugs.

[T]here is great misunderstanding resulting in unfounded fear that AIDS can be spread by casual, non-sexual contact. The first cases of AIDS were reported in this country in 1981.

We would know by now if AIDS were passed by casual, non-sexual contact.

Everyday living does not present any risk of infection. You cannot get AIDS from casual social contact."

In a study on the transmission of HIV published in the New England Journal of Medicine, the author states that of the more than 30,000 cases of AIDS in the United States reported to the Centers for Disease Control in February 1987, none have occurred in family members of patients with AIDS, unless the members have other recognized risk-related behavior.

More direct and precise risk information can be derived from a number of studies in which nearly 500 family members of patients with AIDS were evaluated for evidence of infection. * * * These studies failed to demonstrate a single HIV infection among household members who did not have additional exposure to HIV infection through blood, sexual activity, or perinatal transmission.

A second study evaluated 86 family members of 24 children with AIDS. No transmission of HIV was demonstrated after close interactions, which in this study included occasional biting of siblings by the index children.

According to the Institute of Medicine, studies show no evidence that the infection is transmitted by so-called casual contact—that is, contact that can be even quite close between persons in the course of daily activities.

[Public Health Service, from the MMWR, November 15, 1985, Vol. 34, No. 45]

SUMMARY: RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

The information and recommendations contained in this document have been developed with particular emphasis on health-care workers and others in related occupations in which exposure might occur to blood from persons infected with HTLV-III/LAV, the "AIDS virus." Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and those preparing and serving food and beverages, this document also addresses personal-service and food-service workers. Finally, it addresses "other workers"—persons in settings, such as offices, schools, factories, and construction sites, where there is no known risk of AIDS virus transmission.

Because AIDS is a bloodborne, sexually transmitted disease that is not spread by casual contact, this document does not recommend routine HTLV-III/LAV antibody screening for the groups addressed. Because AIDS is not transmitted through preparation or serving of food and beverages, these recommendations state that food-service workers known to be infected with AIDS should not be restricted from work unless they have another infection or illness for which such restriction would be warranted.

This document contains detailed recommendations for precautions appropriate to prevent transmission of all bloodborne infectious diseases to people exposed—in the course of their duties—to blood from persons who may be infected with HTLV-III/LAV. They emphasize that health-care workers should take all possible precautions to prevent needlestick injury. The recommendations are based on the well-documented modes of HTLV-III/LAV transmission and incorporate a "worst case" scenario, the hepatitis B model of transmission. Because the hepatitis B virus is also bloodborne and is both hardier and more infectious than HTLV-III/LAV, recommendations that would prevent transmission of hepatitis B will also prevent transmission of AIDS.

Formulation of specific recommendations for health-care workers who perform invasive procedures is in progress.

RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF INFECTION WITH HUMAN T-LYMPHOTROPIC VIRUS TYPE III/LYMPHADENOPATHY-ASSOCIATED VIRUS IN THE WORKPLACE

Persons at increased risk of acquiring infection with human T-lymphotropic virus type III/lymphadenopathy-associated virus (HTLV-III/LAV), the virus that causes acquired immunodeficiency syndrome (AIDS), include homosexual and bisexual men, intravenous (IV) drug abusers, persons transfused with contaminated blood or blood products, heterosexual contacts of persons with HTLV-III/LAV infection, and children born to infected mothers. HTLV-III/LAV is transmitted through sexual contact, parenteral exposure to infected blood or blood components, and perinatal transmission from mother to neonate. HTLV-III/LAV has been isolated from blood, semen, saliva, tears, breast milk, and urine and is likely to be isolated from some other body fluids, secretions, and excretions, but epidemiologic evidence has implicated only blood and semen in transmission. Studies of nonsexual household contacts of AIDs patients indicate that casual contact with saliva and tears does not result in transmission of infection. Spread of infection to household contacts of infected persons has not been detected when the household contacts have not been sex partners or have not been infants of infected mothers. The kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of HTLV-III/LAV.

As in the development of any such recommendations, the paramount consideration is the protection of the public's health. The following rcommendations have been developed for all workers, particularly workers in occupations in which exposure might occur to blood from individuals infected with HTLV-III/LAV. These recommendations reinforce and supplement the specific recommendations that were published earlier for clinical and laboratory staffs [1] and for dental-care personnel and persons performing necropsies and morticians' services.[2] Because of public concern about the purported risk of transmission of HTLV-III/LAV by persons providing personal services and by food and beverages, these recommendations contain information and recommendations for personal-service and food-service workers. Finally, these recommendations address workplaces in general where there is no known risk of transmission of HTLV-III/LAV (e.g., offices, schools, factories, construction sites). Formulation of specific recommendations for health-care workers (HCWs) who perform invasive procedures (e.g., sugeons, dentists) is in progress. Separate recommendations are also being developed to prevent HTLV-III/LAV transmission in prisons, other correctional facilities, and institutions housing individuals who may exhibit uncontrollable behavior (e.g., custodial institutions) and in the perinatal setting. In addition, separate recommendations have already been developed for children in schools and day-care centers.[3]

HTLV-III/LAV-infected individuals include those with AIDS,[4] those diagnosed by their physician(s) as having other illnesses due to infection with HTLV-III/LAV, and those who have virologic or serologic evidence of infection with HTLV-III/LAV but who are not ill.

These recommendations are based on the well-documented modes of HTLV-III/LAV transmission identified in epidemiologic studies and on comparison with the hepatitis B experience. Other recommendations are based on the hepatitis B model of transmission.

Comparison with the hepatitis B virus experience

The epidemiology of HTLV-III/LAV infection is similar to that of hepatitis B virus (HBV) infection, and much that has been learned over the last 15 years related to the risk of acquiring hepatitis B in the workplace can be applied to understanding the

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Footnotes at end of article.

risk of HTLV-III/LAV transmission in the health-care and other occupational settings. Both viruses are transmitted through sexual contact, parenteral exposure to contaminated blood or blood products, and perinatal transmission from infected mothers to their offspring. Thus, some of the same major groups at high risk for HBV infection (e.g., homosexual men, IV drug abusers, persons with hemophilia, infants born to infected mothers) are also the groups at highest risk for HTLV-III/LAV infection. Neither HBV nor HTLV-III/LAV has been shown to be transmitted by casual contact in the workplace, contaminated food or water, or airborne or fecal-oral routes.[5]

HBV infection is an occupational risk for HCWs, but this risk is related to degree of contact with blood or contaminated needles. HCWs who do not have contact with blood or needles contaminated with blood are not at risk for acquiring HBV infection in the workplace.[6 8]

In the health-care setting, HBV transmission has not been documented between hospitalized patients, except in hemodialysis units, where blood contamination of the environment has been extensive or where HBV-positive blood from one patient has been transferred to another patient through contamination of instruments. Evidence of HBV transmission from HCWs to patients has been rare and limited to situations in which the HCWs exhibited high concentrations of virus in their blood (at least 100,000,000 infectious virus particles per ml of serum), and the HCWs sustained a puncture wound while performing traumatic procedures on patients or had exudative or weeping lesions that allowed virus to contaminate instruments or open wounds of patients.[9 11]

Current evidence indicates that, despite epidemiologic similarities of HBV and HTLV-III/LAV infection, the risk for HBV transmission in health-care settings far exceeds that for HTLV-III/LAV transmission. The risk of acquiring HBV infection following a needlestick from an HBV carrier ranges from 6% to 30%,[12,13] far in excess of the risk of HTLV-III/LAV infection following a needlestick involving a source patient infected with HTLV-III/LAV, which is less than 1%. In addition, all HCWs who have been shown to transmit HBV infection in health-care settings have belonged to the subset of chronic HBV carriers who, when tested, have exhibited evidence of exceptionally high concentrations of virus (at least 100,000,000 infectious virus particles per ml) in their blood. Chronic carriers who have substantially lower concentrations of virus in their blood have not been implicated in transmission in the health-care setting[9,11,14]. The HBV model thus represents a "worst case" condition in regard to transmission in health-care and other related settings. Therefore, recommendations for the control of HBV infection should, if followed, also effectively prevent spread of HTLV-III/LAV. Whether addditional measures are indicated for those HCWs who perform invasive procedures will be addressed in the recommendations currently being developed.

Routine screening of all patients or HCWs for evidence of HBV infection has never been recommended. Control of HBV transmission in the health-care setting has emphasized the implementation of recommendations for the appropriate handling of blood, other body fluids, and items soiled with blood or other body fluids.

Transmission from patients to health-care workers

HCWs include, but are not limited to, nurses, physicians, dentists and other dental workers, optometrists, podiatrists, chiropractors, laboratory and blood bank technologists and technicians, phlebotomists, dialysis personnel, paramedics, emergency medical technicians, medical examiners, morticians, housekeepers, laundry workers, and others whose work involves contact with patients, their blood or other body fluids, or corpses.

Recommendations for HCWs emphasize precautions appropriate for preventing transmission of bloodborne infectious diseases, including HTLV-III/LAV and HBV infections. Thus, these precautions should be enforced routinely, as should other standard infection-control precautions, regardless of whether HCWs or patients are known to be infected with HTLV-III/LAV or HBV. In addition to being informed of these precautions, all HCWs, including students and housestaff, should be educated regarding the epidemiology, modes of transmission, and prevention of HTLV-III/LAV infection.

Risk of HCWs acquiring HTLV-III/LAC in the workplace.—Using the HBV model, the highest risk for transmission of HTLV-III/LAV in the workplace would involve parenteral exposure to a needle or other sharp instrument contaminated with blood of an infected patient. The risk to HCWs of acquiring HTLV-III/LAV infection in the workplace has been evaluated in several studies. In five separate studies, a total of 1,498 HCWs have been tested for antibody to HTLV-III/LAV. In these studies, 666 (44.5%) of the HCWs had direct parenteral (needlestick or cut) or mucous membrane exposure to patients with AIDS or HTLV-III/LAV infection. Most of these exposures were to blood rather than to other body fluids. None of the HCWs whose initial serologic tests were negative developed subsequent evidence of HTLV-III/LAV infection following their exposures. Twenty-six HCWs in these five studies were seropositive when first tested; all but three of these persons belonged to groups recognized to be at increased risk for AIDS[15]. Since one was tested anonymously, epidemiologic information was available on only two of those three seropositive HCWs. Although these two HCWs were reported as probable occupationally related HTLV-III/LAV infection[15 16], neither had a preexposure nor an early postexposure serum sample available to help determine the onset of infection. One case reported from England describes a nurse who seroconverted following an accidental parenteral exposure to a needle contaminated with blood from an AIDS patient[17].

In spite of the extremely low risk of transmission of HTLV-III/LAV infection, even when needlestick injuries occur, more emphasis must be given to precautions targeted to prevent needlestick injuries in HCWs caring for any patient, since such injuries continue to occur even during the care of patients who are known to be infected with HTLV-III/LAV.

Precautions to prevent acquisition of HTLV-III/LAV infection by HCWs in the workplace.—These precautions represent prudent practices that apply to preventing transmission of HTLV-III/LAV and other bloodborne infections and should be used routinely.[18]

1. Sharp items (needles, scalpel blades, and other sharp instruments) should be considered as potentially infective and be handled with extraordinary care to prevent accidental injuries.

2. Disposable syringes and needles, scalpel blades, and other sharp items should be placed into puncture-resistant containers located as close as practical to the area in which they were used. To prevent needlestick injuries, needles should not be recapped, purposefully bent, broken, removed from disposable syringes, or otherwise manipulated by hand.

3. When the possibility of exposure to blood or other body fluids exists, routinely recommended precautions should be followed. The anticipated exposure may require gloves alone, as in handling items soiled with blood or equipment contaminated with blood or other body fluids, or may also require gowns, masks, and eye-coverings when performing procedures involving more extensive contact with blood or potentially infective body fluids, as in some dental or endoscopic procedures or postmortem examinations. Hands should be washed thoroughly and immediately if they accidentally become contaminated with blood.

4. To minimize the need for emergency mouth-to-mouth resuscitation, mouth pieces, resuscitation bags, or other ventilation devices should be strategically located and available for use in areas where the need for resuscitation is predictable.

5. Pregnant HCWs are not known to be a greater risk of contracting HTLV-III/LAV infections than HCWs who are not pregnant; however, if a HCW develops HTLV-III/LAV infection during pregnancy, the infant is at increased risk of infection resulting from perinatal transmission. Because of this risk, pregnant HCWs should be especially familiar with precautions for the preventing HTLV-III/LAV transmissions.[19]

Precautions for HCWs during home care of persons infected with HTLV-III/LAV.—Persons infected with HTLV-III/LAV can be safely cared for in home environments. Studies of family members of patients infected with HTLV-III/LAV have found no evidence of HTLV-III/LAV transmission to adults who were not sexual contacts of the infected patients or to children who were not a risk for perinatal transmission.[3] HCWs providing home care face the same risk of transmission of infection as HCWs in hospitals and other health-care settings, especially if there are needlesticks or other parenteral or mucous membrane exposures to blood or other body fluids.

When providing health-care service in the home to persons infected with HTLV-III/LAV, measures similar to those used in hospitals are appropriate. As in the hospital, needles should not be recapped, purposefully bent, broken, removed from disposable syringes, or otherwise manipulated by hand. Needles and other sharp items should be placed into puncture-resistant containers and disposed of in accordance with local regulations for solid waste. Blood and other body fluids can be flushed down the toilet. Other items for disposal that are contaminated with blood or other body fluids that cannot be flushed down the toilet should be wrapped securely in a plastic bag that is impervious and sturdy (not easily penetrated). It should be placed in a second bag before being discarded in a manner consistent with local regulations for solid waste disposal. Spills of blood or other body fluids should be cleaned with soap and water or a household detergent. As in the hospital, individuals cleaning up such spills should wear disposable gloves. A disinfectant solution or a

freshly prepared solution of sodium hypochlorite (household bleach, see below) should be used to wipe the area after cleaning.

Precautions for providers of prehospital emergency health care.—Providers of prehospital emergency health care include the following: paramedics, emergency medical technicians, law enforcement personnel, firefighters, lifeguards, and others whose job might require them to provide first-response medical care. The risk of transmission of infection, including HTLV-III/LAV infection, from infected persons to providers of prehospital emergency health care should be no higher than that for HCWs providing emergency care in the hospital if appropriate precautions are taken to prevent exposure to blood or other body fluids.

Providers of prehospital emergency health care should follow the precautions outlined above for other HCWs. No transmission of HBV infection during mouth-to-mouth resuscitation has been documented. However, because of the theoretical risk of salivary transmission of HTLV-III/LAV during mouth-to-mouth resuscitation, special attention should be given to the use of disposable airway equipment or resuscitation bags and the wearing of gloves when in contact with blood or other body fluids. Resuscitation equipment and devices known or suspected to be contaminated with blood or other body fluids should be used once and disposed of or be thoroughly cleaned and disinfected after each use.

Management of parenteral and mucous membrane exposures of HCWs.—If a HCW has a parenteral (e.g., needlestick or cut) or mucous membrane (e.g., splash to the eye or mouth) exposure to blood or other body fluids, the source patient should be assessed clinically and epidemiologically to determine the likelihood of HTLV-III/LAV infection. If the assessment suggests that infection may exist, the patient should be informed of the incident and requested to consent to serologic testing for evidence of HTLV-III/LAV infection. If the source patient has AIDS or other evidence of HTLV-III/LAV infection, declines testing, or has a positive test, the HCW should be evaluated clinically and serologically for evidence of HTLV-III/LAV infection as soon as possible after the exposure, and, if seronegative, retested after 6 weeks and on a periodic basis thereafter (e.g., 3, 6, and 12 months following exposure) to determine if transmission has occurred. During this follow-up period, especially the first 6-12 weeks, when most infected persons are expected to seroconvert, exposed HCWs should receive counseling about the risk of infection and follow U.S. Public Health Service (PHS) recommendations for preventing transmission of AIDS.[20, 21] If the source patient is seronegative and has no other evidence of HTLV-III/LAV infection, no further follow-up of the HCW is necessary. If the source patient cannot be identified, decisions regarding appropriate follow-up should be individualized based on the type of exposure and the likelihood that the source patient was infected.

Serologic testing of patients.—Routine serologic testing of all patients for antibody to HTLV-III/LAV is not recommended to prevent transmission of HTLV-III/LAV infection in the workplace. Results of such testing are unlikely to further reduce the risk of transmission, which, even with documented needlesticks, is already extremely low. Furthermore, the risk of needlestick and other parenteral exposures could be reduced by emphasizing and more consistently implementing routinely recommended infection—control precautions (e.g., not recapping needles). Moreover, results of routine serologic testing would not be available for emergency cases and patients with short lengths of stay, and additional tests to determine whether a positive test was a true or false positive would be required in populations with a low prevalence of infection. However, this recommendation is based only on considerations of occupational risks and should not be construed as a recommendation against other uses of the serologic test, such as for diagnosis or to facilitate medical management of patients. Since the experience with infected patients varies substantially among hospitals (75% of all AIDS cases have been reported by only 280 of the more than 6,000 acute-care hospitals in the United States), some hospitals in certain geographic areas may deem it appropriate it initiate serologic testing of patients.

Transmission from health-care workers to patients

Risk of transmission of HTLV-III/LAV infection from HCWs to patients.—Although there is no evidence that HCWs infected with HTLV-III/LAV have transmitted infection to patients, a risk of transmission of HTLV-III/LAV infection from HCWs to patients would exist in situations where there is both (1) a high degree of trauma to the patient that would provide a portal of entry for the virus (e.g., during invasive procedures) and (2) access of blood or serous fluid from the infected HCW to the open tissue of a patient, as could occur if the HCW sustains a needlestick or scalpel injury during an invasive procedure. HCWs known to be infected with HTLV-III/LAV who do not perform invasive procedures need not be restricted from work unless they have evidence of other infection or illness for which any HCW should be restricted. Whether additional restrictions are indicated for HCWs who perform invasive procedures is currently being considered.

Precautions to prevent transmission of HTLV-III/LAV infection from HCWs to patients.—These precautions apply to all HCWs, regardless of whether they perform invasive procedures: (1) All HCWs should wear gloves for direct contact with mucous membranes or nonintact skin of all patients and (2) HCWs who have exudative lesions or weeping dermatitis should refrain from all direct patient care and from handling patient-care equipment until the condition resolves.

Management of parenteral and mucous membrane exposures of patients. If a patient has a parenteral or mucous membrane exposure to blood or other body fluids of a HCW, the patient should be informed of the incident and the same procedure outlined above for exposures of HCWs to patients should be followed for both the source HCW and the potentially exposed patient. Management of this type of exposure will be addressed in more detail in the recommendations for HCWs who perform invasive procedures.

Serologic testing of HCWs. Routine serologic testing of HCWs who do not perform invasive procedures (including providers of home and prehospital emergency care) is not recommended to prevent transmission of HTLV-III/LAV infection. The risk of transmission is extremely low and can be further minimized when routinely recommended infection-control precautions are followed. However, serologic testing should be available to HCWs who may wish to know their HTLV-III/LAV infection status. Whether indications exist for serologic testing of HCWs who perform invasive procedures is currently being considered.

Risk of occupational acquisition of other infectious diseases by HCWs infected with HTLV-III-LAV. HCWs who are known to be infected with HTLV-III/LAV and who have defective immune systems are at increased risk of acquiring or experiencing serious complications of other infectious diseases. Of particular concern is the risk of severe infection following exposure to patients with infectious diseases that are easily transmitted if appropriate precautions are not taken (e.g., tuberculosis). HCWs infected with HTLV-III/LAV should be counseled about the potential risk associated with taking care of patients with transmissible infections and should continue to follow existing recommendations for infection control to minimize their risk of exposure to other infectious agents [18, 19]. The HCWs' personal physician(s), in conjunction with their institutions' personnel health services or medical directors, should determine on an individual basis whether the infected HCWs can adequately and safely perform patient-care duties and suggest changes in work assignments, if indicated. In making this determination, recommendations of the Immunization Practices Advisory Committee and institutional policies concerning requirements for vaccinating HCWs with live-virus vaccines should also be considered.

Sterilization, disinfection, housekeeping, and waste disposal to prevent transmission of HTLV-III/LAV

Sterilization and disinfection procedures currently recommended for use [22, 23] in health-care and dental facilities are adequate to sterilize or disinfect instruments, devices, or other items contaminated with the blood or other body fluids from individuals infected with HTLV-III/LAV. Instruments or other nondisposable items that enter normally sterile tissue or the vascular system or through which blood flows should be sterilized before reuse. Surgical instruments used on all patients should be decontaminated after use rather than just rinsed with water. Decontamination can be accomplished by machine or by hand cleaning by trained personnal wearing appropriate protective attire [24] and using appropriate chemical germicides. Instruments or other nondisposable items that touch intact mucous membranes should receive high-level disinfection.

Several liquid chemical germicides commonly used in laboratories and health-care facilities have been shown to kill HTLV-III/LAV at concentrations much lower than are used in practice [25]. When decontaminating instruments or medical devices, chemical germicides that are registered with and approved by the U.S. Environmental Protection Agency (EPA) as "sterilants" can be used either for sterilization or for high-level disinfection depending on contact time; germicides that are approved for use as "hospital disinfectants" and are mycobactericidal when used at appropriate dilutions can also be used for high-level disinfection of devices and instruments. Germicides that are mycobactericidal are preferred because mycobacteria represent one of the most resistant groups of microorganisms; therefore, germicides that are effective against mycobacteria are also effective against other bacterial and viral pathogens. When chemical germicides are used, instruments or devices to be sterilized or disinfected should be thoroughly cleaned before exposure to the germicide,

and the manufacturer's instructions for use of the germicide should be followed.

Laundry and dishwashing cycles commonly used in hospitals are adequate to decontaminate linens, dishes, glassware, and utensils. When cleaning environmental surfaces, housekeeping procedures commonly used in hospitals are adequate; surfaces exposed to blood and body fluids should be cleaned with a detergent followed by decontamination using an EPA-approved hospital disinfectant that is mycobactericidal. Individuals cleaning up such spills should wear disposable gloves. Information on specific label claims of commercial germicides can be obtained by writing to the Disinfectants Branch, Office of Pesticides, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

In addition to hospital disinfectants, a freshly prepared solution of sodium hypochlorite (household bleach) is an inexpensive and very effective germicide [25]. Concentrations ranging from 5,000 ppm (a 1:10 dilution of household bleach) to 500 ppm (a 1:100 dilution) sodium hypochlorite are effective, depending on the amount of organic material (e.g., blood, mucous, etc.) present on the surface to be cleaned and disinfected.

Sharp items should be considered as potentially infective and should be handled and disposed of with extraordinary care to prevent accidental injuries. Other potentially infective waste should be contained and transported in clearly identified impervious plastic bags. If the outside of the bag is contaminated with blood or other body fluids, a second outer bag should be used. Recommended practices for disposal of infective waste [23] are adequate for disposal of waste contaminated by HTLV-III/LAV. Blood and other body fluids may be carefully poured down a drain connected to a sanitary sewer.

Considerations relevant to other workers

Personal-service workers (PSWs).—PSWs are defined as individuals whose occupations involve close personal contact with clients (e.g., hairdressers, barbers, estheticians, cosmetologists, manicurists, pedicurists, massage therapists). PSWs whose services (tattooing, ear piercing, acupuncture, etc.) require needles or other instruments that penetrate the skin should follow precautions indicated for HCWs. Although there is no evidence of transmission of HTLV-III/LAV from clients to PSWs, from PSWs to clients, or between clients of PSWs, a risk of transmission would exist from PSWs to clients and vice versa in situations where there is both (1) trauma to one of the individuals that would provide a portal of entry for the virus and (2) access of blood or serous fluid from one infected person to the open tissue of the other, as could occur if either sustained a cut. A risk of transmission from client to client exists when instruments contaminated with blood are not sterilized or disinfected between clients. However, HBV transmission has been documented only rarely in acupuncture, ear piercing, and tatto establishments and never in other personal-service settings, indicating that any risk for HTLV-III/LAV transmission in personal-service settings must be extremely low.

All PSWs should be educated about transmission of bloodborne infections, including HTLV-III/LAV and HBV. Such education should emphasize principles of good hygiene, antisepsis, and disinfection. This education can be accomplished by national or state professional organizations, with assistance from state and local health departments, using lectures at meetings or self-instructional materials. Licensure requirements should include evidence of such education. Instruments that are intended to penetrate the skin (e.g., tattooing and acupuncture needles, ear piercing devices) should be used once and disposed of or be thoroughly cleaned and sterilized after each use using procedures recommended for use in health-care institutions. Instruments not intended to penetrate the skin but which may become contaminated with blood (e.g., razors), should be used for only one client and be disposed of or thoroughly cleaned and disinfected after use using procedures recommended for use in health-care institutions. Any PSW with exudative lesions or weeping dermatitis, regardless of HTLV-III/LAV infection status, should refrain from direct contact with clients until the condition resolves. PSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infections or illnesses for which any PSW should also be restricted.

Routine serologic testing of PSWs for antibody to HTLV-III/LAV is not recommended to prevent transmission from PSWs to clients.

Food-service workers (FSWs).—FSWs are defined as individuals whose occupations involve the preparation or serving of food or beverages (e.g., cooks, caterers, servers, waiters, bartenders, airline attendants). All epidemiologic and laboratory evidence indicates that bloodborne and sexually transmitted infections are not transmitted during the preparation or serving of food or beverages, and no instances of HBV or HTLV-III/LAV transmission have been documented in this setting.

All FSWs should follow recommended standards and practices of good personal hygiene and food sanitation.[26] All FSWs should exercise care to avoid injury to hands when preparing food. Should such an injury occur, both aesthetic and sanitary considerations would dictate that food contaminated with blood be discarded. FSWs known to be infected with HTLV-III/LAV need not be restricted from work unless they have evidence of other infection or illness for which any FSW should also be restricted.

Routine serologic testing of FSWs for antibody to HTLV-III/LAV is not recommended to prevent disease transmission from FSWs to consumers.

Other workers sharing the same work environment.—No known risk of transmission to co-workers, clients, or consumers exists from HTLV-III/LAV-infected workers in other settings (e.g., offices, schools, factories, construction sites). This infection is spread by sexual contact with infected persons, injection of contaminated blood or blood products, and by perinatal transmission. Workers known to be infected with HTLV-III/LAV should not be restricted from work solely based on this finding. Moreover, they should not be restricted from using telephones, office equipment, toilets, showers, eating facilities, and water fountains. Equipment contaminated with blood or other body fluids of any worker, regardless of HTLV-III/LAV infection status, should be cleaned with soap and water or a detergent. A disinfectant solution or a fresh solution of sodium hypochlorite (household bleach, see above) should be used to wipe the area after cleaning.

Other issues in the workplace

The information and recommendations contained in this document do not address all the potential issues that may have to be considered when making specific employment decisions for persons with HTLV-III/LAV infection. The diagnosis of HTLV-III/LAV infection may evoke unwarranted fear and suspicion in some co-workers. Other issues that may be considered include the need for confidentiality, applicable federal, state, or local laws governing occupational safety and health, civil rights of employees, workers' compensation laws, provisions of collective bargaining agreements, confidentiality of medical records, informed consent, employee and patient privacy rights, and employee right-to-know statutes.

Development of these recommendations

The information and recommendations contained in these recommendations were developed and compiled by CDC and other PHS agencies in consultation with individuals representing various organizations. The following organizations were represented: Association of State and Territorial Health Officials, Conference of State and Territorial Epidemiologists, Association of State and Territorial Public Health Laboratory Directors, National Association of County Health Officials, American Hospital Association, United States Conference of Local Health Officers, Association for Practitioners in Infection Control, Society of Hospital Epidemiologists of America, American Dental Association, American Medical Association, American Nurses' Association, American Association of Medical Colleges, American Association of Dental Schools, National Institutes of Health, Food and Drug Administration, Food Research Institute, National Restaurant Association, National Hairdressers and Cosmetologists Association, National Gay Task Force, National Funeral Directors and Morticians Association, American Association of Physicians for Human Rights, and National Association of Emergency Medical Technicians. The consultants also included a labor union representative, an attorney, a corporate medical director, and a pathologist. However, these recommendations may not reflect the views of individual consultants or the organizations they represented.

FOOTNOTES

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[3] CDC. Education and foster care of children infected with human T-lymphotropic virus type III-lymphodenopathy-associated virus. MMWR 1985;34:517-21.

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[6] Hadler SC, Doto IL, Maynard JE, et al. Occupational risk of hepatitis B infection in hospital workers. Infect Control 1985;6:24-31.

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[10] Hadler SC, Sordey DL, Acree KH, et al. An outbreak of hepatitis B in a dental practice. Ann Intern Med 1981;95:133-8.

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[17] Anonymous. Needlestick transmission of HTLV-III from a patient infected in Africa. Lancet 1984;ii:1376-7.

[18] Garner JS, Simmons BP. Guideline for isolation precautions in hospitals, Infect Control 1983;4: 245-325.

[19] Williams WW. Guideline for infection control in hospital personnel. Infect Control 1983;4:326-49.

[20] CDC. Prevention of acquired immune deficiency syndrome (AIDS): report of inter-agency recommendations. MMWR 1983;32:101-3.

[21] CDC. Provisional Public Health Service interagency recommendations for screening donated blood and plasma for antibody to the virus causing acquired immunodeficiency syndrome. MMWR 1985;34:1-5.

[22] Favero MS. Sterlization, disinfection, and antisepsis in the hospital. In: Manual of Clinical Microbiology. 4th ed. Washington, D.C.: American Society for Microbiology, 1985;129-37.

[23] Garner JS, Favero MS. Guideline for handwashing and hospital environmental control, 1985. Atlanta Georgia: Centers for Disease Control, 1985. Publication no. 99-1117.

[24] Kneedler JA, Dodge GH. Perioperative patient care. Boston: Blackwell Scientific Publications, 1983: 210-1.

[25] Martin LS, McDougal JS, Loskoski SL. Disinfection and inactivation of the human T-lymphotropic virus type III/lymphadenopathy-associated virus. J Invest Dis 1985; 152:400-3.

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The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS] to the instructions to the motion to recommit. The yeas and the nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—39

Armstrong	Fowler	Murkowski
Baucus	Garn	Nickles
Bond	Gramm	Pressler
Boschwitz	Grassley	Pryor
Bumpers	Heflin	Roth
Burns	Helms	Rudman
Byrd	Humphrey	Sasser
Coats	Johnston	Shelby
Cochran	Kasten	Simpson
Conrad	Lott	Stevens
D'Amato	Mack	Symms
Exon	McClure	Thurmond
Ford	McConnell	Wallop

NAYS—61

Adams	Breaux	Daschle
Akaka	Bryan	DeConcini
Bentsen	Burdick	Dixon
Biden	Chafee	Dodd
Bingaman	Cohen	Dole
Boren	Cranston	Domenici
Bradley	Danforth	Durenberger
Glenn	Kerry	Pell
Gore	Kohl	Reid
Gorton	Lautenberg	Riegle
Graham	Leahy	Robb
Harkin	Levin	Rockefeller
Hatch	Lieberman	Sanford
Hatfield	Lugar	Sarbanes
Heinz	McCain	Simon
Hollings	Metzenbaum	Specter
Inouye	Mikulski	Warner
Jeffords	Mitchell	Wilson
Kassebaum	Moynihan	Wirth
Kennedy	Nunn	
Kerrey	Packwood	

So the amendment (No. 2119) was rejected.

VOTE ON AMENDMENT NO. 2118 TO FORD MOTION

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to change their votes?

The result was announced, yeas 99, nays 1, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—99

Adams	Ford	McClure
Akaka	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	McCain	Wirth

NAYS—1

Helms

So the amendment (No. 2118) was agreed to.

The PRESIDING OFFICER. The question now occurs on the motion by the Senator from Kentucky [Mr. FORD] to recommit the conference report on S. 933, with instructions, as amended.

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, before the Senate acts finally on this measure, I believe the distinguished Republican leader wishes to engage in a colloquy with the Senator from Utah, the manager of the bill, and I want to permit an opportunity for that to occur.

For the information of Senators, it is our intention to act on the motion to recommit by voice vote. Unless some Senator requests a rollcall vote, and I know of no such request, that will then be the last rollcall vote this evening. So that unless someone now requests a rollcall vote on passage of the motion to recommit, and I know of no such request on either side, there will be no further rollcall votes and we will proceed to act on it by voice vote momentarily following the colloquy of the distinguished Republican leader and the Senator from Utah.

Mr. DOLE. I thank the majority leader. I wanted to address a question to the Senator from Utah.

Mr. President, earlier today we had an exchange on the Senate floor. We were trying to reach some accommodation that would satisfy some of the concerns raised by the Senator from North Carolina, Mr. HELMS, and some of the concerns that many other Senators have on both sides of the aisle with reference to infectious and communicable diseases and how they may be transmitted, whether they can be done through food handling.

The Senator from Utah was prepared to modify his amendment which would have addressed parts of that and that was not possible, and then he stated in a brief statement before the vote on the Helms amendment that it would be his intention to pursue that modification in the conference. I think that is the subsequent agreement on both sides of the aisle.

I guess I would ask the Senator from Utah to reassure me on that point, plus the fact as we made the record I think fairly clear earlier before, when the Senator says, as he does in the amendment, review all infectious and contagious diseases which may be transmitted through handling of the food supply, that would include HIV and all other diseases, infectious and communicable diseases; is that correct?

Mr. HATCH. That is correct. In other words, we will add the language in conference—and all parties are in agreement on this—"(1) Review all infectious and contagious diseases which may be transmitted through handling of the food supply." We will move the numbers down in the succeeding paragraphs to (2), (3), and (4), and that language will include all—I think the current language includes all but this language will be even more clear that all infectious and contagious diseases which may be transmitted through handling of the food supply will be included in the review each year.

Mr. DOLE. Notwithstanding the letter from the Secretary of HHS which the Senator placed in the RECORD earlier today?

Mr. HATCH. That is right. Each year the Secretary of Health and

Human Services is going to update that list and make sure that they are correct in the updating, and it will be done by science, not by conjecture or by fear. That is what we are trying to do. I think that is what will be done.

I thank the distinguished Senator from Kansas for making it clear that this is what it needs to be.

Mr. DOLE. I would also point out that the words "may be" are important because nobody is certain what may or may not be.

Mr. HATCH. That is correct.

Mr. DOLE. That is the purpose of that change in the language in that one paragraph. Instead of the word "are" now we have the words "may be transmitted."

Mr. HATCH. That is correct.

Mr. DOLE. To me that was a step in the right direction. It did not satisfy all Senators, but it would seem to me that it does move in the right direction.

I thank the distinguished Senator from Utah and Senators on both sides of the aisle for addressing this concern. I think now we are going to have the ADA bill passed in fairly short order, and many people deserve a great deal of credit for it. Many are still on the floor, the Senator from Utah, Mr. HATCH, Senator MCCAIN, Senator DURENBERGER, Senator KENNEDY, and a number of others on the other side of the aisle. It is a truly bipartisan bill. It is historic legislation. I would hope now we have it behind us and we can be adopting a conference report sometime tomorrow.

I thank the majority leader.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion to recommit by the Senator from Kentucky, with instructions, as amended.

The motion was agreed to.

Mr. FORD. I move to reconsider the vote.

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

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

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. ARMSTRONG. Mr. President, if the leader would withhold that, it is my desire to address the Senate, unless the leader plans to turn to other business.

Mr. MITCHELL. I have no objection.

MORNING BUSINESS

Mr. MITCHELL. I ask unanimous consent there be a period for morning business in which Senators may address the Senate.

The PRESIDING OFFICER. Without objection, there will now be a period for the transaction of morning business. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

THE WIRTH-HEINZ AMENDMENT

Mr. ARMSTRONG. Mr. President, it is not unusual to watch the Senate fly off the handle, but every now and again somehow we manage to go completely off the rails, and that is exactly what we did earlier today in adopting the Wirth-Heinz amendment to the crime bill.

Usually, when we really point ourselves into a corner around here and do something which we have cause later to regret, it is because somebody has been taking a sampling of public opinion. They have their finger in the air to determine which way the wind is blowing, or they have sent a pollster out to determine what people are thinking about, and they come rushing back here and offer some kind of an amendment which in the heat of the moment sounds pretty good, and it is often adopted, sometimes by unanimous or nearly unanimous vote.

That is exactly what happened this afternoon when we adopted the Wirth-Heinz amendment. I believe we are going to have a great cause to regret that. I regret it already. This amendment was nothing more or less than a knee-jerk response to an outrage that is spreading across the country about the savings and loan crisis.

But, Mr. President, what I regret in addition to the substance of the amendment is that it came before us as a substitute for addressing the underlying problem. Instead of addressing our own mistakes, the mistakes of Congress, which created this horrible mess we are in, the Senate instead has tried to shift the blame to a handful of savings and loan executives who have committed various frauds against thrifts, against the shareholders, and now against the Federal banking agencies and the taxpayers.

Maybe this kind of tactic will succeed, at least in the short run. Maybe this amendment and other similar activities that are underway will provide the smokescreen by which people in positions of political leadership can shift the culpability for this savings and loan mess from Congress, where the blame rightly belongs, to the unscrupulous executives in the savings and loan industry.

Let me hasten to add I am not one of those who thinks that all or a majority or most people in the savings and loan business are crooks. My observation is that they are mostly decent people and, frankly, a lot of them are in trouble precisely because they followed the mandates and guidelines and recommendations of Federal regulators.

No doubt there are some crooks. They certainly should be called to account. The prosecution should be vigorous. But this amendment in attempting to divert attention away from the underlying problem is a mistake, and it is just a bad piece of legislation on its face.

I would like to tell you why. The amendment, first of all, reestablishes for the banking industry the infamous RICO provision. There was not much discussion of that, but, Mr. President, RICO, the Racketeer Influence and Corrupt Organizations, provisions, which are extended to the savings and loan industry by this amendment, which we have unwisely adopted today, are so notorious and have been so widely abused and so regularly and persuasively and thoughtfully criticized by civil libertarians that I just did not want to let the sun set without at least putting in the RECORD some sense of how wrong we are to adopt this legislation.

I am confident what we have done today is not going to stand. I do not know whether it will remain in this form as the bill works its way through final passage and to the President's desk, but sooner or later we are going to amend RICO or possibly repeal it, but certainly it is the target of reform not only by Senators on the Republican side of the aisle but I am glad to report by Democratic Senators as well.

Mr. President, following the vote, I had occasion to review the report of the Judiciary Committee, Calendar No. 517, and I commend it to my colleagues. It is the discussion of the RICO Act as it now exists and explains in some detail exactly why RICO needs to be repealed, or at least heavily amended. I am not going to quote from it at length but the report discusses the background, the intentions of Congress when RICO was enacted in 1970.

Then it goes on to say—I want to quote:

> Many Federal judges across the judicial and political spectrum have acknowledged the misuse of RICO and the need for reform of the statute. From Justices of the Supreme Court to Federal trial judges, members of the judiciary have expressed dismay at the loose wording of the statute, at its overbreadth, and at its lack of clarity and specificity. These weaknesses have given rise to civil RICO claims ranging far afield from Congress' original purpose in enacting RICO.

That is the statute that we have made applicable to the savings and loan industry by the hasty action taken this afternoon by an overwhelming vote. It is just like pouring gasoline on the fire.

Listen to what some of the Federal judges who have had those RICO cases before them are saying about it.

Justice White wrote in its private civil investigation:

RICO is evolving into something quite different from the original conception of its enactors.

Justice Powell said:

It defies rational belief, particularly in light of the legislative history, that Congress intended this far reaching result.

Judge Kane wrote in a decision in my own State:

RICO is a recurring nightmare for federal courts across the country. Like the Flying Dutchman, the statute refuses to be put to rest. Beating against the wind, it has jettisoned an effusion of opinions which bobble in its wake.

Judge Wood, Cummings, and Hoffman wrote.

Congress * * * may well have created a runaway treble damage bonanza for the already excessively litigious.

In another case, Judge Bauer, Coffey, Campbell:

We can only hope that this decision appears to Congress as the distress flag that it is, and that Congress will act to limit, as only it is empowered to, the statute's application to cases such as the one before us now.

In another case, Judge Kennedy pointed out that:

A company eager to weaken an offending competitor obeys no constraints when it strikes with the sword of the Racketeer Influenced and Corrupt Organizations Act * * *.

That is the provision that we have made applicable to the savings and loan industry by our action this afternoon.

In another case, Judges Higginbotham, Politz, Jolly wrote:

An imaginative plaintiff could take virtually any illegal occurrence and point to acts preparatory to the occurrence usually the use of the telephone or mails, as meeting the requirement of pattern.

Let me just interject for those who are not well-informed about RICO, that is the essence of it. If you can show a pattern of activity or claim to show a pattern of activity, you can claim it is not an ordinary crime but it is a racketeer of crime with extraordinary penalties, civil damages that are treble ordinary damages and so on.

Another judge wrote with respect to the two types of action which may be presently brought in Federal courts, "I think a strong case may be made for at least modification if not repeal."

That is the view. In fact, let me quote a little more of the view of Chief Justice Rehnquist who was speaking at Brookings in April of last year. He continued:

Virtually everyone who has addressed the question agrees that civil RICO is now being used in ways that Congress never intended when it enacted the statute in 1970.

Most of the civil cases filed under the statute have nothing to do with organized crime. They are the garden variety of civil fraud cases of the type traditionally litigated in State courts.

This general point of view, this abhorrence of RICO, the sense it abuses the rights of everybody involved, that it violates a traditional sense of civil liberties in our country, that it clogs the courts, that it provides a hammer as one judge called it, to force defendants to do those things that they will not otherwise do, it is coercive, and that it is almost tantamount to police State tactics is very widely held. That is the provision which we have added just in a slapdash manner in response to an emotional concern about the savings and loan industry. That is what we have added to this crime bill this afternoon.

Mr. President, I think it is a great mistake. I do not think it will stand because in the long run one way or another we are going to repeal or reform RICO, and perhaps those who are working on this legislation will modify or in some way correct this oversight even before this bill reaches the President's desk.

I am concerned to some extent about another provision of the Wirth-Heinz amendment, and that is the severity of the mandatory sentences which are prescribed. They are so far out of kilter with other sentencing guidelines. The suggestion that somebody ought to serve 10 years to live for the kind of crimes that are in here simply do not square up with the other sorts of penalties that are routinely imposed by courts.

I am not suggesting we ought to be lenient. On the contrary, I am well aware—and I think my colleagues are as well—that judges and juries have shown over and over again that they simply will not convict in cases where they think the mandatory sentence is too severe.

So the probable result is that this provision will backfire, and that people who ought to be brought to trial and convicted either will not be brought to trial, or will be found not guilty, or the case will be dismissed, or the jury will not convict, or something will happen. A far more flexible system in my opinion would be more effective.

Mr. President, one other aspect of this is particularly troubling. It is the sense—and you get it around here every now and then—that we are trying to divert attention from the real issue. I am not saying that criminal activity in the thrift industry is not a real issue. I am saying it is a secondary issue. Let us go after the crooks. That is fine.

In fact, contrary to what a lot of people have been led to believe, the law enforcement activity in the thrift business has been pretty extensive and pretty aggressive.

On June 25, 1990, the administration announced a beefed up Justice Department initiative to crack down on fraud and other criminal activity in the thrift industry. This proposal would mobilize what we termed as rapid response teams of Federal agents creating a special coordinator position and an interagency working group. The Attorney General estimated that there was criminal activity involving 25 or 30 percent of insolvent savings and loans.

There are almost 7,100 pending FBI investigations involving bank fraud and embezzlement, over 3,000 of which involve amounts over $100,000. There are 530 insolvent institutions under investigation, including 234 thrifts and 276 banks.

These are very complicated cases. I am told that they involve in some cases thousands and even in many cases millions of documents. Congress has appropriated $110 million in 1990 for the criminal prosecution of banks and thrift fraud. Deliberations are occurring in Congress to increase the funding even further at this time.

This year there have been 368 new positions allocated in the Justice Department to financial institution fraud, including 202 FBI agents and 120 prosecuting attorneys.

Mr. President, whether that is enough or not enough, it is a widespread, serious, aggressive effort. If somebody has the idea that we are not going after the crooks in the thrift business, I just do not think they are really acquainted with the facts. But to then take the next step and rationally enact the kind of an amendment that we did today in my opinion is not only unwise, but it fosters the kind of cynicism that is all too prevalent when you go home and talk to people.

I find that many people who are not Senators and who are just people at home, just voters, businessmen and women, homemakers, farmers, and ranchers think we have kind of lost touch with reality, that we pick up the morning paper and we see that something is in issue. We run down here, and without thinking it through, without really paying too much serious attention to what we are doing, we just adopt amendments, laws, and honest to Pete, it is hard to explain that is not true sometimes.

I have mentioned before sort of the pattern seems to evolve. Somebody gets excited about drugs which is a terribly serious problem in our society. There for a while every piece of legislation that went through had to have a rider of some kind expressing some Senator's concern about the drug issue. Then the next one was homelessness. Every bill that went through had to have something about homelessness.

It is interesting these fads do not tend to last very long but about as long as they last is on the front page of the morning's paper. That is not to say the problems last a few days, weeks, or months. They are with us forever. But the interest around here seems to be major just for about the

attention span of the nightly news on the television or the headlines on the morning paper. The result is sometimes, not always, but all too frequently I regret to note, the kind of legislation we pass today, ill-advised, emotional, the kind of legislation that probably is going to make the situation worse, rather than better, and which many people suspect, indeed which I often suspect, is intended more than anything else to kind of divert attention from the real problem.

Mr. President, what is the real problem? The main problem, in my view, is not criminal activity; it is a regulatory and legal structure established by the Congress of the United States, supervised, managed, overseen by the Congress of the United States, which has resulted in a massive failure within the thrift industry and which, frankly, threatens many segments of the commercial banking industry, as well.

As the campaign season gathers momentum, you are hearing more and more bickering among the candidates. Many Members of the Congress are trying to blame this on the President and the administration. The President, though I regret to say it, seems determined to contest with Congress who can be most vigorous in dealing with the crooks, and nobody, it seems to me, is paying the attention that we ought to pay to the underlying problem.

That is not something that came up this week or this year. It goes back 50 years and covers a lot of issues, a lot of legislation. It encompasses many rivalries, both partisan and other kinds, turf battles between regulatory agencies.

Mr. President, for the benefit of anyone who is interested, I am going to submit for the record and ask that we print in the RECORD following my remarks an outline, sort of a chronology of the problem, outlining, not to argue, but to set forth for the record the dates and times and places that legislation and regulatory actions were undertaken, what some people said at different times, and what the result was.

I think a thoughtful person who goes through this will have the same sense that I do, that to come running to the floor and adopt an amendment dealing with criminal wrongdoing, while ignoring or sort of shouldering aside the underlying questions, which still remain, by the way, is not very responsible.

The bottom line is this, Mr. President: We really have not solved the problem. In fact, as the record shows, I think, quite clearly to the unbiased observer, the blame lies mostly in the Congress, not entirely, but mostly. The issues, when raised, were presented to the Congress, which then delayed for a long time in responding to them, and responded in part by clamping down on those in the regulatory agencies who sought to do something about them. In fact many Members of Congress bragged about the fact that they were not going to let the thrift regulators close or clamp down on thrift institutions in their States.

I think we have a heavy burden of responsibility right here in the Congress and in the Senate, because we created this regulatory environment. The thrift industry and the crooks in the thrift business, if there are some, and I guess there are, should not be exonerated, but they did not write the laws and hire the regulators and write the regulations or conduct the examinations and audits. By gosh, that was Congress and the people who were appointed by Congress who did all of that. We are the people who are responsible, and it just sticks in my craw to have the kind of amendment adopted today, which is not going to do anything really to solve the problem and is likely to make the situation worse and then ignore the underlying problem.

Mr. President, I ask unanimous consent that I may have printed in the RECORD following my remarks a summary prepared by the staff of the Republican Policy Committee outlining the origin, background, chronology of the legislative history and regulatory history of the thrift crisis.

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

(See exhibit 1.)

Mr. ARMSTRONG. One final thought, Mr. President, occurs to me. It is kind of a raw thought. I have not developed it with any care, and perhaps I will think better of it. But I am reminded that last night in this body we had a lengthy debate about whether or not some provisions of the employment law ought to apply to Senators; in other words, whether or not Senators ought to be subject to the same kind of appeals from those who sought employment with a Senator that those in the private sector are.

In other words, if you are out there running a business or a law office or some other kind of a private sector enterprise and a person thinks he or she has been discriminated against, they can take you to court. That was the proposal before the Senate last night, that perhaps the Senators ought to be subject to that same standard of accountability, that if there is an aggrieved party in the Senate, they ought to be able to have the same remedy with respect to injustices in the Senate.

I cannot help but wonder whether or not this RICO statute ought to apply to Senators and Members of the House of Representatives. If what we are concerned about is a pattern of operations, a pattern of behavior, which has created this horrible thrift crisis, I cannot help speculating what would happen if we really had that kind of statute that applied to Members of Congress, and if there were a vigorous investigation of it, I wonder if those who are eager to offer and crow about legislation that tramples the rights that, traditionally, people in this country have had—and that is what RICO does—I wonder how they would come out of an investigation like that, and whether or not we would discover, as I suspect, and I guess as many of us actually know in truth, there are a lot of people in the Congress whose hands are not very clean.

I am not just talking about legislative mistakes. We have all made those, and I expect in the area of thrift legislation, probably every Member of the Congress in both Houses bears some responsibility for the mistakes that have been made. But I am talking about a lot more than that. It is kind of a sobering thought, is it not, if legislation of this character and type were to be applied to the Members of the Senate. Maybe that is a good idea.

Mr. President, in the meantime, I hope my colleagues will think better of this RICO provision. Someone might imagine that because this passed 99 to 1, that any effort to moderate it, or amend it, or repeal it, is destined to failure; yet, if you have been here a while, as I have, you can recall a lot of times when things are passed 100 to 0 or 99 to 1, which very quickly are recognized as improvident and wrongheaded and subsequently are fixed up, changed or repealed. I hope that is what exactly will happen to the amendment which we have adopted today.

I yield the floor.

EXHIBIT 1

DEALING WITH THE S&L BAILOUT

Continuing problems with the thrift industry have heightened media interest and increased resentment among taxpayers in recent weeks. As the campaign season gathers momentum, criticism on Congressional and Administration action undoubtedly will heat up. The S&L issue is not new, simple, or straightforward. Rather, it spans over 50 years of political rivalry, preferential regulatory treatment, legislative controversy, supervisory problems, and economic change.

I. ORIGIN OF THE PROBLEM

The original S&L charter restricted these institutions to making long-term mortgage loans and accepting short-term deposits.

Whenever interest rates rose, S&L's found themselves paying out more to depositors than they were receiving from their loan portfolio.

Congress tried to fix the problem by regulation. It imposed limits on the amount of interest that could be paid on deposits.

These limits proved ineffective. When interest rates rose depositors pulled their money out of S&L's and invested in other instruments paying market rates.

In 1962 President Kennedy established a special committee to look into this problem. It recommended permitting federal savings

institutions to engage in a broad range of new powers.

These recommendations were endorsed by President Johnson in 1966 and again in 1967 in his Economic Reports to the Congress. In 1967 the House Banking Committee issued its own report calling for more flexible powers for thrift institutions.

In 1972, a Presidential Commission (Hunt Commission) stated that without additional investment powers, thrift institutions would not be able to survive. In 1975 the House Banking Committee conducted its own study, known as the "FINE" study, that made similar recommendations.

II. DEREGULATORY LEGISLATION—1980 AND 1982

In the late 1970s, as interest rose to record levels, the savings and loan industry collapsed. President Carter formed a special Task Force to study the problem. It recommended deregulation. President Carter submitted these recommendations to Congress in 1979, and in 1980 it passed "The Depository Institutions Deregulation Act."

The 1980 law: (i) provided for the phase-out of interest rate limits on deposits, (ii) permitted federal savings associations to engage in a range of new bank-like powers, (iii) increased the amount of direct investments that federal saving associations could make, and (iv) raised deposit insurance levels from $40,000 to $100,000.

As interest rates continued to climb in the early 1980s, savings associations continued to lose money. Some estimate that by 1982 up to two-thirds of the industry were insolvent and almost all thrifts were losing money.

In response to this crisis, the Administration submitted a legislative proposal, that was enacted into law in 1982 as the Garn-St Germain Act. This legislation: (i) gave the regulators new emergency powers to deal with insolvent institutions (for example, by allowing them to arrange emergency interstate acquisitions); (ii) gave the agencies new powers to provide other assistance to troubled banks and thrifts; and (iii) authorized federally chartered institutions to engage in several additional bank-like powers, such as the authority to make a limited amount of commercial loans.

III. STATE POWERS

The Garn-St Germain Act did not authorize new powers for State-chartered institutions. However, under a number of State laws, these institutions were given much broader powers, including the authority to make direct equity investments in speculative ventures, from wind mill farms to hamburger franchises.

Three states that led the way were California, Texas and Florida. All of these States passed laws deregulating their thrift institutions before the Garn-St Germain Act was passed by Congress.

In both 1988 and 1989, over three-fourths of FSLIC losses were caused by state-chartered thrifts.

The worst states were Texas and California. In 1988 and 1989 approximately two-thirds of FSLIC losses were caused by insolvent state-chartered institutions in just those two states.

As early as 1984 the Bank Board attempted to curb abuses by State-chartered savings associations. It was opposed by many in Congress, and in particular by the House. In 1985 a resolution calling on the Bank Board to delay its regulation on state-chartered institutions was co-sponsored by over half of the House of Representatives.

In 1987, amendments in the House Banking Committee to buttress the Bank Board's authority to regulate State-chartered institutions were defeated by overwhelming margins.

IV. BANK BOARD REQUESTS FOR FINANCIAL ASSISTANCE

As early as 1985 the Bank Board requested additional funding to shore up the FSLIC fund. In October, 1985, the GAO estimated the problem at $15-20 billion.

On Feb. 27, 1986, the Administration's Economic Policy Council approved a $15 billion FSLIC recapitalization plan. Beginning in March, 1986, Congressional hearings were held on the funding request and S&L problem.

In May, 1986, legislative proposals incorporating the Administration's plan were introduced in the House and Senate.

In October, 1986, the Senate passed the full $15 billion recapitalization plan. The House refused to accept a refunding plan without an omnibus Housing package and check-hold measure, thus effectively killing the measure.

In 1987 the Senate Banking Committee reported out a re-funding plan that provided only $7.5 billion, and the House Banking Committee reported out a bill providing for only $5 billion.

The primary reason for the reduced funding was to prevent the Bank Board from closing down insolvent thrifts, especially in Texas. The idea was to keep the Bank Board on a "short leash." The House Banking Committee report states that funding the full $15 billion "would give the Bank Board a mandate to impose stringent regulations . . . and close troubled thrifts." The report notes that the $5 billion authorized "is a form of forebearance."

The Administration objected strenuously and threatened a veto unless funding was increased. On June 1, 1987, the Administration issued a policy statement urging full $15 billion funding. On June 22, 1987, Secretary of Treasury Baker wrote to the conferees urging responsible funding. On July 1, the Conferees agreed to a $8.5 billion recapitalization. The Administration continued to object. On July 29 the Conferees agreed to a $10.8 billion plan.

On August 10, 1987, a $10.8 billion FSLIC recapitalization plan was signed into law. The plan provided only two-thirds of the amount the Administration requested a year and half earlier.

V. FOREBEARANCE PROVISIONS

The 1987 legislation contained forebearance provisions designed to protect insolvent undercapitalized savings associations from regulatory action by the Bank Board.

The 1987 law authorized savings and loans to use certain "phony" accounting techniques to artificially bolster their capital, and specifically authorized the use of "goodwill" in meeting capital requirements.

The legislation required the Bank Board to allow certain tangibly insolvent institutions to remain open if their financial condition resulted from loans in "economically depressed regions."

The Act required FSLIC to issue guidelines to provide more "flexibility" on part of examiners. It also mandated that the Bank Board establish a review procedure so that an association could challenge decisions made by examiners that losses should be booked or loans written down.

The Act also provided that in certain cases, forebearance agreements made by the Bank Board with particular institutions were automatically extended for an additional five years.

These forebearance provisions served no purpose but to protect savings and loan associations from regulatory supervision.

VII. SIZE AND NATURE OF THE PROBLEM TODAY

The FIRREA legislation included total funding of $113 billion (in Net Present Value terms) including $40 billion for completing past FSLIC deals; $50 billion to resolve the 500 institutions estimated to represent the RTC caseload; and $23 billion for post-RTC failures in the 1990s.

The Administration has now increased its estimates of losses attributable to the RTC and post-RTC caseload from $73 billion to a range of $89-132 billion, increasing the overall estimated cost by $16-59 billion. These estimates are roughly in line with the GAO (although CBO has just reestimated the $73 billion figure to $185 billion).

Because of a large increase in estimated 1990 and 1991 RTC costs, the Administration and CBO agree that new spending authority will be needed later this year, although it is possible this could be delayed until early next year.

Finally, these loss estimates do not include "working capital." These are funds borrowed from the Federal Financing Bank to purchase S&L assets that, although a temporary use of funds, count as budget outlays just like a payment for permanent losses. These costs are offset by receipts from subsequent asset sales. OMB estimates gross 1991 working capital needs at $45-59 billion, or $15-18 billion net of receipts.

The loss estimates have increased because losses in individual thrifts have proven larger than expected and more thrifts are failing and failing sooner. Treasury attributes this deterioration to:

a general decline in regional real estate markets in which S&L assets are heavily concentrated;

interest rates higher than first projected, increasing operating costs of thrifts and weakening real estate markets;

reduced interest by the depository institutions that would be primary purchasers of thrifts and thrift assets in taking on additional real estate assets;

the decline in the market for "high yield" or "junk" bonds which has left the RTC with large losses on the $4 billion portfolio it has taken over from failed institutions; and

restrictions placed on the thrift charter and operations that have greatly decreased the franchise value of thrifts relative to banks.

Working capital is an important issue in the Budget Summit because of its potential to temporarily increase near-term expenditures and artificially reduce future deficits when net asset sales occur. It has long been the practice to exclude asset sales from the deficit calculation and the Administration and the Budget Committee have proposed excluding both RTC asset purchases and sales from the calculation.

Total Cash Outlays

Total bailout cost estimates of $300-500 billion have been developed by GAO and others and routinely quoted in the press. These figures are produced by adding up nominal expenditures over 30 years including all government borrowing costs over the period. The higher figures are achieved by counting gross expenditures without netting out liquidation proceeds.

Adding the government's cost of borrowing over 30 years adds $100 billion or more

to the total. These costs are never included in budget estimates for any other program, and are akin to valuing a $100,000 house based on total interest cost of buying it over 30 years.

Cost to the Taxpayer

All non-government sources of funding for the S&L rescue have been exhausted. FIRREA claimed all reasonably available insurance premium income and net earnings of the Federal Home Loan Banks.

Therefore, the increased costs of the bailout that have been identified by the Administration, including higher RTC losses and working capital, will have to be provided by the government and ultimately borne by the taxpayer.

VIII. WHERE DID THE S&L MONEY GO?

Some funds were misappropriated by thrift officers and directors.

The overwhelming amount of losses are in the form of bad loans and investments. The money was spent on construction projects, office buildings, land, and other investments that lost much of their value. This money can not be reclaimed through fraud prosecutions.

IX. WHAT IS THE FIRREA MONEY USED FOR?

The money raised by FIRREA will be used to protect depositors, not thrift owners.

If an insolvent thrift is sold to a bank, thrift or other investor that assumes responsibility to pay depositors, the Government must pay an amount approximating the difference between the value of the asset sold and the amount of the depositor liabilities transferred. FIRREA funds used this way is usually more cost effective than simply closing the institution and paying off depositiors.

X. THE 1988 DEALS

In 1988, FSLIC attempted to stop the continuing losses at certain institutions by selling them to new parties.

These transactions also helped reduce the bidding up of interest rates on deposits caused by the funding needs of these insolvent savings associations.

Because FSLIC did not have sufficient funds to pay these parties all at once to take over insolvent institutions, they entered into agreements with the acquiring companies promising to make certain payments over a period of time.

In the Southwest, 79 insolvent institutions were merged into 15 institutions and sold to new investors, curbing losses and assisting the stabilization of the Southwest financial industry.

In the heat of the political battle over FIRREA, these acquisitions, along with 81 other acquisitions (the so-called "88 Deals") came under heavy criticism, under the theory that the Government promised to pay too much.

Now, many outside experts think that overall the deals were fair to all parties. In some, the Government made out better, in others, the private acquirors made out better. This is what should be expected when negotiating a number of transactions with the private sector.

William Ferguson, a noted expert in the area, is quoted in the N.Y. Times as saying "Not many of these deals look like windfalls." Another analysis states "Despite widespread criticism, a review of the deals indicates that the government is better off for having done them."

The 15 Southwest acquisitions, two are providing rich returns for the acquiring companies, 8 have reasonable returns, 3 have returns of less than 3%, and 2 are losing money.

The PRESIDING OFFICER. Who seeks recognition?

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. AKAKA].

INCLUDING "ICE" IN THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

Mr. AKAKA. Mr. President, I rise to thank my colleagues for supporting changes in the criminal code which would add crystal meth, or ice as it is known throughout Hawaii, to the list of illicit drugs that are governed by the Controlled Substance Import and Export Act. The changes I have proposed would require stiff, mandatory jail sentence for anyone who transports this menacing drug across U.S. borders.

During debate on the crime bill last month, the Senate adopted an amendment I sponsored to impose mandatory penalties for the manufacture, sale, and distribution of crystal meth. My amendment used the same penalty scheme—a minimum of 10 years in jail for serious offenders—that is now in place for crack cocaine.

Earlier today, I proposed we go one step further. My amendment compels mandatory minimum sentences for drug traffickers who bring ice across our borders. The purpose of this action is to strike at the heart of the illicit crystal meth trade.

As I have said, the amendment adopted today would add crystal meth to the list of drugs that are regulated by the Controled Substances Import and Export Act. The Import and Export Act is the centerpiece of this Nation's efforts to stop these drugs from entering the country. Because of the global nature of the drug trade, the Import and Export Act is an indispensable law enforcement tool. Since it was first enacted in 1970, every successful case against drug traffickers has been prosecuted under the Controlled Substances Import and Export Act.

Unlike the mainland, where production of crystal meth is widespread, Asia has long been the source of ice in Hawaii. Stopping this menace from crossing our border is the first defense for fighting Hawaii's war on drugs.

My amendment goes after the drug kingpins as well as small couriers. The message we are sending should be heard loud and clear: We intend to keep ice off the streets by preventing it from crossing our borders. If you ship large quantities of ice across our borders, you could face up to life behind bars. Smuggle smaller quantities and you'll serve between 5 and 40 years.

When it comes to stemming the flow of ice through our borders and preventing its sale or distribution to Hawaii's youth, we must leave no stone unturned. What we need is a "total clampdown on ice, beginning at our country's borders. That is what my amendment would accomplish. Not only for Hawaii but for our country as well.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CIVIL RIGHTS ACT OF 1990

Mr. HUMPHREY. Mr. President, an opinion just issued by the Supreme Court puts increased focus on the dangers raised by S. 2104.

On the last day of its term, the Court issued an extremely disturbing decision in the case of Metro Broadcasting versus FCC. In a 5-4 ruling, the Court upheld the use of racial preferment in the awarding of broadcast licenses even where such preference is not designed to remedy past discrimination, but is merely for the purpose of furthering "important government objectives."

In other words, the Court held that the Federal Government now has a free hand to adopt and implement policies of racial and ethinic preference.

This ruling moves this country ever closer to a quota society, were jobs, contracts, and other Government benefits and services will be increasingly allocated on the basis of race, ethnicity, and gender. As stressed by the four dissenting Justices:

The dangers of such classifications are clear.

They endorse race-based reasoning and the conception.

Of a nation divided into racial blocs, thus contributing to an escalation of racial hostility and conflict.

The Supreme Court's decision in the FCC case is relevant to the consideration of S. 2104 because both the decision and this legislation move the Nation closer to a society where quotas and preferences become an accepted way of life.

S. 2104 will compel employers to adopt the policy of proportional representation as the only means of avoiding liability for unintentional numerical discrimination. No matter how loudly the bill's proponents may protest to the contrary, the bill's effect is to coerce quotas.

This Senator, for one, is not prepared to join in the rush to embrace a quota society. Americans of all races strive for a society where jobs are awarded on the basis of individual merit, rather than group entitlement. Since this bill clearly undercuts that great principle, I cannot support it.

S. 2104 hides its flaws and inequities behind the seductive label of civil rights legislation. That label alone—rather than any demonstrated need for its wholesale revision of title VII—accounts for much of the unquestioning support this bill has received.

But S. 2104 cannot accurately be called a civil rights act. True civil rights legislation seeks to abolish employment decisions based on race or gender so that jobs and promotions will be allocated on the basis of merit, ability, and hard work.

S. 2104 does just the opposite. The goal of this bill is not equal opportunity in a workplace based on merit standards, but equality of results in a work force shaped by the ideology of proportional representation.

S. 2104 is designed to facilitate no-fault liability in employment discrimination cases. Under the standards of section 4 of the bill, thousands of conscientious employers will be liable for nothing more than failure to achieve fine-tuned proportional representation by race, gender, and national origin in every sector of their work force.

Proponents of the bill contend that it is necessary to correct the Supreme Court's 1989 decision in the Wards Cove case. But that decision merely ratified a reasonable interpretation of title VII which had been followed by the courts for many years.

In so-called disparate impact cases, an employer can be held liable for certain employment practices even in the complete absence of any discriminatory intent. In such cases, the plaintiff must identify a specific employment practice—such as an aptitude test—and show that this practice has a disparate impact on the employment of minorities or females. If this is done, the employer must produce evidence that the challenged practice serves legitimate employment goals. If the employer meets that test, the plaintiff has the ultimate burden of proving that the employer's explanation is invalid or unreasonable.

This is a perfectly reasonable framework for cases based solely on an employer's failure to achieve proportional representation without discriminatory intent. And that is all that the Supreme Court held in the Ward's Cove case.

But S. 2104 seeks to radically reform the title VII framework in order to make proportional representation that decisive standard for liability. Under this bill, a plaintiff can establish a violation merely by producing numbers demonstating racial or gender imbalance in the employer's work force. The plaintiff does not even have to identify any specific practice which allegedly causes a numerical imbalance—much less prove that the employer intended any discrimination.

The bill then proceeds to abolish the traditional legal principle that a defendant is innocent until proven guilty. Instead, it requires the defendant to prove his innocence by demonstrating that each and every practice used in the entire employment process bears "a substantial and demonstrable relationship to effective job performance." In practice, this standard requires employers to validate every employment standard and practice in his plant with costly studies. Moreover, it prohibits employers from enforcing job standards which are designed to assure high standards of performance, as opposed to minimal standards of performance.

In many fields of employment—such as medicine, aviation, or law enforcement—employers should be free to maintain standards designed to maintain a level of performance which exceeds mere effectiveness. In other words, they should be able to apply standards designed to obtain superior job performance. But under S. 2104, if such rigorous standards fail to produce proportional representation by race, gender, or ethnicity, the employer will be liable for a violation of the civil rights laws.

I urge my colleagues to think carefully about this point. Under S. 2104, an employer who insists on standards of excellence for the most sensitive jobs in our society can be held liable for millions of dollars in damages and labeled a violator of the civil rights laws. The message of this legislation is clear: Proportional representation is more important than high standards of quality, job performance, and even safety in filling the most crucial jobs and professions in our society.

As a result, United States companies will be severely hindered in their efforts to compete with Japanese and European companies in the highly competitive international trade environment. We cannot be competitive in world markets without a high-quality work force.

In sum, section 4 of this bill subtly enforces racial quotas by abolishing all viable defenses against claims based on the failure to achieve proportional representation by race, national origin, and gender. But the bill's radical excesses go well beyond that.

For example, section 6 of the bill strips the courts of jurisdiction to hear certain cases challenging unconstitutional racial quotas embodied in consent decrees. Thus, the bill not only encourages quotas, but it seeks to bar the victims of quotas from even challenging them in court.

This aspect of the bill is especially ironic. The bill's proponents are often the first to raise the slogan of "court-stripping", even against bills that do not actually reduce the court's ability to hear any class of cases.

But section 6 of S. 2104 constitutes court-stripping in the most meaningful sense of the word. It is specially designed to prevent the courts from hearing constitutional claims which the Supreme Court has specifically held are entitled to a hearing.

In Martin versus Wilks, the Supreme Court held that nonminority workers are entitled to a hearing when they challenge a consent decree entered in a suit in which they were not parties. The nonminority workers in that case had raised serious claims that racial quotas embodied in the consent decree violated their constitutional rights. The court's ruling was based on the fundamental principle that everyone is entitled to his day in court.

This bill would overrule Martin versus Wilks. It would prevent the courts from hearing claims that a consent decree violates the constitutional rights of persons who had no fair opportunity to oppose its adoption.

I will say that again, Mr. President, because it is really astonishing that the Senate would abide such a provision. This bill would overrule Martin versus Wilks. It would prevent the courts from hearing claims—prevent them even from hearing claims. This consent decree violates the constitutional rights of persons who had no fair opportunity to oppose its adoption.

The door is slammed, rudely, abruptly, in the face of those who sincerely feel their constitutional rights have been violated.

I will read from the minority report, of S. 2104:

> If this bill is enacted, it would be the first time in the last 25 years or more, insofar as we have been able to determine, that the Congress has narrowed access to the courts for persons alleging equal protection claims.

To put it bluntly, section 6 of the bill is designed to prevent disfavored categories of persons from vindicating their civil rights. The inclusion of such a measure in what passes for a civil rights bill is a sad commentary on just how far we have strayed from the true principles of equal protection under the law.

There are many other provisions of the bill which have nothing to do with the advancement of true civil rights, but let me briefly note just a few of them.

The bill seeks to convert title VII from a positive vehicle for reconciling civil rights claims to an engine of costly and divisive litigation. Title VII was deliberately designed to encourage the resolution of discrimination claims through conciliation procedures super-

vised by the Federal EEOC and State fair employment agencies. Its remedies were consciously limited to injunctive relief and back pay in order to facilitate make whole relief without litigation.

For the first time, this bill would authorize jury trials and punitive damages in title VII cases. With the prospect of huge punitive damage awards dangling before them, avaricious trial lawyers will turn title VII into the same kind of liability lottery which has made a shambles of tort and product liability law. Bitterly contested jury trials will supplant sober conciliation conferences. Both employers and employees will suffer, but the lawyers will prosper.

Other provisions of the bill have nothing to do with the Supreme Court decisions which have become the pretext for a wholesale revision of title VII. For example, this bill inexplicably quadruples the statute of limitations applicable to title VII claims. The original sponsors of title VII established a 180-day limitations period for the filing of discrimination claims. The purpose was clear and sound: To encourage the prompt presentation and resolution of such claims, instead of letting them fester for years. But S. 2104 will allow plaintiffs to sit on their claims for 2 full years before raising them.

The bill's radical expansion of the title VII statute of limitations has no justification whatsoever, other than to make it easier for plaintiffs' attorneys to resurrect stale claims. Existing law fully protects the rights of claimants by applying liberal tolling rules which enable courts to suspend the statute of limitations where justice dictates. The bill's extended limitations period completely undermines title VII's efficient scheme for prompt resolution of disputes.

Finally, I would comment briefly on the last-minute changes in the bill which were added by its proponents literally on the eve of floor consideration.

Most Members have had no opportunity to analyze these last-minute changes. In a bill as complex as this one, such tactics make it all but impossible for the Senate to comprehend the impact of the legislation. On that basis, Members should be extremely skeptical of any assurances given regarding the alleged effect of these sudden changes in the bill's language.

But in the limited time allowed for review of these changes, it is apparent that they are largely cosmetic. They do not lessen the worst aspects of the bill in any significant way. For example, one change purports to modify the bill's radical provision eliminating the requirement for a plaintiff to identify the specific employment practice which allegedly causes a discriminatory effect. In fact, this provision does not remove this problem. It merely provides that the plaintiff may be required to identify the specific discriminatory practice in some cases if the defendant can persuade the court that the company records reveal the discriminatory practice, in short, the new provision effectively requires the defendant to do the plaintiff's work for him.

In brief, the last-minute changes in this bill do not eliminate its extremely harmful effects. No one should be fooled into believing that these changes alter the basic fact: S. 2104 is an engine of employment quotas.

Mr. President, all decent Americans support firm and fair civil rights laws which guarantee equal employment opportunities. But S. 2104 does not advance the cause of equal opportunity. It is a misguided effort to mandate proportional representation and prohibit high standards of employment in the American workplace. For these reasons and many others, the Senate should reject this legislation.

DENYING MFN FOR CHINA

Mr. HUMPHREY. Mr. President, today Senator MITCHELL introduced a bill to deny the People's Republic of China most-favored-nation trade status. I support Senator MITCHELL in that effort.

The United States should not be in the business of subsidizing the Beijing regime through trade advantages. How can we as a nation offer such advantages to a government that sends troops to fire on unarmed civilians, to mow them down with tanks, to grind them up under the treads of tanks, a government which issues orders to city hospitals not to treat civilian wounded? How can we as a nation offer trade perks to a government that detains close to 30,000 of its citizens because those citizens want political reform? How can we as a nation offer trade perks to a government that, according to Amnesty International, permits its police to strip three seminary students naked in January, to beat those students, and then to force them to lie naked on icy concrete and be burned with cigarettes? The answer is simple. We cannot; we should not; and we must not.

The Chinese dissident, Fang Li Zhi, was right when he said 5 days ago that the United States has a double standard on human rights for China and human rights for other nations. We were willing to revoke MFN for Poland in 1982 and for Romania in 1988. We should be willing to take action now, Maintaining a nation's principles always carries a price, but if we are to be a nation of principle, we must be willing to pay that price.

President Bush has responded to Dr. Fang's statement by saying that Dr. Fang "is wrong," that "he's got a little time warp here, because we spoke out at the NATO meeting." The President then referred to last year's group of seven meeting where "We took the lead in expressing our joint indignation in terms of the abuses of human rights at Tiananmen Square." Expressing indignation is pretty worthless if we do not back up our indignation with action. And we have not. We have opted for rhetoric over results.

At this year's group of seven meeting the United States did not even express much indignation. We agreed that it was OK to go ahead with new loans to China. We are not even asking that the hardline Beijing government agree to political reform in return.

By our actions, the United States is sending a message to the hardline government in Beijing that crime against humanity pays, that it can detain its citizens, that it can kill its citizens, that it can torture them and still get good credit from the United States. We are also sending a message to forces working for change in China. We are telling the people striving for democracy and pluralism that the United States is not willing to make sacrifices to maintain its principles or to further their goal of democracy.

Mr. President, surely this is the wrong message to be sending, surely we can do more than continue everyday trade with the Beijing regime. No business interest, no financial investment is more important than basic human rights.

In denying MFN for China, we are not acting to isolate the Chinese people; rather, we are withdrawing support for the Chinese Government. When, for example, Poland's former Communist regime cracked down on the Solidarity trade movement and jailed its leaders, including Lech Walesa, President Reagan canceled Poland's MFN advantages. Now, as China's present Communist regime continues its crackdown against students and civilians, continues to keep its fails full, continues to hound and harass Chinese living abroad, President Bush is not withdrawing MFN advantages; he is arguing for their continuance and arguing for further loan advantage to China.

It is important to note that since President Reagan stood up to the Communists in Warsaw some years ago, Poland has held free elections and is struggling to achieve free market reforms and, in large measure, succeeding, succeeding incredibly, given the short period of time in which they have had to implement such reforms.

What is happening in China? China, by contrast, is clamping down on private entrepreneurs and has returned large portions of its foreign trade, banking, credit and pricing systems, as well as major industries to tight gov-

ernment control. No one even mentions the possibility of Chinese elections. Today, Poland has free speech. China does not. In 1982, the United States took action. We acted on principle. In 1990, we have not.

I support Senator MITCHELL in his effort to require withdrawal of MFN advantages for China. The Chinese leadership's actions do not justify continuation of such privileges. Why should we extend all the benefits of free trade to the Beijing regime when they refuse to extend even the most basic freedoms to their own people? The answer is that we should not.

We should have acted on principle a year ago. It is not too late, however, for the Congress to act where the President will not. And we should do that forthwith.

Mr. President, I thank the Chair and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

UNITED ARTS GROUP

Mr. PELL. Mr. President, the Senate Labor and Human Resources Subcommittee on Education, Arts and Humanities, of which I serve as chairman, has undertaken an extensive review of the arts and humanities in our country in consideration of the pending reauthorization of the National Foundation on the Arts and Humanities Act of 1965 as amended. In testimony before the subcommittee, we have heard a wide spectrum of opinion on reauthorizing the three Federal agencies that fall under this act, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

In May of this year, Representative PAT WILLIAMS, chairman of the House Postsecondary Education Subcommittee, which has also been studying this matter, called together a diverse group of representatives of the national arts community to determine if there was a consensus on the reathorization of the NEA, and, if so, to present that consensus to Chairman WILLIAMS and to the Congress. This was a significant challenge for an ad-hoc group that represented writers, painters, musicians, and other individual artists, state and local arts agencies, performing and exhibiting arts institutions, and other arts organizations. The group also had the benefit of views of two artists and two unaffiliated private citizens.

The group, which called itself the "United Arts Group," deliberated for almost 50 hours, over 4 days. The result of those meetings was a four page statement titled, "Artistic Freedom: Our American Heritage." The statement received the unanimous endorsement of all participants.

As the full Senate will be addressing the future of the National Endowment for the Arts this summer, I thought it would be constructive to call the attention of my colleagues to the United Arts Group's specific recommendations for this important reauthorization. These recommendations have provided members of the Subcommittee on Education, Arts and Humanities and the Committee on Labor and Human Resources with a useful basis from which to prepare their own proposals.

The United Arts Group proposes that the NEA be reauthorized for a period of 5-years; that existing accountability standards of the Endowment be codified and that new ones be added to enhance that accountability; that the critical importance of continued support for the individual artist be affirmed; that the current State funding formula be maintained; and that the NEA's involvement in the area of education in and access to the arts be expanded.

On the question of art versus obscenity, an issue that has powerfully charged the current debate on the NEA, the group states unequivocally that the NEA cannot fund obscenity because obscenity is without artistic merit. The NEA can only judge artistic excellence and it cannot and should not judge obscenity. The group correctly asserts that such judgment is the business of the courts. Hence, the group recommends that legislation not restrict the content of art that is funded by the NEA.

Some may say that the group has simply endorsed the status quo. It is clear that it did not. They have provided many thoughtful and useful recommendations in its statement. It is true that the group did not recommend significant restructuring or radical changes in the NEA grant-making process, but this is a process that has served the American pubic well for a quarter century. The group has essentially said that a radical change would simply be, in the words of former Supreme Court Justice Felix Frankfurter, "another case of burning up the house to roast the pig."

This document, conceived after many hours of deliberations over the future direction of this agency, by individuals representing organizations deeply committed to the arts in America, stands as a strong testament to the importance of the NEA to our society. As this body pursues legislation to reauthorize the NEA, NEH, and IMS, I urge my colleagues to consider this very important statement. I ask unanimous consent that the full statement, "Artistic Freedom: Our American Heritage" and the list of organizations and individuals that prepared this statement be printed in the RECORD.

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

ARTISTIC FREEDOM: OUR AMERICAN HERITAGE

We live in changing times. In the context of worldwide concerns for preservation of cultural heritage, diversity and freedom, America stands as a model in part based on its policy on the arts.

Members of the arts community know that the American people, and the people of the world, respect the freedom afforded our artists. The arts community appreciates the wisdom of the American people in funding their many art forms. Artists embrace their role as responsible citizens by expanding the accepted limits of creative expression and ideas. We are a nation rich in diverse culture and heritage, regions, and religions, which are reflected and passed on from generation to generation through the arts. Artists are a central source of inspiration.

All art and the work of arts organizations flow from the creativity of the individual artist—in solitude, in collaboration, in community. Therefore, we strongly urge the Congress to continue support of this irreplaceable resource.

We commend Congress for its continued support of the National Endowment for the Arts and we commend the President for reaffirming the role of the Endowment in 1990. We emphatically and unanimously support his proposed five-year reauthorization of the Endowment with no content restrictions.

We also commend the Endowment for its outstanding record of achievement over the past twenty-five years in making the arts available through building audiences and in helping to maintain the highest possible artistic standards in the creation and presentation of the arts throughout America.

Like other great nations, we publicly sponsor our arts. We do not sponsor one official art, just as we are not a nation of one public opinion. Recent controversies about freedom of artistic expression have disrupted both the arts community and the Congress. These controversies have consumed precious time and resources and have created an atmosphere of distrust and misinformation. These controversies have tested our shared commitment to open and free debates.

However, a profound chilling effect now afflicts the arts and the exchanges between artists, arts organizations, audiences and their congressional representatives. This must stop.

We members of the arts community wish to reaffirm the guiding principles which the Congress found and declared in the National Foundation on the Arts and Humanities Act of 1965.

That the encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the federal government;

That a high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future;

That democracy demands wisdom and vision in its citizens and that it must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servant;

That it is necessary and appropriate for the federal government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, state, regional, and private agencies and their organizations;

That the practice of art and the study of the humanities requires constant dedication and devotion and that, while no government can call a great artist or scholar into existence, it is necessary and appropriate for the federal government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent;

That museums are vital to the preservation of our cultural heritage and should be supported in their role as curator in our national consciousness;

That the world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and spirit;

That Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression; and

That, in order to implement these findings, it is desirable to establish a National Foundation on the Arts and Humanities.

Recent events have seemed to polarize members of the arts community, the Congress and the general public regarding the issues of freedom of expression and accountability in the expenditure of public funds. In the heat of this debate we have all to some degree lost sight of the fundamental consensus that underlies a free and civilized society: that freedom of expression is among our most important and cherished rights and that accountability in the expenditure of public funds is essential to the democratic process.

In this spirit we call upon the arts community, the Members of Congress and all concerned Americans to work together to uphold these principles in a spirit of good faith and shared purposes so that we may honor both the right of free expression and public accountability.

To reach these goals we recommend that Congress:

Expand the declaration of purpose to affirm that it is vital to a democracy to honor its heritage and support new ideas and therefore to provide assistance to its artists and the organizations that support their work. Such support of creativity is primary to the mission of the Endowment.

Reauthorize the National Endowment for the Arts for another five years.

Maintain the existing state funding formula.

Direct the Endowment to undertake and provide adequate funding for a study of roles and responsibilities of the members of the public funding partnership (federal, state and local) and to report on these findings with timely recommendations.

Preserve the time honored protection our Constitution affords of speech. There should be no legislation that in any way restricts the content of art that is funded by the Endowment. The Endowment can and should only determine artistic excellence. In our system of government only the courts can and should determine Constitutional issues of obscenity. Obscenity is without artistic merit and is unprotected by the First Amendment of the Constitution, and we do not support it.

Activate the Federal Council on the Arts and the Humanities as specified in the authorizing legislation to encourage an ongoing dialogue in support of the arts and humanities among federal agencies and departments.

Extend the life of the Independent Commission for a period of no more than three years: expand its membership to insure cultural diversity and representation of artists; direct the Commission to undertake the work required by Congress in the fiscal year 1990 Interior appropriations bill and also to examine issues of accountability of the Endowment to the Congress and the American people.

Authorize a new title to expand the efforts of the National Endowment for the Arts in the area of education in the arts, and to increase accessibility to the arts among all Americans, including diverse cultures, and urban and rural populations. These efforts will be carried out by artists and organizations that support artists work. These initiatives should be integrated with one another and should be incorporated with existing programs of the National Endowment for the Arts. We recommend a new and separate authorization of $40 million for these initiatives. In lieu of appropriation for this title, funding ratios for programs currently established in the Endowment should be maintained. Any appropriations to this new title should be in excess of $175 million for the already authorized purposes of the Endowment. The appropriations of such new dollars shall be divided equally between this new title and already existing programs within the Endowment.

Mandate the citizen peer panel review system in order to assure that the most knowledgeable decisions will be made about the expenditures of public funds and that the panels procedures are accountable and fair. In selecting these panels the Chairman of the NEA shall appoint individuals from a wide geographic area, from diverse cultures, to include artists, nonartists, and lay people, all of whom shall have the ability to assure that artistic excellence is achieved: policy panels should be open to the public; site visits should be undertaken to provide information to assist panelists; written records of panel deliberations and recommendations should be maintained; panel membership should be rotating with most appointments limited to three consecutive years; the inspector general of the NEA should review all grants for compliance with accounting and financial criteria.

Establish that National Council on the Arts policy meeting will be open to the public.

Encourage the Chairman of the NEA to establish a Committee of national organizations that would advise the NEA on matters of general policy and especially matters pertaining to outreach and educational activities of the agency.

An important partner in the development of a nation's art is the public. Art is a form of communication which embraces both the artist and the audience—the viewer, the listener, the communicator—all those who experience what is being communicated. Essential to the work of the artist and the well-being of the arts is an informed audience. Clearly, the work of the NEA would be improved if a greater effort were to be made to involve representatives of those who benefit from what the arts and the artist contribute to our society. The leaders of youth, business, labor, diverse communities, senior citizens, special constituencies and similar national membership organizations whose experience and dedication to enriching the quality of life for millions of Americans merit their consideration as participants in the work of the NEA.

Encourage recognition for and continuity of authenticity and excellence in our multicultural artistic heritage.

Recognize the importance of ensuring that the NEA continues to make grants that are free of political pressure.

We are unanimous and united in our support of this document.

Dana Broussard, artist.

Billy Taylor, composer and pianist.

Val Beck-Sena, clinical psychologist, Cincinnati, OH.

Faith Evans, United Church of Christ, Washington, D.C.

AFL-CIO Department of Professional Employees.

American Council for the Arts.

American Council for the Traditional Arts.

American Arts Alliance.

American Association of Museums.

Association of American Cultures.

Coalition of Arts Educators.

Coalition of Writers' Organizations.

Creative Coalition.

Independent Committee on Arts Policy.

National Artists Equity Association.

National Assembly of Local Arts Agencies.

National Assembly of State Arts Agencies.

National Association of Artists' Organizations.

National Campaign for Freedom of Expression.

National Alliance of Media Arts Centers.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 2844) to improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 988. An act entitled the "Camp W.G. Williams Land Exchange Act of 1989";

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center; and

H.R. 5064. An act to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs.

At 7:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 666) to enroll 20 individuals under the Alaska Native Claims Settlement Act; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4053. An act to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands;

H.R. 4089. An act to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes;

H.R. 4111. An act to amend the Mining Mineral Resources Research Institute Act of 1984, and for other purposes; and

H.R. 4834. An act to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3888. An act to allow a parcel of land in Rockingham County, Virginia, to be used for a child care center; to the Committee on Energy and Natural Resources.

H.R. 4053. An act to amend the Surface Mining Control and Reclamation Act of 1977 to provide for the remining of certain abandoned coal mine lands; to the Committee on Energy and Natural Resources.

H.R. 4089. An act to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4111. An act to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4834. An act to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

H.R. 5064. An act to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 988. An act entitled the "Camp W.G. Williams Land Exchange Act of 1989."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 324: A bill to establish a national energy policy to reduce global warming, and for other purposes (Rept. No. 101-361).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2843: A bill to establish the Kino Missions National Monument in the State of Arizona (Rept. No. 101-362.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. CRANSTON, Mr. FORD, Mr. INOUYE, Mr. DECONCINI, Mr. SARBANES, Mr. SIMON, Mr. LIEBERMAN, Mr. KOHL, Mr. KERRY, Mr. DIXON, Mr. HELMS, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Mr. GARN, Mr. LEVIN, and Mr. GORE):

S. 2836. A bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2837. A bill to facilitate the construction of United States courthouses, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2838. A bill to provide for the development of model programs of successful partnership among the national defense laboratories, small businesses, and State and local governments, in order to implement the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Armed Services.

By Mr. LIEBERMAN:

S. 2839. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. ROTH, Mr. HARKIN, Mr. KOHL, and Mr. AKAKA):

S. 2840. A bill to improve the management of the Federal Government by establishing a Deputy Director for Management in the Office of Management and Budget; by establishing a Chief Financial Officer of the United States who shall be in the Office of Management and Budget; by requiring the development of systems that provide complete, accurate and timely financial information; by increasing financial discipline and accountability by requiring independently audited agency financial statements; and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCLURE (by request):

S. 2841 A bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM:

S. 2842. A bill to amend the Immigration and Nationality Act to augment funds available for refugee expenses with funds paid by the refugees themselves; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself and Mr. MURKOWSKI):

S.J. Res. 346. A joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. CRANSTON, Mr. FORD, Mr. INOUYE, Mr. DECONCINI, Mr. SARBANES, Mr. SIMON, Mr. LIEBERMAN, Mr. KOHL, Mr. KERRY, Mr. DIXON, Mr. HELMS, Mr. D'AMATO, Mr. METZENBAUM, Mr. WIRTH, Mr. LEVIN, and Mr. GORE):

S. 2836. A bill to deny the People's Republic of China nondiscriminatory most-favored-nation trade treatment; to the Committee on Finance.

SUPPORT FOR DEMOCRACY AND HUMAN RIGHTS IN CHINA ACT

Mr. MITCHELL. Mr. President, today I am introducing a bill to condition the President's renewal of nondiscriminatory most-favored-nation trade status to the People's Republic of China on reciprocal actions by the Chinese Government to end the repression and violations of basic human rights in which it has broadly engaged.

The purpose of this legislation is to give tangible expression to the verbal American support for democracy which so many of us have expressed over the past 13 months.

The bill would take effect within 90 days of enactment. Its denial of nondiscriminatory trade relations could also be lifted at any time that the President can certify that the repression in China has ceased.

It is evident that President Bush's current policy of hoping for human rights improvements in China has failed.

The long overdue arrival of Fang Li Zhi in Britain from his refuge in the American Embassy in Beijing was permitted only after Professor Fang was forced to admit that his political views violate the Chinese Constitution. This concession was demanded, even though Professor Fang's only crime was to seek peaceful political change in his nation.

Professor Fang himself has made the point that his release is not proof of a changed human rights policy. He said, and I quote him:

* * * After all, this record is by no means just a question of Fang Li Zhi. There still remain a large number of students held in custody or in prison. Some have already

been sentenced. These cases still need to be solved.

But for the past year, Chinese Government officials have made it clear in both their actions and their words that their human rights policies will be guided by cosmetic changes designed to win negotiating points or improved economic ties with the West.

The Chinese leaders have not released the political prisoners jailed in the wake of the Tiananmen Square massacre last year; they have not altered the requirement for political indoctrination and military service for study abroad; they have not ceased the military and police repression in Tibet and against pro-democracy protests in China; they have not granted the right to free emigration; they have not stopped the use of torture, personal degradation, detention and forced labor in their crackdown against their people.

By no standard does the Chinese Government's treatment of its people reflect even a minimum of the respect for basic human rights which should guide American policy.

Internationally, China has not become a better world citizen, either.

The Government of China has refused to honor its own commitments to become a responsible party in the effort to control the proliferation of biological, chemical or nuclear weapons technologies. The Government of China continues to surreptitiously arm and equip the forces of the genocidal Khmer Rouge in Cambodia; the Khmer Rouge are the principal barrier to achieving peace in Southeast Asia.

Yet, despite the clear evidence of these actions, internal and external, President Bush's response has been to continue his policy of waiting and hoping for improvements.

Waiting and hoping has not changed the policies of the Chinese Government. Indeed, waiting and hoping has given the Chinese Government and other governments around the world the contrary impression, the wrong impression, that the United States will have no meaningful response, even in the face of the most outrageous brutality.

Yet, despite that year-long record of Chinese intransigence and brutality, President Bush notified the Congress on May 24 that he was renewing most favored nation status for the People's Republic of China for another year.

Under such circumstances, it is evident that the Government of China has no incentive to improve its human rights record or to keep its commitments as a citizen of the international community of nations.

The President's renewal of most favored nation trading status for China is wrong. It is wrong because it rewards the Chinese Government for a year of political arrests and executions, a year of intensive public security controls, a year of continued arms sales to the Mideast, a year of restrictions on foreign journalists in China and harassment of Chinese students residing in the United States.

The President's repeated claims that this lenient policy toward China would produce a relaxation of repression and an improvement in the human rights situation have been disproven. No relaxation has occurred. No human rights violations have been redressed. No internal security controls have been lifted. The hope for freedom in China is as remote today as it was a year ago.

By renewing most favored nation status for China, the President has signalled to the Chinese leadership and to the watching world that the United States views its brutal actions with complacency. That is the wrong signal to send China and throughout the world. That is profoundly inconsistent with American ideals and American interests.

It is renewed proof of a failed policy.

Indeed, it is more than a failed policy. It is precisely the policy the Chinese Government has been hoping for.

Professor Fang made that clear in his appearance on "Meet the Press," when he described the actions of his Government in these words:

* * * on the one hand they want economic openness and foreign investment and exchange, but on the other they do everything they possibly can to resist the worldwide trend toward democracy and freedom.

In all of human history there is no tyrant who has not wanted an economically wealthy nation at his feet. The Chinese Government of today is no different in that respect.

But what we have all learned in the past year is that economic wealth is not indefinitely compatible with human repression. Nations whose people fear for their freedom and lives are nations whose people do not and cannot produce the wealth that free men and women produce.

The observation Professor Fang made is profoundly correct. He said,

Their hardline policy is very clear and they don't want to change it, but we can already see that it is internally contradictory.

Nations whose political leaders fear loss of their own power before every other potential calamity are nations headed for economic disintegration. Only the artificial support of outsiders can sustain such systems.

But American interests are served by a peaceful and free countries throughout the world. Fearful and tyrannical oppressive Communist governments pose a threat to peace and freedom. There is no long-term American interest in sustaining such regimes.

The United States must make a distinction between the Chinese people and the Chinese Communist tyrants who govern those people. The President continues to confuse the two. We should align ourselves with the Chinese people, not with the Chinese Communist tyrants who repress the Chinese people.

As Fang Lizhi told us, when he was finally free to speak as a free man,

My view * * * is that China is now in a period of change and the distinctive feature of the change is that China is joining the larger trends of the world as a whole.

* * * the whole world is getting smaller, and mutual influences are getting progressively stronger. So * * * these changes we see in Eastern Europe and the Soviet Union are sure to turn up in China as well.

* * * The principle that should be observed in China's involvement in the world should be one of following the progressive trends in the world.

But that is not the principle that has guided President Bush's policy toward China.

Instead, since shortly after the Tiananmen Square massacre when special emissaries were sent secretly to Beijing, after the American people were told there would be no high level contacts, all the way through the shameful visit of high officials last December who publicly stood in Beijing and toasted the very Chinese Communist tyrants who had ordered the murder of hundreds of their own people, to the current renewal of most-favored-nations trade status, the President's policy has been one of giving in to the Chinese.

But that policy has failed. It has failed to produce an improvement in human rights. It has failed to promote stability and freedom in China. Most important, it has failed to serve American interest, and American policy ought to be based on one primary consideration, the interest of the American people.

I believe it is a policy that must change. For that reason, I am offering a bill today which will give the Congress an opportunity to reassert the strong support of all Americans for the forces of democracy and freedom in China by giving those forces our practical support as well as our verbal encouragement.

As in all other areas of public policy, policies begin with words, but they cannot end with words. They require actions to match the words, and that is what this legislation is intended to do, to put the American Government on record in action in a way that matches the words of the American people and leaders in America with respect to freedom in China.

Mr. President, I ask unanimous consent that the test 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. 2836

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 "Support For Democracy and Human Rights in China Act of 1990".

SEC. 2. FINDINGS; POLICY.

(a) FINDINGS.—The Congress finds as follows:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 3, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination ahd human rights.

(2) The Government of the People's Republic of China continues to commit violations of internationally recognized human rights, including—

(A) torture or other cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trials and use of forced labor;

(C) abduction and clandestine detention of individuals; and

(D) other flagrant denials of basic human rights.

(3) The Government of the People's Republic of China had denied Chinese citizens who support the pro-democracy movement and others the right of free unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad and has required college students to attend military indoctrination courses and work five years after graduation before being eligible to apply to study outside China.

(5) The Government of the People's Republic of China continues to violate the fundamental human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in efforts to control the spread of dangerous military technology and weapons, including biological, chemical, and nuclear weapons and technologies.

(7) The Government of the People's Republic of China continues clandestinely to supply arms and equipment to the genocidal Khmer Rouge forces fighting in Cambodia.

(8) The President of the United States has suspended all government-to-government sales and commercial exports of weapons to China, and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(b) POLICY.—(1) The additional existing sanctions being applied against China in the areas of technology exports and international monetary loans should be continued and strictly enforced.

(2) It should be the policy of the United States to consult with members of the United States business community operating or investing in the People's Republic of China in order to discuss the establishment of guidelines for corporate activity in China.

SEC. 3. PROVISIONS OF DENIAL OF MOST-FAVORED-NATION STATUS.

Notwithstanding any other provision of law—

(1) the President shall terminate or withdraw any portion of any trade agreement or treaty that relates to the provision of nondiscriminatory (most-favored-nation) trade treatment by the United States to the People's Republic of China.

(2) the People's Republic of China shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of the People's Republic shall be subject to the rates of duty set forth in column number 2 of the Harmonized Tariff Schedule of the United States; and

(3) the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment under any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.).

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 90 days after the date of enactment of this Act.

SEC. 5. TERMINATION DATE.

(a) IN GENERAL.—This Act shall terminate at such time as the President determines and certifies to the Congress that all of the conditions set forth in subsection (b) have been met.

(b) CERTIFICATION.—The conditions referred to in subsection (a) are that—

(1) the Government of the People's Republic of China has ceased committing violations of internationally recognized standards of human rights, including—

(A) the release of all political prisoners arrested and incarcerated since June 4, 1989,

(B) the granting of press freedom, including ending interference with Voice of America broadcasts and ceasing the harassment and restrictions imposed on Chinese and foreign journalists, and

(C) the cessation of surveillance and harassment of Chinese students and other individuals living outside of China,

(2) the Government of the People's Republic of China has ceased its persecution of the members of the pro-democracy movement in China;

(3) the Government of the People's Republic of China has permitted the unrestricted emigration of its citizens, including permitting freedom to study abroad; and

(4) the Government of the People's Republic of China has ceased religious persecution in China and Tibet and has released from detention and house arrest leaders and members of religious groups.

Mr. MOYNIHAN. Mr. President, I rise to support the majority leader in this serious and fateful legislation, as I would judge it. I would like to be listed as a cosponsor. If I could ask the majority leader if I may be added as a cosponsor of the bill.

Mr. MITCHELL. Mr. President, I am pleased that the distinguished Senator from New York is the first cosponsor of this legislation. There are already, I believe, 13 Senators cosponsoring the legislation and I am very pleased to have the support of the distinguished Senator from New York, and he is the first cosponsor.

Mr. METZENBAUM. Will the Senator be good enough to add the Senator from Ohio as well?

Mr. MITCHELL. I ask unanimous consent that the Senator from Ohio be added as a cosponsor.

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

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the timeliness, indeed the urgency of the majority leader's measure is to be seen in the reports from the economic summit meeting now at Houston. Yesterday they took up the issue of economic relations with former adversaries such as the Soviet Union, and specifically with China.

We learn in the New York Times this morning that in a late session the Japanese insisted that there should be increased economic relations with and assistance to the Chinese as a reward for what is called liberalization in the last year, liberalization which appears to consist of letting one astrophysicist and his wife out of the American Embassy into exile in London.

The Times reports that the French, among others, opposed this measure. Very conspicuously there was no mention of the United States. That would not have been difficult to have managed in an American setting and in the American press. Indeed the communique that was finally issued is a very mild statement that begins, "However, we acknowledge some of the recent developments in China." And the acknowledgment is as in a mode of gratitude. It appears to me, as the majority leader has described, there are very few grounds for gratitude.

I call attention to one aspect of the bill as introduced which is that it particularly calls attention to the Chinese behavior in Tibet. That behavior, Mr. President, approaches genocide. The Tibetan people who are now in exile in India for the main part are being overwhelmed by Chinese being moved into their region. And it is within serious estimates of responsible people that if matters proceed as they do a distinctive Tibetan civilization will have vanished in 20 years' time. Indeed and as a deliberate policy of another government, a policy of closing down the monastaries, confiscating what was vast wealth.

We sometimes forget Tibet was the home of the Mongols before they became Buddhists and that they were seen far and wide in Eurasia. If that was a wealthy country in terms of its treasures, all now confiscated by the Chinese, all now removed. An enormous number of Chinese settlers, officials, and soldiers have commenced to displace a culture that has been there for millenia.

We say in this measure that the Government of the People's Republic of China continues to violate the fundamental human rights of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom. The later aspect, religious freedom, is fundamentally at issue here.

The Chinese have simply set out to extirpate, to destroy, the Buddhist society that they conquested some 30 years ago—invaded and conquered. The Dalai Lama is in exile, of course. We hope we will see him in Washington this fall. This Senator hopes that he will be able to speak to a joint meeting of the Congress—in keeping with those extraordinary sessions we have had with former political prisoners this year; Mr. Walesa, Mr. Havel, Mr. Mandela. The Dalai Lama would be in appropriate company with those three.

On a related point, Mr. President, in the last 5 years and most especially in the last 2, we have seen extraordinary changes in the Soviet Union in directions which we have asserted from the early 1970's that if followed would mean that we would provide most-favored-nation treatment to the Soviet Union. The tariff schedules now in effect are those of the Smoot-Hawley Tariff of 1930, the highest tariff schedule in our history.

The Soviet Union is allowing free emigration for Soviet Jews. It has free elections. It has what increasingly, may be described as a free press, certainly a press filled with dissent. It has the aspects, not all, but so many more aspects of an open society that the country is unrecognizable from that which we saw when the Jackson-Vanik provisions were passed in 1974.

Our daily press is filled with the most recent election, the most recent article, the most recent debate. The Communist Party just held its 28th Congress. On television. With KGB generals being denounced who are, in fact, in political opposition with the General Secretary. Argument and debate was openly heard. And that is what we asked of the Soviet Union. They do not have most-favored-nation treatment. The Chinese butchers do.

Now, where are our standards here, Mr. President? I will give you a sense of the power of this relationship, this concession.

China was granted most-favored-nation treatment in 1980. Their imports thereupon increased from $600 million to $12 billion last year, a factor of 20. The Soviet Union still has no MFN and their imports went down from $873 million to only $703 million in that same period of a decade. The United States has a $6.2 billion trade deficit with China and a $3.6 billion trade surplus with the U.S.S.R.

Now we have openly and for more than 15 years, for almost two decades, made the most-favored-nation treatment conditional on political rights and the conduct with respect to human rights in the Soviet Union. I am not saying the Soviet Union has responded to our conditions, but certainly the Soviet Union has commenced to meet them. We deny that treatment to the Soviets while conferring it on an unreconstructed, unrepentant and, evidently, unchangeable totalitarian regime in Beijing.

Mr. President, this is a double standard. And it is a double standard in favor of totalitarianism that surely cannot have been our purpose. I hope the Senate will shortly and directly address the majority leader's legislation.

I thank the Chair and I yield the floor.

Mr. KENNEDY. I am pleased to join the distinguished majority leader in introducing a bill to deny most-favored-nation trade status to China. I opposed President Bush's ill-advised renewal of MFN to China and urge my colleagues to act quickly to right that wrong by passing this legislation.

We have no business providing preferential treatment to a government that suppresses the most basic human rights of its citizens. Since the brutal massacre of peaceful demonstrators last year in Tiananmen Square, the Chinese leadership continues to hold hundreds of political prisoners, to intimidate those who seek peaceful political change and to harass Chinese students in this country. The Government defiantly maintains it acted correctly when it massacred hundreds—perhaps thousands—of innocent students and to this day refuses to allow peaceful calls for democratic change.

The Government still refuses to confirm the number or names of those it has arrested during the Tiananmen Square crackdown and some estimate that thousands are still held. Reports persist of summary and secret executions and torture by security forces and prison officials. There are also reports that nearly 50 Catholic leaders, including 13 bishops have been imprisoned.

All friends of freedom and of China welcome the long-overdue release of Fang Lizhi and his wife Li Shuxian from their refuge in the American Embassy in Beijing. Throughout their months in hiding, these two courageous individuals never wavered in their tireless support of democracy and freedom. Yet the release of two individuals does not mean substantial progress in a country where ruthless persecution persists. Until far greater progress is made, there continues to be no justification for the Bush administration's decision for granting most-favored-nation trade status to the brutal and repressive Chinese regime.

For more than a year, the Chinese Government has thumbed its nose at every overture made by President Bush. His secret missions, high level toasts, veto of congressional action against the Government and his many efforts to coax the Government into change—all were rebuffed. President Bush's policy is a failure and it is time that Congress set it straight.

The bill we are introducing today puts an end to the policy of kowtowing to the Chinese Government and sets forth clear, unequivocal standards it must meet if it is to continue to receive preferential trade status from the United States. These conditions include the release of political prisoners, an end to persecution of those who seek peaceful change, the guarantee of freedom of the press, an end to harassment of Chinese students in this country, guarantee of the right to emigrate and an end to religious persecution in China and Tibet.

Surely, these fundamental standards of human and civil rights are not too much to expect from the Government of China—or any country with which we do business. These conditions will provide strong support to the forces of freedom and democracy in China and provide a strong incentive for the Chinese Government to guarantee its citizens' basic rights.

I am pleased to join in introducing this important legislation and urge my colleagues to lend it their full support. Those who fought for freedom in Tiananmen Square deserve no less.

By Mr. BINGAMAN:

S. 2838. A bill to provide for the development of model programs of successful partnership amount the national defense laboratories, small businesses, and State and local governments, in order to implement the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980; to the Committee on Armed Services.

SMALL BUSINESS—NATIONAL DEFENSE LABORATORY TECHNOLOGY PARTNERSHIP ACT

● Mr. BINGAMAN. Mr. President, 4 years ago, the Stevenson-Wydler Technology Innovation Act was amended to establish a preference for small business in the transfer of federally funded technology from our National Government-operated laboratories to the private sector.

Implementing this preference has turned out to be a difficult task, for a number of reasons. They include the laboratories' hesitation to allocate scarce technology transfer resources to small business when faced with what appear to be more certain, bigger-payoff technology transfer opportunities with larger companies. They also include the reality that the degree of sophistication, technological capacity, management capability, and

financial stability ranges widely among small businesses. Whatever the reason, the relatively few, isolated examples of obviously successful small business-laboratory partnerships seem surprising in view of the substantial preference for such partnerships as etched in statute.

Yet several of the relatively few examples of successful partnerships have a common element. In several instances, the laboratories formed partnerships with small businesses with the significant help of State and local government technology or economic development agencies, such as small business incubation centers, local colleages, and local economic development agencies. These agencies were in effect intermediaries which helped form and cement these partnerships.

The positive role played by such intermediaries in these instances is, on reflection, not surprising. The laboratories, with limited technology transfer resources, can use the asssistance of such intermediaries to locate small businesses with technology needs, and small businesses can use their assistance in understanding what the laboratories might offer. The interaction of laboratories, intermediaries, and small businesses can form a network through which successful technology partnerships between small business and our national defense laboratories can be established.

This insight is particularly timely now. Many of the national defense laboratories operated by the Departments of Defense and Energy are Government-owned, but contractor-operated. Only in 1989, pursuant to provisions included in the National Defense Authorization Act passed last year, were these laboratories given the same technology transfer authority previously given to Government-operated laboratories, including the mandate to give small businesses preference in technology transfer agreements. These contractor-operated national defense laboratories need to catch up with Government-operated labs, and those national defense laboratories which are Government-operated need to improve their implementation of the small business preference provisions dramatically. Finding and implementing models of forming successful partnerships specifically between our national defense laboratories and small businesses, through state and local Government-sponsored intermediaries, is now an urgent necessity.

That is why I rise today to introduce "The Small Business-National Defense Laboratory Partnership Act of 1990." The bill has three major components. The first would require the Secretary of Defense and the Secretary of Energy to cooperate with the Secretary of Commerce in developing model programs and relationships among small businesses, State and local government-sponsored intermediaries, and national defense laboratories, in order to further enhance the prospects for commercializing federally funded research. It is expected that the Secretary of Commerce would use the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation to accomplish this.

Established by section 5122 of the Trade and Competitiveness Act of 1988 (15 U.S.C. 3407a), the Clearinghouse is authorized to provide assistance to State and local governments with respect to those initiatives; to study ways in which Federal agencies, including Federal laboratories, can assist State and local governments to enhance the competitiveness of American businesses; to advise State and local governments as to which programs are most effective in enhancing the competitiveness of American businesses; and to make periodic recommendations to Federal agencies concerning modifications in Federal programs which would improve Federal assistance to State and local technology and business assistance programs.

It is expected that the model programs developed with Clearinghouse assistance will include partnerships whereby the national defense laboratories, as a result of or directly related to their work with partnership intermediaries, might provide small businesses with: (a) names, locations, and telephone numbers of people, including laboratory employees, knowledgeable in technologies which may be needed by or productively useful for such small businesses, and in the case of laboratory employees, arrange for meetings with such employees; (b) access to nonclassified work in progress or completed at the laboratory; (c) use of laboratory facilities and equipment including software, hardware, processing technologies, and instruments; (d) licenses to patents and other intellectual property rights; and (e) adaptive engineering or manufacturing extension services. The laboratories might also enter into cooperative research and development agreements and engage in personnel exchanges with small businesses. They might well conduct workshops, conferences, and similar meetings in cooperation with partnership intermediaries to disseminate information about the technology-related assistance available at the laboratory.

Second, the bill authorizes the national defense laboratories to enter into and to fund contracts with State and local government-sponsored intermediaries. This makes clear that the laboratories may spend their funds on arrangements with such intermediaries where the laboratories believe their technology transfer capability will be enhanced by those arrangements.

Third, the bill would require the Secretary of Commerce to include in his or her triennial reports to Congress on State and local initiatives to enhance competitiveness (15 U.S.C. 3704a(d)), a description and evaluation of such programs and relationships developed pursuant to these sections. Coupled with the mandate to disseminate information about models developed by Clearinghouse efforts, this new section of the triennial report will be instrumental in ensuring widespread laboratory adoption of model laboratory-small business partnerships appropriate to their circumstances.

The national defense laboratories are anxious to play a bigger role in making American industry more competitive in the world marketplace. Small businesses, anxious to become larger businesses and more successful international competitors, are impatient with the slow progress in implementing the Stevenson-Wydler Act. And State and local governments, increasingly convinced that growing their own small businesses into bigger businesses is the key to a healthier economic base, are anxious to help.

It is my hope that the Small Business-National Defense Laboratory Partnership Act of 1990 will play a significant role in nudging all three parties along in productive cooperation toward these very consistent, mutually reinforcing goals.

Mr. President, I ask unanimous consent that a copy 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. 2838

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 "Small Business—National Defense Laboratory Technology Partnership Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) section 12(c)(4)(A) of the Stevenson-Wydler Act of 1980 (15 U.S.C. 3710a(c)(4)(A)) provides that the national laboratories, including the national defense laboratories, shall prefer small business and consortia that include small businesses in all their technology transfer activities;

(2) section 6 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704a) establishes a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation with several purposes, including authority to—

(a) provide assistance to State and local governments with respect to such initiatives;

(b) study ways in which Federal agencies, including Federal laboratories, can assist State and local governments to enhance the competitiveness of American businesses;

(c) advise State and local governments as to which programs are most effective in enhancing the competitiveness of American businesses; and

(d) make periodic recommendations to Federal agencies concerning modifications

in Federal programs to improve Federal assistance to State and local technology and business assistance programs.

(3) some of the most successful partnerships among small businesses and the national defense laboratories have been organized with the assistance of, and have involved participation by, nonprofit, State-or-local-government-sponsored intermediaries such as small business development centers, State and local technology development centers, and community colleges;

(4) the national defense laboratories, with limited technology transfer resources, can use the assistance of such intermediaries to locate small businesses with technology needs with which the laboratories can be helpful; small businesses can use their assistance in understanding what the laboratories might offer; the interaction of laboratories, intermediaries, and small business can form a network through which successful technology partnerships between small business and the national laboratories can be established; and

(5) the need for models of successful technology partnerships among small businesses, such intermediaries, and the national defense laboratories is urgent.

(b) PURPOSE.—The purpose of this Act to enhance the economic competitiveness of the United States by facilitating the cooperation of the national defense laboratories with the small businesses of this Nation, by—

(1) requiring the Secretary of Defense and the Secretary of Energy to cooperate with the Secretary of Commerce in developing model programs and relationships among small businesses, State-and-local government-sponsored intermediaries, and national defense laboratories that are likely to enhance the commercialization of federally funded research; and

(2) requiring that the triennial reports of the Secretary of Commerce to Congress on State and local initiatives to enhance competitiveness include a description and evaluation of the programs and relationships developed pursuant to this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "laboratory" or "national defense laboratory" means any laboratory or any federally funded research and development center that is owned and funded by the Federal Government (whether operated by the Federal Government or operated by a contractor) through the Department of Defense, or through the Department of Energy (so long as the primary function of such laboratory is to support the atomic energy defense activities of the Department of Energy); and

(2) the term "partnership intermediary" means any nonprofit entity that is owned by, chartered by, funded by, or operated on behalf of or directly by a State or local government, and that assists, counsels, advises, evaluates, or otherwise works with small businesses that need or would have demonstrably productive use for technology-related assistance from a laboratory, including—

(A) a small business incubation center, small business assistance center, small business commercialization center, small business development center, or similar entity;

(B) an office, school, center, or program operated by or on behalf of a university, college, community college, or vocational school, and

(C) any other economic development or technology agency, office, or program operated by or on behalf of a State or local government.

SEC. 4. DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—(1) The Secretary of Defense and the Secretary of Energy shall cooperate with the Secretary of Commerce in developing programs each of which shall involve the national defense laboratories, small businesses, and partnership intermediaries.

(2) The programs described in paragraph (1) may include participation by universities and companies engaged in domestically based research and development, and shall be designed to serve as models for—

(A) the commercialization of federally funded research;

(B) the development of appropriate partnerships between Federal, State, and local government agencies in promoting economic growth in connection with technology commercialization;

(C) the promotion of advanced manufacturing techniques for products having commercial and defense-related markets; and

(D) other appropriate purposes.

(b) ACTIVITIES.—The model programs developed pursuant to subsection (a) may include partnerships whereby the national defense laboratories, as a result of or directly related to their work with partnership intermediaries, do any one or more of the following:

(1) Provide small business with names, locations, and telephone numbers of people, including laboratory employees, knowledgeable in technologies that may be needed by or productively useful for small businesses, and in the case of laboratory employees, arrange for meetings with employees.

(2) Provide small businesses with access to nonclassified work in progress or completed at the laboratory.

(3) Provide small businesses with use of laboratory facilities and equipment including software, hardware, processing technologies, and instruments.

(4) Provide small businesses with licenses to patents and other intellectual property rights that the laboratory is permitted by law to grant.

(5) Provide small businesses with adaptive engineering or manufacturing extension services.

(6) Enter into cooperative research and development agreeements, as permitted by law, with small businesses.

(7) Engage in personnel exchanges with small businesses.

(8) Conduct workshops, conferences, and similar meetings in cooperation with partnership intermediaries to disseminate information about the technology-related assistance available at the laboratory and about the laboratory's current and proposed activities pursuant to this section.

(c) CONTRACTS WITH INTERMEDIARIES.—To the extent permitted by law, regulations, and contractural provisions to which the laboratory is a party, a laboratory may—

(1) enter into contracts or memoranda of understanding whereby partnershp intermediaries perform work for the laboratory designed to enhance the prospects of successful partnerships between the laboratory and small business; and

(2) use monies made available for technology transfer pursuant to section 11(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(b)) to fund such contracts and memoranda of understanding.

(d) REIMBURSEMENT OF EXPENSES.—The Secretary of Defense or the Secretary of Energy, or both, shall, upon the request of the Secretary of Commerce, provide to the Secretary of Commerce not to exceed $50,000 in any fiscal year for the reasonable expenses incurred by the Department of Commerce in the development of the programs pursuant to this Act.

SEC. 5. PARTNERSHIP PROGRESS REPORTS.

(a) IN GENERAL.—The Secretary of Commerce shall include, in each triennial report on State and local initiatives to enhance competitiveness required by section 6(d) at the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704a(d)) made after the date of enactment of this Act, a section on the programs developed pursuant to this Act.

(b) CONTENTS.—The section of the treinnial report required by subsection (a) shall—

(1) review and summarize the nature and terms of the model programs developed pursuant to this Act;

(2) described the economic and technical significance of those programs, especially as they affect the prospects for growth for small businesses;

(3) identify any legal, policy, or other barriers to effective cooperation among the national defense laboratories, partnership intermediaries, and small businesses encountered in the development and operation of those programs;

(4) make recommendations for the benefit of Federal, State, or local agencies concerning whether—

(A) the model programs should be adopted more widely, should be modified, or should be rejected for future implementation; and

(B) any other statutory, regulatory, or policy changes should be made to further facilitate implementation of the small business preference provisions of the Stevenson-Wydler Technology Innovation Act of 1980.●

By Mr. LIEBERMAN:

S. 2839. A bill to amend the Public Health Service Act to establish a program of providing for research, treatment, and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

LYME DISEASE RESEARCH AND EDUCATION ACT

● Mr. LIEBERMAN. Mr. President, summer has arrived and with it nationwide concern about Lyme disease. Lyme disease was discovered in Lyme, CT, in 1976 and can now be found in 43 States, 7,042 new cases were reported in 1989 alone. A total of over 21,000 cases have been reported since the disease was discovered. Every year the number of new cases increases and concerns about the lasting impact of the disease grows.

Since there is, at this time, no vaccine against Lyme disease, public education is the critical component of our efforts to protect people from this disease. The legislation I introduce today establishes a grant program at the Centers for Disease Control to assist in research, treatment, and public education on Lyme disease. The Federal Government has been heavily involved in research on Lyme disease. It has conducted research of vital importance to our understanding of this disease. I believe, however, that we must

also focus our attention on the need for a national Lyme Disease Education Program. This program would ensure that we are able to prevent as many cases of Lyme disease as possible by teaching people what causes the disease and how to avoid the ticks which carry it.

Public education is not only important for the prevention of Lyme disease, it is also a critical aspect of efforts to ensure that those people who are exposed to Lyme disease are able to recognize the disease and receive early treatment. Many of those who have Lyme disease do not recall being bitten by a tick and many do not experience the classic early symptoms which are often used to diagnose the disease. The American public needs complete information on how to protect themselves from ticks, how to check for ticks, what symptoms to look for at the various stages of Lyme disease, and the appropriate treatments for Lyme disease.

The legislation I am introducing today, and which is being introduced by Representative HOCHBRUECKNER in the House of Representatives, is designed to ensure that at least 25 percent of the funds available for Lyme disease will be used for public education efforts. The Lyme Disease Research and Education Act authorizes $5.6 million in funds for CDC, a substantial increase over the $2 million which CDC received in fiscal year 1990 for its Lyme disease work. The increase in authorization ensures that CDC will be able to continue its quality work on research and treatment as well as ensuring that there will be funding available for more extensive public education programs. Almost everyone in the United States is now affected by Lyme disease. I look forward to working with my colleagues to ensure that CDC has sufficient funds to attack Lyme disease through research, treatment and education.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2839

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 "Lyme Disease Research and Education Act of 1990".

SEC. 2. ESTABLISHMENT OF PROGRAM FOR RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding at the end the following new section:

"RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE

"SEC. 320A. (a) The Secretary, acting through the Director of the Centers for Disease Control—

"(1) may conduct research, and provide treatment and public education, with respect to Lyme disease; and

"(2) shall make grants to public or nonprofit private entities to assist such entities in carrying out programs of research, treatment, and public education with respect to such disease.

"(b) In making grants under subsection (a) regarding public education, the Secretary shall give preference to any qualified applicant for such a grant whose primary focus is providing Lyme disease education nationwide.

"(c) The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(d)(1) For the purpose of carrying out subsection (a), there is authorized to be appropriated $5,600,000 for each of the fiscal years 1991 through 1993.

"(2)(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 50 percent for grants under subsection (a).

"(B) Of the amounts made available under subparagraph (A) for a fiscal year, the Secretary shall make available not less than 75 percent for grants under subsection (a) to qualified applicants for the grants that will provide services under the grants in geographic areas for which not less than 250 cases of Lyme disease have been reported to the public health office of the State involved, or to the Director of the Centers for Disease Control, for the fiscal year preceding the fiscal year for which the applicants are applying to receive such grants.

"(C) Of the amounts made available under subparagraph (A) for a fiscal year, the Secretary shall make available not less than 25 percent for grants under subsection (a) regarding public education.".●

By Mr. GLENN (for himself, Mr. ROTH, Mr. HARKIN, Mr. KOHL, and Mr. AKAKA):

S. 2840. A bill to improve the management of the Federal Government by establishing a Deputy Director for Management in the Office of Management and Budget; by establishing a Chief Financial Office of the United States who shall be in the Office of Management and Budget; by requiring the development of systems that provide complete, accurate, and timely financial information; by increasing financial discipline and accountability by requiring independently audited agency financial statements; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

● Mr. GLENN. Mr. President, today I will introduce the Federal Financial Management Improvement Act of 1990. Senators ROTH, HARKIN, KOHL, and AKAKA join me as cosponsors.

Last November, Comptroller General Charles Bowsher testified before my Committee on Governmental Affairs that $150 billion were "at risk" in the Federal Government's programs due to inadequate financial management systems and controls. This is an unacceptable situation. The committee has been working with the Comptroller and administration officials to design legislation to correct the problems.

The thrust of this legislation is to establish the organizational structure, powers, and master plan needed to reform the financial management of Government programs. Its centerpiece is the establishment in law of a Chief Financial Officer for the executive branch of the U.S. Government.

The bill reflects the continuing efforts of the Governmental Affairs Committee over the past several years to improve the Government's financial management and strengthen the management "M" in the Office of Management and Budget [OMB]. This is the third Congress Senator ROTH, the ranking member of the committee, and I have sponsored comprehensive legislation to restructure and change the Government's financial management practices.

Mr. President, since President Bush took office, the momentous events in East Europe have dominated our attention and provided much good news. The recent summit with President Gorbachev is yet another positive example. But the past year and a half has also left us with a pervasive domestic message which is not as cheerful. There is the evergrowing feeling the Federal Government must act to put its own financial house in order.

Last September seven inspectors general appeared before the Governmental Affairs Committee and flashed an alarming number of fresh early warning signals for each of their agencies. Director Darman of OMB followed them in October and provided the committee his assessment of management problems within the agencies. He was quite direct. His view was that there are several HUD's looming in the executive branch that had not been uncovered. He released high risk lists jointly developed by OMB and the agencies which encompassed 106 high risk areas. Forty-one of these areas involve directly the inadequate development or use of financial management controls.

In November, Comptroller General Bowsher gave his assessment of high risk areas. He was equally diect. He too believes there are several HUD's yet to be uncovered. He announced GAO's own high risk list of 14 targeted areas and concluded:

Unless something more is done to correct the material deficiencies in management information and accounting systems, and ma-

terial weaknesses in internal controls, major losses of federal funds and the collateral fraud and abuse incidents will continue.

Underpinning both the Comptroller's and Director's assessments is the the clear conclusion that as a government we do not have the basic financial management systems in place to know what is going on, and that internal controls which are in place are not working. The high risk lists amount to best guesses at where the next HUD-type problem might occur. The single most pevalent theme running through the lists is the material weaknesses of financial controls.

The bill I am introducing today amounts to a long-term strategy for reducing the risk and outright waste in many of our Government programs due to nonexistent, antiquated, and ineffective financial management controls. It is intended to establish both an accountable structure of financial officers within the executive branch and a management discipline within the individual agencies which will complement and reinforce the work of the inspectors general, and the work of agency heads to report and correct management weakness for which they are accountable under the Federal Managers' Financial Integrity Act.

In recent weeks both the Comptroller General and the Director of OMB have been very vocal in supporting the need for this kind of legislation. The need is growing, not diminishing. Comptroller Bowsher has informed the Congress his estimate for the savings and loan cleanup is now half a trillion dollars. He is systematically pointing to other credit, insurance, and loan programs which reveal that the President and Congress do not know—do not have good numbers—on what the Government's liabilities are. He has presented an audit of the Air Force which reveal similar problems on the asset side of the ledger, and is working on the other military services.

On his part, Director Darman is now publicly citing the figure of $6 trillion in "hidden liabilities" evolving from credit, loan, and subsidy programs. As he put it in a recent speech at Harvard:

* * * Credit subsidies are not properly accounted for. Risk-sharing is minimized. Exposure to loans, guarantees, potental insurance claims, and implicit obligations is largely unattended to. And the next round of avoidable S&L surprises is simply left to show when it will.

After 16 months on the job, and in the midst of the budget summit, Director Darman has this to say about the state of the Government's financial management.

The Federal accounting system must be reformed to improve financial control and to encourage greater attention to the future. The current system is essentially a primitive cash budgeting system—without satisfactory controls or audits; without accruals; without balance sheets; without a clear picture of assets, liabilities, returns on investment, or risks. It is arguably worse than the old city of New York's when New York went bankrupt. We have started to fix it. But basically, it is still the type of system one might associate with a 20-person restaurant, not a superpower.

Mr. President, the private sector has long recognized the need for chief financial officers to speak knowledgably to the head of an organization, the need for corporations to discipline themselves and inform their publics with financial statements and audits. The State and local community has also long acknowledged the utility of these financial controls. I want to acknowledge the work the American Institute of Certified Public Accountants; the Financial Executives Institute; the National Association of State Auditors, Comptrollers and Treasurers; the Association of Government Accountants and others have done to bring greater attention to the need to reform the Federal Government's financial management practices. It is time for the Federal Government to act and catch up with common practices in the private and State and local sectors.

Mr. President, I want to invite my colleagues to join me in sponsoring this legislation. I intend to hold hearings on this bill this summer. Last January, Senator ROTH and I asked Secretary Brady, Director Darman, and Comptroller General Bowsher, the three principle financial officers of the Government, to be prepared to testify on this legislation and we anticipate their participation in the hearings.

My concern is that there has not been much of "a start to fix it," as Mr. Darman states it. The Committee on Governmental Affairs has repeatedly concluded what is most critical is that we get started with a high level commitment from both the Executive and Congress. Putting the structure and governmentwide architecture in place will take sustained leadership. It amazes me, for example, that despite concerted attention to the issue of standard accounting systems since I became chairman of the committee 4 years ago, there are still some 304 different accounting systems in the Government—none of whom can talk to each other. And this is just an example of the state of the art.

Let me conclude by stating again, the idea that billions of dollars may be bleeding from the Treasury—and we do not know where we may be bleeding—is unacceptable. My view is it will take legislation passed by the Congress and signed by the President to bring about the needed changes. What follows is a summary of the bill I am introducing today. And I ask, Mr. President, that the bill be printed in the RECORD.

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

S. 2840

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

TITLE I—TITLE AND STATEMENTS OF FINDINGS AND PURPOSE

SEC. 101. This Act may be cited as the "Federal Financial Management Improvement Act of 1990."

SEC. 102. The Congress finds that—

(a) financial management systems of the federal government are obsolete and inefficient, and provide information that is incomplete, inconsistent, unreliable, and untimely.

(b) current financial reporting practices of the Federal government do not accurately disclose the financial condition of federal agencies, including the costs of operations and investments, and do not provide timely information required for efficient program mangament and control;

(c) management functions of the Office of Management and Budget have not received sufficient priority and need to be enhanced to provide leadership in policy execution, program oversight, and the development and implementation of modern financial management systems and a federal financial management leadership structure;

(d) inadequacies of the federal financial management structure have contributed to widespread mismanagement, fraud, waste and abuse of federal resources; and

(e) independently audited agency financial statements, consistently prepared in accordance with accounting and reporting standards that reflect the unique circumstances of the federal government, will provide the discipline needed to foster effective financial management systems and improve accountability in federal financial management.

SEC. 103. It is the purpose of this act to—

(a) strengthen the management function of the Office of Management and Budget to provide leadership in program oversight and in the development and implementation of federal financial management improvements and strengthened internal controls;

(b) provide the Executive Branch and the Congress with complete, consistent, reliable, and timely financial information about the operations and condition of federal agencies which is essential for—

(1) effective oversight of government programs;

(2) effective and efficient management and control of government programs; and

(3) public understanding of the financial performance of the federal government;

(c) require the establishment and maintenance of an effective financial management structure, including—

(1) a comprehensive strategy and detailed multi-year systems modernization plan for rebuilding the financial management structure;

(2) centralized and agency leadership with adequate authority to assure appropriate and consistent agency implementation of the plan;

(3) the development and maintenance of efficient, effective, and consistent financial management systems;

(4) recruitment, selection, training, development and retention of skilled financial management personnel; and

(5) financial statement and independent audits to promote discipline and accountability.

TITLE II—ENHANCEMENT OF FEDERAL MANAGEMENT AND CHIEF FINANCIAL OFFICERS

SEC. 201. Section 502 of title 31, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), and adding after subsection (b) the following new subsections:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. Under the general supervision of the Director, the Deputy Director for Management shall—

"(1) coordinate and supervise the Office of Management and Budget's general management functions; and

"(2) carry out all functions of the Director, and all functions delegated by the President to the Director, which relate to—

"(A) providing overall leadership in—

"(i) the development and implementation of Federal management policies; and

"(ii) the coordination of programs to improve the quality and performance of managerial personnel in the areas listed in subparagraph (B) of this paragraph;

"(B) providing central policy direction and leadership in—

"(i) general management and managerial systems;

"(ii) grants and contracts management;

"(iii) information and statistical policy;

"(iv) regulatory affairs;

"(v) property management; and

"(vi) other related management functions, including organizational planning and analysis and human resources management;

"(C) informing the Congress and the public concerning the state of Federal management and initiatives for more effective management;

"(D) facilitating actions by the Congress and the executive branch to improve the efficiency and effectiveness of Government operations and to remove impediments to effective administration;

"(E) providing leadership in management innovation through experimentation, demonstration programs, and the adoption of modern management concepts and technologies;

"(F) maintaining continuous oversight of the organizational strutures and managerial systems and processes of the Government, and recommending changes in such structures, systems and processes;

"(G) promulgating goals to, and assisting in the development and implementation of plans to, involve the productivity of Government personnel;

"(H) working with State and local governments to strengthen the Federal system and provide assistance to such governments with respect to intergovernmental progams and cooperative arrangements; and

"(I) carrying out such other duties and powers prescribed by the Director as are consistent with the general management functions of Deputy Director.

"(d)(1) There shall be in the Office a Chief Financial Officer of the United States. The Chief Financial Officer—

"(A) shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability and practical experience in accounting, budget execution, financial and management analysis, and financial systems development;

"(B) shall serve a term of six years and may continue to serve in office after expiration of a term of service until reappointed or a successor is appointed under subparagraph (A) of this paragraph; and

"(C) may be removed by the President who shall communicate the reasons for the removal to both Houses of Congress.

"(2) Under the general supervision of the Director, the Chief Financial Officer shall—

"(A) be the principal advisor to the President on Federal financial management systems and operations;

"(B) establish policies and prescribe requirments for the establishment and operation of the Government's financial management systems;

"(C) provide leadership, direction and guidance to agencies on fianncial management matters;

"(D) develop qualification standards that agencies shall use in appointing agency chief financial officers;

"(E) provide leadership in and assist agencies with the recruitment, development, evaluation and training of government financial management professionals;

"(F) with the assistance of the Office of Federal Financial Management, Department of the Treasury, coordinate and monitor the financial management activities and operations of the Government to ensure that—

"(i) agencies comply with the policies and requirements established by the Chief Financial Officer under subparagraph (B) of this subsection, and with applicable accounting principles, standards, and requirements, and internal control standards;

"(ii) agencies have established and are effectively and efficiently operating adequate financial management systems and internal controls to manage the agency and ensure full accountability;

"(iii) such systems and controls are adequate to meet the needs of agency managers for effective program implementation and accurate financial information;

"(G) work with the Secretary of Treasury in carrying out the reporting requirements contained in section 3513 of this title; and

"(H) review agency budget requests for financial managmeent systems and operations, and advise the President and the Congress on the resources required to develop and effectively operate and maintain the Government's financial management systems and to correct major deficiencies in such systems."

SEC. 202. Section 502(e) of title 31, United States Code, as amended, is further amended by inserting after the first sentence thereof the following: "In addition to the 3 Assistant Directors authorized by the preceding sentence, the Office shall have an Assistant Director for Financial Management who is appointed by the Director to a career reserved position in the Senior Executive Service. The Assistant Director for Financial Management shall report to the Chief Financial Officer and shall carry out the duties and powers prescribed by the Chief Financial Officer."

SEC. 203. Subchapter I of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"310. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

"(a) There is in the Department of the Treasury an Office of Federal Financial Management that shall be under the supervision of the Fiscal Assistant Secretary.

"(b) Under the policy direction of the Chief Financial Officer, Office of Management and Budget, the Office of Federal Financial Management shall be responsible for—

"(1) providing technical assistance to agencies on financial management matters;

"(2) monitoring and reviewing, on a continuing basis, the condition of agency financial management systems to determine that—

"(A) agencies are complying with (i) requirements, policies, and procedures established by the Chief Financial Officer under section 502 of this title, (ii) applicable accounting principles, standards, and requirements, and (iii) applicable internal control standards;

"(B) adequate financial management systems and internal accounting and administrative controls have been established in agencies and are operating effectively and efficiently; and

"(C) such systems and controls are adequate to meet the needs of agency managers for effective program implementations and accurate financial information.

"(3) reporting the results of agency reviews to the head of the agency reviewed, its chief financial officer, and the Chief Financial Officer, Office of Management and Budget, including any recommended improvements; and

"(4) performing such other financial management functions a sthe Chief Financial Officer may request."

SEC. 204. Subtitle I of title 31, United States Code in amended by adding at the end thereof the following new chapter:

"CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec. 901. Agency Chief Financial Officers
"Sec. 902. Functions.
"Sec. 903. Transfer of Functions and Personnel
"Sec. 904. Agency Audit Committees

"§ 901. Agency Chief Financial Officers

"(a) Each agency shall have a chief financial officer, who shall have a career reserved position in the Senior Executive Service and report directly to the agency head on financial management matters.

"(b) Consistent with qualification standards developed by, and in consultation with, the Chief Financial Officer, Office of Management and Budget, the head of each agency shall appoint as chief financial officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management.

"(c) For purposes of this chapter, "agency" means:

"(1) The Department of Agriculture.
"(2) The Department of Commerce.
"(3) The Department of Defense.
"(4) The Department of Education.
"(5) The Department of Energy.
"(6) The Department of Health and Human Services.
"(7) The Department of Housing and Urban development.
"(8) The Department of the Interior.
"(9) The Department of Justice.
"(10) The Department of Labor.
"(11) The Department of State.
"(12) The Department of the Transportation.
"(13) The Department of the Treasury.
"(14) The Department of Veterans Affairs.

"(15) The Department of the Army.
"(16) The Department of the Navy.
"(17) The Department of the Air Force.
"(18) The Defense Logistics Agency.
"(19) The Environmental Protection Agency.
"(20) The General Services Administration.
"(21) The National Aeronautics and Space Administration.
"(22) The Small Business Administration.

"§ 902. Functions

"An agency chief financial officer shall—
"(1) conduct, supervise, coordinate and integrate all financial management activities and operations of the agency, including preparing the annual financial statements required by section 3513 of this title, arranging for the audits required by section 3521(e) of this title, and assisting the agency head prepare the annual management report required by section 3521(i) of this title;
"(2) advise the agency head on financial management;
"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—
"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;
"(B) complies with policies and requirements prescribed by the Chief Financial Officer, Office of Management and Budget;
"(C) complies with the requirements of law applicable to such systems; and
"(D) provides for—
"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;
"(ii) the development and reporting of cost information;
"(iii) the integration of accounting and budgeting information; and
"(iv) the systematic measurement of performance;
"(4) direct and manage agency financial management activities and operations, including—
"(A) the preparation and annual revision of an agency plan to implement the five-year financial management plan developed by the Chief Financial Officer, Office of Management and Budget under section 3512(a) of this title and to comply with the requirements contained in sections 3513(b) and 3521(e) of this title;
"(B) the development of agency financial management budgets;
"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;
"(D) the approval and management of agency financial management system design or enhancement projects;
"(E) the implementation of asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control; and
"(5) prepare and transmit an annual report to the agency head, the Chief Financial Officer, Office of Management and Budget, and the Officer of Federal Financial Management, which shall include—
"(A) a description and analysis of the status of agency financial management; and
"(B) copies of the most recently completed agency financial statements required under section 3513 of this title, and the audit report on such statements required under section 3521 of this title.

"§ 903. Transfer of Functions and Personnel

"In accordance with guidance prescribed by the Chief Financial Officer, Office of Management and Budget, the head of each agency shall transfer to the agency chief financial officer such functions, powers, duties, personnel, property, and records which relate to the functions described in section 902 and which, if transferred, are consistent with, and could further the purposes of, this chapter.

SEC. 205. Section 1105(a) of title 31, United States Code, is amended by adding a new paragraph (28) to read as follows:
"(28) a separate appropriation account for appropriations for each agency chief financial officer established under section 901 of title 31, United States Code."

SEC. 206. Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following: "Deputy Director for Management, Office of Management and Budget" and "Chief Financial Officer, Office of Management and Budget."

SEC. 207. (a) The table of contents of subchapter I, chapter 3, title 31, United States Code, is amended by adding at the end thereof the following "310. Office of Federal Financial Management."

(b) The table of chapters of subtitle I, title 31, United States Code, is amended by adding at the end thereof the following: "9. Agency Chief Financial Officers."

TITLE III—INTEGRATED FINANCIAL MANAGEMENT SYSTEMS, FINANCIAL REPORTING AND AUDITS

PART A—INTEGRATED FINANCIAL MANAGEMENT SYSTEMS

SEC 301. (a) Section 3512 of title 31, United States Code, is amended by striking out the title thereof, redesignating subsections (a) through (f) as subsections (b) through (g), and by inserting a new title and a new subsection (a) to read as follows:

"§ 3512. Executive agency accounting and other financial management systems

"(a)(1) The Chief Financial Officer, Office of Management and Budget, shall develop and maintain a Government-wide financial management plan describing the activities the Chief Financial Officer, the Office of Federal Financial Management and the agency chief financial officers will conduct over the next five fiscal years to improve the financial management of the Federal Government.
"(2) The five-year plan shall—
"(A) describe the existing financial management structure of the Federal Government and the changes needed to establish an integrated financial management system;
"(B) contain requirements, consistent with applicable accounting principles, standards, and requirements, to govern the type and form of the information generated by financial management systems;
"(C) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy and consistency of financial statement information;
"(D) identify and eliminate duplicative and unnecessary systems by encouraging agencies to share systems which have sufficient capacity to perform the functions needed;
"(E) identify projects to bring existing systems into compliance with the applicable standards and requirements;
"(F) contain milestones for equipment acquisitions and other actions necessary to implement the five-year plan consistent with the requirements of this section;
"(G) identify financial management personnel needs and actions to ensure those needs are met; and
"(H) estimate the costs of fulfilling the five-year plan.
"(3) Within one year after enactment of this Act, the Chief Financial Officer shall transmit the five-year plan to the President and the Congress. By December 31 of each year thereafter, the Chief Financial Officer shall transmit a revised plan to cover the succeeding five fiscal years and a report of the accomplishments of the executive branch in implementing the plan during the preceding fiscal year."

(b) Section 3512(c) of title 31, United States Code, as amended, is further amended by inserting after "prescribes" the following: "and the five-year plan developed by the Chief Financial Officer under subsection (a) of this section".

(c) The table of contents of subchapter II of chapter 35, title 31, United States Code, is amended by striking "3512. Executive agency accounting systems" and inserting therefor "3512. Executive agency accounting and financial management systems."

SEC. 302. The Comptroller General shall study the major accounting and financial reporting issues confronting the Federal Government including, but not limited to, the accounting and reporting of capital (including human capital) and expenses. The Comptroller General shall give due consideration to the unique needs and circumstances of the Federal Government, to the need for consistent accounting and reporting practices and procedures within the government, and to the integration of accounting, budgeting, and financial management systems. The Comptroller General shall report the results of his study to the President and the Congress within one year after passage of this act. No accounting principles or standards shall be prescribed as a result of the study required by this section until sixty days of continuous session after receipt by the Congress.

PART B—FINANCIAL REPORTING AND AUDITS

SEC. 303. Section 3513 of title 31, United States Code, is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d) respectively, and by inserting a new subsection (a) to read as follows:
"(a)(1) By December 31 of each year, each executive agency shall prepare financial statements that include the accounts of all of its offices, bureaus, and activities for the preceding fiscal year. The statements shall reflect the overall financial position (including assets and liabilities), results of operations, the cash flows or changes in financial position, and a reconciliation to agency budget reports. The Chief Financial Officer, Office of Management and Budget, shall prescribe the form and content of the financial statements, consistent with applicable accounting principles, standards, and requirements. No later than 180 days after the Comptroller General issues the study required by section 302 of this Act, the Chief Financial Officer shall transmit to the Congress requirements governing the form and content of financial statements which shall not be effective until sixty days of continuous session after receipt by the Congress. An executive agency that has not had an audit of its financial statements completed or planned before the enactment of this Act

shall not be required to comply with the first sentence of this paragraph until after the form and content of the financial statements prescribed by the Chief Financial Officer becomes effective.

"(2) The executive agencies subject to the requirements of this subsection are:

"(1) The Department of Agriculture.

"(2) The Department of Commerce.

"(3) The Department of Defense.

"(4) The Department of Education.

"(5) The Department of Energy.

"(6) The Department of Health and Human Services.

"(7) The Department of Housing and Urban Development.

"(8) The Department of the Interior.

"(9) The Department of Justice.

"(10) The Department of Labor.

"(11) The Department of State.

"(12) The Department of Transportation.

"(13) The Department of the Treasury.

"(14) The Department of Veterans Affairs.

"(15) The Department of the Army.

"(16) The Department of the Navy.

"(17) The Department of the Air Force.

"(18) The Defense Logistics Agency.

"(19) The Environmental Protection Agency.

"(20) The General Services Administration.

"(21) The National Aeronautics and Space Administration.

"(22) The Small Business Administration."

SEC. 304. (a) Section 3521 of title 31, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) The financial statements prepared under section 3513(a) of this title for the most recently completed fiscal year shall be audited annually. The financial statement audit shall be performed by an independent external auditor or an Inspector General subject to the Inspector General Act of 1978, as amended, in accordance with generally accepted Government auditing standards.

"(f) The Comptroller General may audit an agency's financial statements when deemed appropriate by the Comptroller General or upon the request of a committee of Congress. An audit performed by the Comptroller General under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section.

"(g) The Comptroller General may review an audit conducted by an independent external auditor or an Inspector General. The Comptroller General shall report to the Congress, the Chief Financial Officer, Office of Management and Budget, and the head of the executive agency, the results of any review conducted under this subsection, and shall include in his report any recommendations the Comptroller General considers appropriate.

"(h) For each financial statement audit conducted under this section, a report which contains an opinion on the financial statements, a report on internal controls, and a report on compliance with laws and regulations, shall be transmitted to the head of the executive agency by March 31 following the end of the fiscal year for which such audit was conducted.

"(i) The head of each executive agency shall transmit by April 30 of each year an annual report to the President, the Congress, and the Chief Financial Officer. The report shall include—

"(A) the annual financial statements prepared under section 3513(a) of this title;

"(B) the audit report transmitted to the head of the executive agency under subsection (h) of this section;

"(C) a summary of the reports on systems of internal accounting and administrative controls and accounting systems transmitted to the President and the Congress under section 3512(d) of this title;

"(D) a report summarizing corrective actions taken with respect to material weaknesses identified in the reports prepared under section 3512(d) of this title; and to

"(E) other information the head of the executive agency considers appropriate to fully inform the Congress concerning the financial management of the agency."

(b)(1) Within one year after enactment of this Act, the Chief Financial Officer, Office of Management and Budget shall prepare a plan to assure that for the third full fiscal year completed after the enactment of this act, an annual audit of agency financial statements is conducted in accordance with this section for each agency listed in section 3512(a)(2).

(2) The plan shall identify no less than six of the agencies listed in section 3512(a)(2) that will have audits conducted of their financial statements for the first full fiscal year completed after enactment of this Act, and no less than thirteen of the agencies listed in section 3512(a)(2) that will have an audit conducted of their financial statements for the second full fiscal year completed after enactment of this Act. In determining for which fiscal year an agency listed in section 3512(a)(2) will be required to have its first audit of its financial statements under this section, the Chief Financial Officer shall give priority to those agencies which have had an audit of its financial statements and, for those agencies that have not had such an audit, the Chief Financial Officer shall give priority to agencies which contract for large amounts of goods and services, are responsible for trust funds, and conduct business-type operations.

(3) The Chief Financial Officer shall submit the plan required by this subsection to the Congress. The Chief Financial Officer shall annually report to the Congress on any substantive changes to the plan submitted, and on the Federal Government's progress in implementing the plan, improving financial management related to the preparation and audit of financial statements, and addressing the major accounting and financial reporting issues studied by the Comptroller General under section 302 of this Act. The plan and any substantive changes thereto shall not be effective until sixty days of continuous session after receipt by the Congress.

SEC. 305. Section 9105 of title 31, United States Code, is amended to read as follows:

"§ 9105. Audits

"(a)(1) The financial statements of Government corporations shall be presented in accordance with generally accepted accounting principles and shall be audited annually. The Government corporation shall provide for an independent external auditor or an Inspector General subject to the Inspector General Act of 1978, as amended, to audit and report on the financial statements of the corporation in accordance with generally accepted Government auditing standards.

"(2) The Comptroller General may review any financial statement audit of a Government corporation's financial statements conducted under paragraph (1) of this subsection. The Comptroller General shall report to the Congress and the Government corporation the results of any such review and shall include in such report any recommendations he considers appropriate.

"(b)(1) The Comptroller General may audit the financial statements of any Government corporation for any year in the manner provided in paragraph (1) of subsection (a). Any such audit shall be in lieu of the audit otherwise performed under paragraph (1) of subsection (a).

"(2) A Government corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General. All reimbursements received by the Comptroller General shall be retained without fiscal year limitation and are available to cover the expenses of audits and reviews authorized by this section.

"(c) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by a Government corporation and its auditor that the Comptroller General deems necessary to the performance of any audit or review under this section shall be made available to the Comptroller General.

"(d) Activities the Comptroller General conducts under this section are in lieu of any audit of the financial transactions of a Government corporation the Comptroller General is required to make under any other law."

SEC. 306. Section 9106 of title 31, United States Code, is amended to read as follows:

"§ 9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) The management report shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to budget reports, if applicable;

"(E) a statement on internal accounting and administrative controls and accounting systems by the head of the management of the Corporation consistent with the requirements for agency statements on internal controls and accounting systems contained in section 3512(d) of this title;

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Chief Financial Officer, and the Comptroller General a copy of the management report when it is submitted to Congress."

SEC. 307. The Comptroller General shall review provisions relating to federal financial management contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains a provision that is inconsistent with this Act, the Comptroller General shall, at the earliest practicable date, notify in writing—

(1) the committee that reported such bill or resolution; and

(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or

resolution reported by a committee of the Senate); or

(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

SEC. 308. The amendments made by sections 303 and 304 of this Act shall expire September 30, 1996.

SUMMARY OF THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1990

Creates a Deputy Director of Management within the Office of Management and Budget (OMB). The Deputy is to be appointed by the President with the advice and consent of the Senate. Under the supervision of the Director, the Deputy is to coordinate the management functions of the Office of Management and Budget.

Creates a Chief Financial Officer (CFO) of the United States within the Office of Management and Budget. The CFO is to be appointed by the President with the advice and consent of the Senate. The CFO is to be appointed without regard to political affiliation, solely on the basis of integrity and demonstrated ability, and with practical experience in accounting, budget execution, financial and management analysis, and financial systems development. The CFO is to serve a six-year term and may be reappointed. Under the general supervision of the Director, the Chief Financial Offices shall be the principal advisor to the President on Federal financial management systems and operations.

Establishes an Assistant Director for Financial Management within OMB who is to be appointed by the Director to a career reserved position in the Senior Executive Service. The Assistant Director shall carry out duties prescribed by the CFO.

Establishes an Office of Federal Financial Management within the Department of Treasury that shall be under the supervision of a Fiscal Assistant Secretary.

Declares the Office of Federal Financial Management shall (1) provide technical assistance to agencies on financial management matters, (2) monitor agency financial management systems, and (3) report the results of agency reviews to agency heads, agency CFO's, and the CFO.

Requires each agency head appoint a Chief Financial Officer for their agency who shall have a career reserved position in the Senior Executive Service and report directly to the agency head on financial management matters. Agency CFO's shall have demonstrated ability and at least six years of practical experience in financial management.

Creates a separate appropriation account for each agency chief financial officer.

Requires the CFO develop and maintain a government-wide financial management plan describing the activities the CFO, the Office of Federal Financial Management, and the agency CFO's will conduct over a five-year period to reform financial management practives within the executive branch.

Mandates the five year plan be developed within one year of the bill's enactment and transmitted to the President and Congress. By December 31 of each year thereafter, the CFO shall submit an update of the five-year plan together with a report upon the preceding year's accomplishments.

Requires the Comptroller General of the General Accounting Office study major accounting and financial reporting issues, including the accounting of capital and human capital expenses. Due consideration is to be given the unique needs and circumstances of the federal government. Results shall be reported to the Congress within one year after enactment. No new accounting principles or standards prescribed by the Comptroller shall be effective until Congress has had sixty days of continuous session of the Congress to review them.

Places in law a schedule by which Executive departments and agencies shall be required to prepare annual financial statements. The CFO shall prescribe the form and content of agency financial statements. Requirements shall not be effective until Congress has had sixty days of continuous session of the Congress to review them.

Places in law a schedule by which annual audits of agency financial statements will be required. Audits are to be performed by Inspectors General, the Comptroller General, or an independent external auditor.

Requires the financial statements of Government corporations be presented in accordance with generally accepted accounting principles and audited annually. Government corporations are to submit annual management reports to Congress.

Provides the requirements for annual financial statements and annual audits "sunset" on September 30, 1996.●

● Mr. ROTH. Mr. President, I rise today to point out once again a fundamental problem in the structure and operation of the Federal Government, and to join with Senator GLENN in introducing the Federal Financial Management Improvement Act in an effort to correct this problem.

Financial management systems throughout the Federal Government supply the President, Congress, and the American people information that is unreliable, inconsistent, untimely, and incomplete. A fact that has been highlighted most recently by the situation at HUD. It's like the proverbial bull wreaking havoc in a china shop, you cannot plan on selling any crystal because you can't be sure of what you even have in the store. Currently there are nearly 400 different accounting systems in the Government, and few comply with the accounting standards prescribed by the Comptroller General. These current practices do not show the actual costs of running the Federal Government. They are not comparable one to another, so that agencies cannot be judged side by side. There is no way that we in the Senate can fully determine the programmatic impacts of the legislative decisions we make on the basis of information reported. To make matters worse, often the information is reported in such an untimely manner, that the decisions must be and are regularly made with dated, inaccurate information.

I feel that it is high time that the Federal Government had a position, a chief financial officer, that could be held accountable for these shortcomings. Someone who would be responsible for supplying the executive branch and the Congress with reliable, consistent, timely and complete financial information.

I have a long history of concern and work in this area. In the 99th Congress, as the chairman of the Governmental Affairs Committee, I introduced S. 2230, the Federal Management Reorganization and Cost Control Act of 1986, which called for just such a position to be created with the Office of Management and Budget. This bill was well received in the committee and in the financial management community, but never got the chance for a floor vote in the Congress. In the 100th Congress, Senator GLENN and I took a slightly different tact and introduced legislation calling for a chief financial officer to be an Undersecretary in the Treasury Department. This bill, although never receiving a vote in Congress, spurred the administration to designate an OMB official as CFO. It was not enough, but a start.

The bill Senator GLENN and I am introducing today, takes into consideration the problems raised by various parties throughout discussions of this issue. The bill creates a Deputy Director for Management at OMB to focus more attention on the management of the Federal Government. The position of Chief Financial Officer of the United States would be created within the management side of OMB. This being a politically appointed position, an Assistant Director for Financial Management as a career reserved position appointed by the Director of the Office of Management and Budget would afford needed tenure to the CFO office.

The Federal Government's lack of effective financial management and accountability is being pointed out again and again in reports by agency heads, the GAO and the IG's. At committee hearings in 1987, on the management of funds transfers between the Federal and State governments, a witness, a State comptroller asked me why don't we, the Federal Government, practice what we preach. Why is the Federal Government not requiring of itself what it requires of State government, the citizenry, and all other entities that do business with the Federal Government in the United States? The Congress and the executive branch must be supplied with reliable, consistent, timely and complete financial information. Financial systems should be able to provide information to tells what the cost of Government is. I believe that a Chief Financial Officer's Office would acquire the building and have the authority for maintaining of an effective financial structure including development and implementation of a financial plan; maintenance of quality, skilled personnel to carry out the plan, and; establishment of systems to bring about the necessary accountability.

There is in my view a need for agency CFO's similar in scope to that established by the legislation creating the Department of Veterans Affairs, created for HUD by last year's reform package, and proposed for the Department of the Environment. A senior position at sufficient level within an agency to be responsible for the development, direction, and maintenance of the financial management system within the Department, and compliance with the President's CFO's plan. Annually audited financial statements would be prepared attesting to the level of compliance of financial and accounting systems and estimates as to the time before full compliance is achieved.

With the emphasis on the current fiscal situation facing the country at a peak, the time is ripe for the creation of a CFO position, the reforming of our accounting and financial management system and heightened attention payed to the management of the Federal Government. These changes are essential to the repairing of the country's financial woes as much as the work being done in the budget summit. What good is a financial plan when agencies and programs are poorly managed, mismanaged and laden with fraud and abuse? How can we write the fiscal plan for the future if agencies don't have the systems in place to judge performance or even give us the needed data to prepare the plan?

We must continue to do all we can to bring financial management systems up to par and to provide for better reporting of the Government's financial situation—to encourage a responsible, accountable government. Congress has avoided this task long enough, let's rebuild public confidence in the Federal Government with the establishment of the mechanisms needed to ensure an effective, responsive, and accountable Government. It's time to take the country's financial bull by the horns and clean up the Government's china shop.●

By Mr. McCLURE (by request):

S. 2841. A bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital; to the Committee on Energy and Natural Resources.

FUNDS FOR COMPLETION OF GUAM MEMORIAL HOSPITAL RENOVATION

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior for Territorial and International Affairs be printed in the RECORD.

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

S. 2841

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That there is authorized to be appropriated $2,500,000 to complete the renovation of the Guam Memorial Hospital.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, June 5, 1990.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To authorize the appropriation of $2.5 million to complete the renovation of the Guam Memorial Hospital."

We recommend that this draft legislation be introduced, referred to the appropriate committee and enacted.

In 1983, the Joint Commission on Accreditation of Health Care Organizations [JCAHCO] revoked accreditation of the Guam Memorial Hospital due to numerous building and life safety code violations, and several patient care and administrative policy deficiencies. Using previously appropriated Federal and local funds, Guam has begun renovation to correct physical plant and life safety code deficiencies and to procure temporary administrative offices. It also recently awarded a contract for major renovation and facility expansion construction. However, additional funding is needed to complete remaining renovation necessary to meet anticipated future needs. Until this renovation is completed, the hospital cannot apply for nor obtain facility accreditation. JCAHCO survey practices require full occupancy of the facility prior to survey, and do not provide for consideration of planned improvements or construction.

If appropriated, the $2.5 million, which is contained in the President's 1991 budget, will allow construction and renovation of additional hospital facilities needed to consolidate services, and rectify the cited deficiencies that led to loss of accreditation. This will include remodeling and expanding the intensive care unit, emergency room and surgical suites. It will enable the Guam Memorial Hospital to provide integrated acute care services in a safe physical plant where quality care and services are provided in accordance with national standards. Together with local appropriations, the $2.5 million will complete the hospital renovation. Guam is paying for two-thirds of the project.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

STELLA GUERRA,
Assistant Secretary.●

By Mr. METZENBAUM:

S. 2842. A bill to amend the Immigration and Nationality Act to augment funds available for refugee expenses with funds paid by the refugees themselves; to the Committee on the Judiciary.

REFUGEE REPAYMENT ACT

● Mr. METZENBAUM. Mr. President, today I am introducing legislation which will address some fundamental shortcomings in current U.S. refugee policy. This bill, the Refugee Repayment Act will help the United States accept a greater number of refugees, while making our refugee absorption system more equitable for the taxpayers of the United States.

This bill will require refugees to share certain costs of their absorption into American society which are currently paid by the Federal Government.

U.S. policy recognizes that refugees enter this country under much different circumstances than regular immigrants.

Refugees usually come to this country bereft of resources and often in mortal danger.

We provide a range of services and benefits to refugees, which regular immigrants do not receive, to help them cope with their special circumstances.

Refugees already repay the Federal Government for costs of their transportation to the United States, an average of $600 per refugee, according to the State Department. The initial cost of transportation is borne by the intergovernmental organization for migration or I.O.M., a Geneva-based group set up in the wake of World War II. I.O.M. is funded by contributions from member countries.

The repayments are used by the State Department to offset the annual U.S. contribution to the I.O.M. The Department arranges for the actual collection of repayments through VOLAGS—the many voluntary agencies who dedicate themselves to the resettlement and welfare of refugees in the United States.

Mr. President, I do not wish to establish a new debt collection bureaucracy. In fact, I do not wish to incur any expanded administrative costs at all. Indeed, this bill authorizes and anticipates no additional costs to the Federal Government to implement an expanded repayment program. My bill requires that the amount of money collected under the existing I.O.M. repayment system be increased, without increasing the size of the collection system itself.

Under my legislation, refugees will be required to repay the U.S. Government one-half of the average Federal expenditure per refugee.

During the 1989 Annual Consultation on Refugee Admissions, the administration estimated this cost to be $7,000. This number is the average of expenses for all refugees from all areas of the world, according to the administration. Some refugees cost us more than $7,000 to resettle. Some cost us less.

This bill assumes that refugees as a group should be responsible for bearing some increased debt burden. This is the reason for using an across-the-board average.

This bill also seeks to improve the rate of collections from refugees. The collection record for the I.O.M. transportation moneys has been very low.

The single most important problem with these collections is tracking individual refugees and refugee families once they have arrived in the United States. This bill would improve tracking of refugees by giving the Volags better access to information.

Mr. President, this legislation is equitable and fair. At the same time that an increased debt is imposed, the State Department is required to exercise maximum forbearance in collecting this debt. The elderly and infirm will be exempt from the new payments. Refugees who have trouble getting on their feet will be given extra time to make their payments. And no refugee will be subject to deportation as a result of nonpayment of this debt.

Mr. President, Americans have always recognized the special role the United States plays in the lives of oppressed people around the world. Our foreign policy attempts to promote democracy, stability, human rights, freedom of religion, and freedom of movement. While we do not always achieve these objectives, they remain worthy, they remain relevant, and this Senator believes that the American people are still committed to achieving them.

One way in which the United States has sought to implement a just foreign policy is through our acceptance of refugees. Public Law 96-212, the Refugee Act of 1980 defined a refugee as "a person who has left his country of nationality, and, * * * who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, * * * Public Law 96-212 title II, Sec. 201(a). Since enactment of the Displaced Persons Act of 1948, the United States has formally recognized the humanitarian urgency and the ethical imperative of admitting victims of persecution."

Mr. President, my legislation reaffirms this definition, and reaffirms the United States' commitment to people fleeing oppression anywhere in the world.

Even as we reaffirm our commitment, we cannot ignore the fact that it is being sorely tested. The changes in the Soviet Union and Eastern Europe, along with the ongoing turmoil in Southeast Asia have produced a veritable tidal wave of people who meet our definition of the term "refugee." The task of absorbing refugees into American society was easy when an occasional artist would defect from the East bloc, or when a trickle of Soviet Jews would be let free. But this task is not as easy as it used to be.

New Americans have always provided vitality and talent to our society, be they refugees or so-called regular immigrants. And they will continue to do so.

Mr. President, the promise of freedom which we have made repeatedly over so many years is being challenged. Our refugee programs must change in order to meet this new challenge. I believe that the Refugee Repayment Act represents a major step toward this objective.●

By Mr. BOSCHWITZ (for himself, and Mr. MURKOWSKI):

S.J. Res. 346. Joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America."

NATIONAL RED RIBBON WEEK FOR A DRUG FREE AMERICA

● Mr. BOSCHWITZ. Mr. President, I rise today with my colleague, Senator MURKOWSKI, to introduce a joint resolution declaring October 20 through October 28, 1990, as "National Red Ribbon Week for A Drug-Free America."

Drug and alcohol abuse has reached epidemic proportions and many Americans are deeply concerned. And they have a right to be. The facts are frightening.

Twenty-three million Americans age 12 and over currently use illicit drugs.

A nationwide Weekly Reader survey revealed that of the 68,000 fourth-graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack and cocaine.

The 15- to 24-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse.

This joint resolution is identical to Senate Joint Resolution 213, which was signed into law by the President during Red Ribbon Week last year.

Together with the honorary Chairpersons President and Mrs. Bush, the National Federation of Parents for Drug-Free Youth, Congressional Families for Drug-Free Youth, and others, "National Red Ribbon Week for a Drug-Free America" is a comprehensive public awareness and prevention education program involving thousands of parent and community groups from across the country. This year's theme is "Line Up to Sign Up for a Drug-free Decade," and is being lead by a distinguished national advisory committee, including Bill Cosby, Tom Landry, Joan Lunden, T. Boone Pickens, and Peter Ueberroth.

The National Federation of Parents for Drug-Free Youth has organizations in every State promoting healthy drug-free lives, and I believe it's important that the U.S. Senate show our support for what this organization is doing for our country. I also believe it is important for Senators, as representatives and leaders, to set a drug-free example. While I admit this legislation cannot do it alone, it is a reminder to Americans, especially young Americans, to make a conscious decision to be drug-free.

You're probably wondering, where does the red ribbon fit into all this about drugs and alcohol? It's simple. Every American is encouraged to wear or display red ribbons during National Red Ribbon Week for a Drug-Free America to present a visible commitment to a healthy, drug-free life style, and to develop an attitude of intolerance to the use of drugs.

Of course, during National Red Ribbon Week for a Drug-Free America, we'll be sending around red ribbons for Senators and their staffs to proudly wear, and I encourage you to do so.

Mr. President, my joint resolution is the Senate companion to House Joint Resolution 595, which is certain to pass the House. I urge my colleagues, today, to join me in designating October 20 through 28 as "National Red Ribbon Week for a Drug-Free America."●

ADDITIONAL COSPONSORS

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1425

At the request of Mr. METZENBAUM, the names of the Senator from Nevada [Mr. REID] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 1425, a bill entitled the "Nutrition Labeling and Education Act of 1989."

S. 1675

At the request of Mr. KENNEDY, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1826

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1826, a bill to amend the National Housing Act to expand the demonstration program of insurance of home equity conversion mortgages for elderly homeowners.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. NUNN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1839

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1839, a bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, and for other purposes.

S. 1970

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 2013

At the request of Mr. BRYAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2013, a bill to require that the surplus in the highway trust fund be expended for the Federal-Aid Highway System.

S. 2229

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2346

At the request of Mr. REID, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2346, a bill to prohibit certain practices in the raising of calves, and for other purposes.

S. 2411

At the request of Mr. BURNS, his name was withdrawn as a cosponsor of S. 2411, a bill to provide for orderly imports of textiles, apparel, and footwear.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2513

At the request of Mr. BOSCHWITZ, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2513, a bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2619

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the medicare program.

S. 2720

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2720, a bill to encourage employee ownership of, and participation in, companies in the United States.

S. 2735

At the request of Mrs. KASSEBAUM, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Vermont [Mr. JEFFORDS], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2735, a bill to enhance the ability of the Federal Government to successfully prosecute financial crimes and gain increased recoveries at failed financial institutions.

S. 2736

At the request of Mr. SIMON, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2736, a bill to amend the Follow Through Act, and for other purposes.

S. 2751

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2751, a bill to reform certain Indian programs, and for other purposes.

S. 2786

At the request of Mr. BIDEN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 2786, a bill to mount a national crackdown on fraud and embezzlement in the thrift and banking industries.

S. 2789

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2789, a bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes.

S. 2819

At the request of Mr. MOYHIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2820

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2820, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are substance abusers and children of substance abusers, and for other purposes.

SENATE JOINT RESOLUTION 276

At the request of Mr. LEIBERMAN, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 288

At the request of Mr. KASTEN, the names of the Senator from Montana

[Mr. BURNS], the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. WARNER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Delaware [Mr. BIDEN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alabama [Mr. SHELBY], the Senator from Georgia [Mr. NUNN], the Senator from Minnestoa [Mr. DURENBERGER], the Senator from Illinois [Mr. SIMON], the Senator from Idaho [Mr. SYMMS], the Senator from Virginia [Mr. ROBB], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. GLENN], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Carolina [Mr. THURMOND], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Mississippi [Mr. LOTT], the Senator from Tennessee [Mr. SASSER], the Senator from Missouri [Mr. BOND], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. WILSON], the Senator from Illinois [Mr. DIXON], the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. HEFLIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. PELL], the Senator from Idaho [Mr. MCCLURE], the Senator from Nevada [Mr. BRYAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nebraska [Mr. EXON], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. AKAKA], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from North Dakota [Mr. BURDICK], were added as cosponsors of Senate Joint Resolution 288, a joint resolution designating January 6, 1991, through January 12, 1991, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Delaware [Mr. ROTH], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 337

At the request of Mr. SIMON, the names of the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from North Dakota [Mr. BURDICK], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 337, a joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 341

At the request of Mr. WILSON, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from New York [Mr. MOYNIHAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 341, a joint resolution to designate the week of July 22 through July 28, 1990, as "National Invent America! Week."

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the Medicare and Medicaid Programs.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

AMENDMENT NO. 2094

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of amendment No. 2094 proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

AMENDMENTS SUBMITTED

OMNIBUS CRIME BILL

WIRTH (AND OTHERS) AMENDMENT NO. 2116

Mr. WIRTH (for himself, Mr. HEINZ, Mr. BIDEN, Mr. DOLE, Mr. RIEGLE, Mr. GARN, Mr. GRAHAM, Mr. DIXON, Mrs. KASSEBAUM, Mr. BRYAN, Mr. ROTH, Mr. SIMON, Mr. BOND, Mr. PRYOR, Mr. D'AMATO, Mr. KERRY, Mr. SARBANES, Mr. DODD, Mr. GRASSLEY, Mr. SASSER, Mr. CHAFEE, Mr. SANFORD, Mr. BURNS, Mr. LEVIN, Mr. COHEN, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KOHL, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, Mr. LEAHY, Mr. EXON, Mr. LAUTENBERG, Mr. ADAMS, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. PRESSLER, Mr. HARKIN, Mr. DURENBERGER, Mr. KASTEN, Mr. MCCONNELL, Mr. HATFIELD, Mr. HELMS, Mr. RUDMAN, Mr. DOMENICI, Mr. PELL, Mr. NICKLES, Mr. HOLLINGS, and Mr. CONRAD) proposed an amendment, which was subsequently modified, to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE ____—PROSECUTION OF THRIFT AND BANK FRAUD

SEC. ____01. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990".

Subtitle A—Bank Fraud and Embezzlement Penalties

SEC. ____11. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "two years" and inserting "30 years".

(b) BANK FRAUD.—Section 1344(a) of title 18, United States Code, is amended by striking "five years" and inserting "30 years".

SEC. ____12. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Continuing financial crimes enterprise

"(a) Any person who engages in a continuing financial crime enterprise shall be sentenced to a term of imprisonment of not less than 10 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, or $10,000,000 if the defendant is an individual, or $20,000,000 if the defendant is other than an individual.

"(b) For purposes of subsection (a) of this section, a person is engaged in a continuing financial crime enterprise if—

"(1) the person violates section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title; and

"(2) the violation is a part of a continuing series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title—

"(A) that are undertaken by the person in concert with 3 or more persons with respect to whom the person occupies a position of organizer, supervisor, or other position of management,

"(B) from which the person has received $5,000,000 in gross receipts during any 24-month period.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"226. Continuing Financial Crime Enterprise.".

SEC. ____13. AMENDMENT OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS STATUTE.

(a) ADDITION OF PREDICATE OFFENSES.—Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for providing loans)," after "section 201 (relating to bribery),";

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),"; and

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

(b) EXCLUSION FROM CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by inserting ", other than a violation involving a violation of section 215, 656, 657, 1004, 1005, 1006, 1007, or 1014," after "of this chapter".

SEC. ____14. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting an insured depository institution, when the offender has derived more than $1,000,000 in gross receipts from the offense, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 4 levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(2) in no event less than level 24.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

Subtitle B—Broadening Investigative Authority in Bank Crime Cases

SEC. ____51. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(C)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503";

(C) by striking "section 1343 (fraud by wire, radio, or television)," and inserting "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking "the section in chapter 65 relating to destruction of any energy facility,"; and

(2) by redesignating the first paragraph (m), as paragraph (o);

(3) by striking "and" at the end of the second subsection (m);

(4) by striking the period at the end of subsection (n) and inserting "; and"; and

(5) in paragraph (j), striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1742 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or section 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1742 (i) and (n))".

Subtitle C—Restructuring the Federal Attack on Bank Crimes

SEC. ____111. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of section III shall expire no later than five years after the date of enactment, provided, however, that the Attorney General may reassign the Special Counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. ____112. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. ____113. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. ____114. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial services industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. ____115. REPORTS.

(a) IN GENERAL.—(1) The Financial Institutions Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 114(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. ____116. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

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

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Subtitle D—Expanding Federal Forfeiture and Money Laundering Laws

SEC. ____151. EXPANDING CIVIL FORFEITURE LAWS IN BANK CRIME CASES.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting an insured depository institution" before the period;

(2) in subsection (b), by inserting "Attorney General or" after "subsection (a)(1)(C) of this section";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. ____152. RESTITUTION FOR VICTIMS OF BANK CRIMES.

(a) FORFEITURE PROVISIONS.—Section 981(e) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking "or" at the end thereof;

(2) in paragraph (5) by striking the period at the end thereof and inserting "; or"; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property described in subsection (a)(1)(C), restore forfeited property to the victims of an offense described in subsection (a)(1)(C).".

(b) RESTITUTION PROVISIONS.—Section 3663(a) of title 18, United States Code, as amended by section____, is amended by adding at the end thereof the following new subsection:

"(____) For the purposes of this section, the term 'victim of such offense' includes any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

SEC. ____153. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), section 1006 (relating to fraudulent Federal credit institutions entries), section 1007 (relating to Federal Deposit Insurance transactions), section 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications)"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting an insured depository institution," after "section 1203 (relating to hostage taking)".

SEC. ____154. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or appropriate Federal banking agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(13) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11 of the United States Code.".

SEC. ____155. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

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

"(4) The confirmation of a plan does not discharge a debtor of its responsibilities on any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of the Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of governors of the Federal Reserve System, or their predecessors or successors.".

(b) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "or" at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) for any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors;

"(12) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(13) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

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

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (13).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor shall not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, or is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency; or

"(B) the appropriate Federal financial institutions regulatory agency,

may be filed on or before the date specified in paragraph (2).

"(2) The date for the filing of a complaint referred to in paragraph (1) is the date that is the later of—

"(A) 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title; or

"(B) 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(3) This subsection shall not extend the period of limitations prescribed by section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)).

"(h) For purposes of this section—

"(1) the term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) the term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(3) the term 'appropriate Federal financial institutions regulatory agency' has the meaning stated in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity as a conservator or receiver or in its corporate capacity; and

"(4) the term 'institution-affiliated party'—

"(A) with respect to a depository institution, has the meaning stated in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, has the meaning stated in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).".

(c) PLANS UNDER CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (12), or (13) of this title, including debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity or a conservator or receiver or in its corporate capacity a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).".

(d) EXEMPTION OF PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (12), or (13) of this title; or

"(B) section 523(a) (2), (4), or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)(7)(D)), and in addition includes the Resolution Trust Corporation, and includes such an agency or corporation whether it is acting is its capacity as a conservator or receiver or in its corporate capacity, or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

(e) REJECTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The debtor may not reject any commitment of the debtor to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

SEC. ____156. DISCLOSURE OF CIVIL ENFORCEMENT ACTIONS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

"(u) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any orders or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of any determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPTS OF HEARINGS.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and at all notices of charges initiated with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—(1) Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public within 30 days of the agency's action—

"(A) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other law, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determina-

tion not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other evidence shall be prepared for all hearings commenced under this section. A transcript of public hearings shall be made available to the public. A transcript of nonpublic hearings shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(5) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of June 26, 1990, or issued after June 26, 1990. The publication required by paragraph (4) shall apply with respect to the transcripts of all hearings conducted after June 26, 1990.

"(6) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a document pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the Board may delay the publication of the document or transcript of the hearing for a reasonable time.

"(7) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the Board if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). The report and the part of the document withheld shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(8) NOTICES OF CHARGES.—Each Federal banking agency shall keep and maintain a record, for a period of at least 10 years, of all documents described in paragraph (1) and of all notices of charges initiated with respect to any administrative enforcement proceeding initiated by such agency under this section or any other laws. The records shall be made available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

Subtitle E—Increasing Investigators and Prosecutors for Bank Fraud and Embezzlement Cases

SEC. ____201. FINDINGS.

The Congress finds that—

(1) the Federal Bureau of Investigation has received more than 20,000 referrals and complaints involving fraud in the financial services industry that the Bureau has been unable to address;

(2) as of February 1990, the Bureau has had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were cases involving potential losses of more than $100,000;

(3) more than 900 pending cases and more than 200 unaddressed referrals and complaints involve potential losses greater than $1,000,000;

(4) the Attorney General recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management; and

(5) officials of the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity."

SEC. ____202. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) AMENDMENT OF FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—(1) Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $75,000,000 for fiscal year 1990 and $162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.".

(2) Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (105 Stat. 506) is amended—

(A) by striking "$10,000,000" and inserting "$25,000,000"; and

(B) by striking "1992" and inserting "1993".

(3) The additional funds authorized to be appropriated under the amendment made by this subsection shall be allocated among the Federal judicial districts with the highest financial institutions crime case loads for the purposes of—

(A) providing additional United States magistrates;

(B) renovating court facilities;

(C) providing additional law clerks and clerical support staff; and

(D) providing additional deputy clerks.

(b) ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, $16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986 and related statutes involving insured depository institutions.

Subtitle F—Preventing and Prosecuting Fraud in the Sale of Assets by the Resolution Trust Corporation

SEC. ____251. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

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

"§ 1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the Resolution Trust Corporation, whether such agency or corporation is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation or such agency may have a claim, shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both."; and

(2) by amending the table of sections for that chapter by adding at the end thereof the following new item:

"1032. Concealment of assets from Federal banking agencies or the Resolution Trust Corporation.".

SEC. ____252. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraphs:

"(D) Any property, real or personal, that represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of a violation of the following sections of this title relating to the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation: section 666(a)(1) (Federal program fraud); 1001 (false statements to the Federal Government); 1031 (major fraud against the United States); 1032 (concealment of assets for Federal banking agencies); 1341 (mail fraud); or 1343 (wire fraud).".

"(E) With respect to an offense listed in subparagraph (D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is thereby obtained, directly or indirectly.

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under section 666(a)(1), 1001, 1031, 1032, 1341, or 1343 involving the sale of assets by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall order that the person forfeit to the United States any property, real or personal, that represents the gross receipts obtained, directly or indirectly, as a result of such violation, or that is traceable to such gross receipts.

"(4) With respect to an offense listed in paragraph (3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, that is obtained, directly or indirectly, by or through such scheme or artifice to defraud.".

SEC. ____253. CIVIL ACTIONS UNDER THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(b) of title 18, United States Code, is amended by adding ", or the chairman of the Federal Deposit Insurance Corporation or the chairman of the Resolution Trust Corporation or their designees in the case of violations affecting insured depository institutions," after "The Attorney General".

SEC. ____254. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended—

(1) by redesignating subparagraph (I) as subparagraph (J); and

(2) by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution) exercise any power established under section 8(n), and that subsection shall apply with respect to the exercise of any such power under this subparagraph in the same manner as that subsection applies under that section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS OR ITS DESIGNEE.—A subpoena or subpoena duces tecum may be issued under clause (i) only by or with the written approval of the Board of Directors or its designee (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by or with the written approval of the Board of Directors of that Corporation or its designee).".

SEC. ____255. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, acting in a corporate capacity or as conservator or receiver for an insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years (or, in the case the Corporation is acting as conservator or receiver, was made within 5 years of the date on which the Corporation was appointed conservator or receiver) if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

SEC. ____256. PREJUDGMENT ATTACHMENTS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—(1) Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)), as amended by section ____255, is amended by adding at the end thereof the following new paragraph:

"(18) PREJUDGMENT ATTACHMENT.—Any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the possibility that—

"(A) such person is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(2) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) In any action brought by an appropriate Federal banking agency or the Resolution Trust Corporation in any capacity pursuant to paragraph (1), or in any other civil action for money damages or injunctive relief brought by such agency or corporation, the court may, upon application of the agency or corporation, issue ex parte a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property;

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages or injunctive relief, as sought by such agency or corporation, is appropriate.".

(b) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1345 of title 18, United States Code, is amended by striking the first sentence and inserting the following: "Whenever it shall appear that any person is engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as the violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violation, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin the violation or alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer the restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. ____257. INJUNCTIVE RELIEF.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____154, is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a depository institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end thereof the following new subsection:

"(q) INJUNCTIVE RELIEF.—(1) In an action brought by the Board, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a credit union, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits if the Board demonstrates the possibility that—

"(A) the defendant is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

(c) RESOLUTION TRUST CORPORATION.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by

adding at the end thereof the following new paragraph:

"(15) INJUNCTIVE RELIEF.—(A) In an action brought by the Corporation, in its receivership, conservatorship, or corporate capacity, involving a scheme to defraud affecting a financial institution, injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall be required to be made.

"(B) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in subparagraph (A) before a final determination on the merits if the Corporation demonstrates the possibility that—

"(i) the defendant is—

"(I) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(II) a debtor of the institution; and

"(ii) the assets of the defendant will be dissipated or otherwise placed beyond the jurisdiction of the court or the agency or corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

SEC. ____258. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain a Fraud and Enforcement Review Division to assist and advise the Corporation and other agencies in pursuing criminal cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. The Fraud and Enforcement Review Division shall have such duties as the Corporation establishes, including the compilation and publication of a report to the Committee on Judiciary and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Judiciary of the Senate and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the coordinated pursuit of claims by Federal agencies, including the Department of Justice, the Comptroller of the Currency, the Securities and Exchange Commission, and the Corporation. The report shall be published before December 31, 1990 and updated semiannually thereafter.".

SEC. ____259. PRIORITY OF CERTAIN CLAIMS.

(a) AMENDMENT OF FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____155, is further amended by adding at the end thereof the following new subsection:

"(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of Federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim, or cause of action. However, the Corporation shall have priority if—

"(1) 180 days after receiving written notice the Corporation files with the court a statement that the Corporation intends to file suit and is diligently pursuing its claims; and

"(2) within a year after receiving written notice files suit. If the Corporation requests an extension of time to file such suit, the court shall extend the period for the Corporation to commence its proceeding unless it finds that the harm to the person pursuing a claim from such extension outweighs the harm to the Government from denying such extension.

In making such determination the court shall consider the diligence with which the Corporation is investigating its claim.

The effect of this provision shall be to afford the Corporation priority to the extent the assets involved would be available to the Corporation.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

SEC. ____260. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____259, is amended by adding at the end thereof the following new subsection:

"(s) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 10 days after the date of entry of the order. The hearing of the appeal shall be conducted not later than 60 days after the date of filing of the notice of appeal. The appeal shall be decided not later than 90 days after the date of the notice of appeal.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such a case priority on its docket.

"(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.".

Subtitle G—Increased Authority for United States Magistrates

SEC. ____301. AUTHORITY FOR UNITED STATES MAGISTRATES.

Subsection 636(a) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end thereof;

(2) in paragraph (4) by striking the period at the end thereof and inserting "; and"

(3) by adding at the end thereof the following new paragraph:

"(5) the power to accept a guilty plea to a felony upon the consent of the defendant for the following offenses in title 18, United States Code: sections 215, 656, 657, 1005, 1006, 1007, 1014 or 1344, or section 1341 or 1343 affecting an insured depository institution.".

Subtitle H—Interagency Coordination

SEC. ____351. INTERAGENCY COORDINATION.

Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice, subject to the general supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought.

SEC. ____352. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United

States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821), as amended by section ____112, is amended by adding at the end thereof the following new subsection:

"(t) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.

SEC. ____353. TECHNICAL AMENDMENT.

Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

Subtitle I—Private Actions Against Persons Committing Bank Fraud Embezzlement Crimes

SEC. ____401. SHORT TITLE.

This subtitle may be cited as the "Financial Anti-Fraud Enforcement Act of 1990".

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

SEC. ____411. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person may file a declaration of—

(1) a violation of, or a conspiracy to violate, section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code;

(2) a violation giving rise to an action for civil penalties under section 951 of the Financial Institution Reform, Recovery and Enforcement Act; or

(3) facts giving rise to any other civil right of action on the part of the United States for damages or penalties arising from fraud, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

(c) EXTENSION OF STATUTES OF LIMITATION.—The statutes of limitation upon all current, unexpired civil causes of action referred to in subsection (a) are extended for 5 years.

SEC. ____412. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section ____412 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a criminal violation of one of the sections of title 18, United States Code, or any civil cause of action, referred to in section ____411(a);

(3) contain at least 1 factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a criminal violation or civil cause of action known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

SEC. ____413. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section ____411 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section ____416(b);

(2) the declarant receives notice of an award pursuant to section ____416(c); or

(c) the declarant is granted a contract to pursue an action under section ____415(b) or ____417.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. ____414. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section ____411 and in accordance with sections ____412 and ____413 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section ____401, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section ____412, or that a declaration has been disclosed in violation of section ____413, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section ____415 or ____416.

SEC. ____415. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____411 through ____414 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a cause of action based on the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) CRIMINAL CONVICTION.—(1) When an agency or entity of the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section ____411, the declarant shall have the right to receive not less than $10,000 and not more than $250,000, any such award to be paid from the Financial Institution Information Award Fund established under section ____419.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) SHARE OF FUNDS AND ASSETS.—(1) When an agency or entity of the United States acquires funds or assets pursuant to the execution of a civil, criminal, or administrative judgment or order and the Attorney General determines that the judgment or order was based in whole or in part on the information contained in a valid declaration filed under _____411, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including those enumerated in section 415(c)(2).

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. _____416. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections _____411 through _____414 shall have the rights to stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a civil, criminal, or administrative judgment or order based in whole or in part on a valid declaration filed under section _____411, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section _____415(b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section _____414 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) TIME FOR NOTICES.—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a valid declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section _____413.

SEC. _____417. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section _____416(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section _____416(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. _____418. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section _____416.

SEC. _____419. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section _____415(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) DEPOSIT OF NET FINES.—(1) There shall be deposited in the Fund all net fines that are collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(2) For purposes of paragraph (1), the term "net fines" means fines collected less any amounts paid from the fines to eligible declarants under section _____415(d) or section _____425(_).

(3) Section 1402(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. § 10601(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A)(ii);

(B) by adding "and" at the end of paragraph (B)(iv); and

(C) by inserting at the end thereof the following new subparagraph:

"(C) fines collected from persons convicted of offenses against the United States under sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, and 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;".

(4) If the amount deposited in the Fund during a particular fiscal year reaches $10,000,000, the excess over that sum shall be deposited in the Crime Victims Fund, notwithstanding section 1402(b)(1)(C) of the Victims of Crime Act of 1984.

(c) INVESTMENT OF FUNDS.—Amounts in the Fund which are not currently needed for the purposes of paying awards to declarants pursuant to section 415(c) and to pay special award pursuant to section 3059A of title 18, United States Code, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States, and all earnings on such investments shall be deposited in the Fund.

SEC. _____420. SOURCES OF PAYMENTS TO DECLARANTS.

Notwithstanding any other law, an award under this chapter or chapter 2 of this subtitle or under section 34 of the Federal Deposit Insurance Act may be paid to a declarant, or to an individual providing information, from the amounts recovered in satisfaction of an order of restitution, a civil judgment, a forfeiture order, or a criminal fine.

SEC. _____421. GOVERNMENT ACCOUNTABILITY: PUBLIC REPORTS ON PROCESSING OF DECLARATIONS.

(a) IN GENERAL.—In addition to the written statements of reasons provided individual declarants under section _____416, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections _____412, _____413, and _____414;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) CONFIDENTIALITY.—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. ____422. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(d) of title 18, United States Code.

SEC. ____423. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS

SEC. ____431. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.

(a) IN GENERAL.—After the entry of a final judgment in any civil or criminal action referred to in section ____411, any person may file a declaration identifying specific assets which might be recovered by the United States in satisfaction of that judgment.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

SEC. ____432. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section ____431 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section ____431.

SEC. ____433. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section ____431 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section ____436(b);

(2) the declarant receives notice of an award pursuant to section ____436(c); or

(c) the declarant is granted a contract to pursue an action under section ____435(b) or ____437.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this subtitle, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. ____434. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section ____431 and in accordance with sections ____432 and ____433 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of any of the sections of title 18, United States Code, referred to in section ____411, or any other fraudulent conduct with respect to which the declaration is made; or

(3) the declaration identifies an asset or assets the nature location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(3), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section ____432, or that a declaration has been disclosed in violation of section ____433, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section ____435 or ____436.

SEC. ____435. RIGHTS OF DECLARANTS: PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____431 through ____434 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—(1) When an agency or entity of the United States recovers any asset or assets specifically identified in a valid declaration filed under section ____431 and the Attorney General determines that the asset or assets would not have been recovered if declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(d) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under chapter 3 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under chapter 3 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under chapter 3.

SEC. ____436. RIGHTS OF DECLARANTS: NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections ____431 through ____434 shall have the rights to stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) ENTRY OF JUDGMENT OR ORDER.—(1) When an agency or entity of the United States obtains a final judgment transferring to the United States title to an asset or assets identified in a valid declaration filed under section ____431, the Attorney General shall notify the declarant in writing of the entry of the judgment or order.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section ____435(b) or (c) upon recovery by the agency or entity of the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section ____434 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an addi-

tional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section ____433.

SEC. ____437. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) REQUEST FOR CONTRACT.—(1) If, pursuant to section ____436(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may request the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's request under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section ____436(d)(2), and the Attorney General shall respond to the request not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a request under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, after consultation with the Attorney General the declarant shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. ____438. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section ____436.

SEC. ____439. PROTECTION FOR DECLARANTS.

A declarant under this chapter shall enjoy the protections of section 3059A(d) of title 18, United States Code.

SEC. ____440. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. ____451. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking ", in an amount that exceeds $50,000,"; and

(b) by amending paragraph (2) to read as follows:

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation.".

SEC. ____452. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

"§ 3059A. Special rewards for information relating to certain financial institution offenses

"(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

"(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section ____419 of the Financial Anti-Fraud Enforcement Act of 1990.

"(b) A person is not eligible for a payment under this subsection (a) if—

"(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

"(2) the furnished information includes allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or GAO report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information; or

"(3) the person knowingly participated in the violation of the section with respect to which the payment would be made.

"(c) For the purposes of this subsection (b)(2), the term 'original source' means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

"(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(e)(1) A person who—

"(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

"(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

"(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the plaintiff would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) TECHNICAL AMENDMENT.—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

"3059A. Special rewards for information relating to certain financial institution offenses.".

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. ____461. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL.

(a) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section ____411.

(b) TERMS AND CONDITIONS.—Each contract under subsection (a) shall include the provisions described in section ____465 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States, including a provision specifying the amount of the fee to be paid private counsel under the contract or the method for calculating the fee.

(c) LIMITATION OF FEE.—The amount of the fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

SEC. ____462. REFERRAL BY REGULATORY AGENCIES.

The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to private counsel retained by the Attorney General pursuant to section ____461 civil actions arising from suspected and actual violations of the sections of title 18, United States Code, or any civil cause of action, referred to in section ____411.

SEC. ____463. CONTRACT DECISIONS NONREVIEWABLE.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General's decision to refuse to enter into a contract for legal services referred to in section ____461.

SEC. ____464. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section ____461 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section ____465.

SEC. ____465. CONTRACT PROVISIONS.

A contract made with a private counsel under section ____461 shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

SEC. ____466. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by

private counsel retained under section ____461 may not be asserted unless the counterclaim has been served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

SEC. ____467. CONTINGENT FEES.

Notwithstanding section 3302(b) of title 31, United States Code, a contract under section ____461 may provide that a fee that private counsel charges to recover indebtedness or civil fines or penalties owed the United States is payable from the amount recovered.

SEC. ____468. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees as part of the costs.

SEC. ____469. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General; judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle J—Technical Amendments

SEC. ____501. TITLE 18 OF THE UNITED STATES CODE.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "or a subsidiary of a member bank, national bank, or insured bank" after "insured bank";

(B) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(C) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after the Federal Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7) in section 1343—

(A) by inserting ", credit," after "money";

(B) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writing, signs, signals, picture, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(C) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice";

(8) in section 2314, by inserting "or foreign" after "interstate"; and

(9) in section 3289, by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within six calendar months of the expiration of the applicable statute of limitations,".

(b) HEADING.—(1) The heading for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The table of sections for chapter 63, United States Code, is amended by striking the item relating to section 1343 and inserting the following new item:

"1343. Fraud by use of facility of interstate commerce.".

SEC. ____502. RIGHT TO FINANCIAL PRIVACY ACT.

Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking "section 3(f)(1)" and inserting "section 4(f)(1)".

BIDEN (AND THURMOND) AMENDMENT NO. 2117

Mr. BIDEN (for himself and Mr. THURMOND) proposed an amendment to the bill S. 1970, supra, as follows:

Add at the end of the bill, the following:

SEC. 10000. DELETING REPEATED SECTIONS.

Amendment No. 2104 (Biden/Managers) to S. 1970 is amended by

(1) striking section 1701 through section 1738 of "TITLE XVII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS."

(2) striking the titles designated as follows: "TITLE I—MANDATORY DETENTION," TITLE II—INCREASED PENALTIES," and TITLE III—FEDERAL PRISONER DRUG TESTING."

SEC. 10001. FIXING TYPOGRAPHICAL ERROR IN STATUTE REFERENCE.

Amendment No. 2099 (Biden) is amended in section 701 by—

(1) replacing the term "1986" with "1968" in the first sentence.

SEC. 10002. ELIMINATING INEFFECTIVE LANGUAGE ON REDESIGNATION.

Amendment No. 2104 (Biden/Managers) to S. 1970 is amended by—

Striking from the unnumbered section entitled "WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE" the last sentence that reads: "On page 51, strike everything from line 23 until page 55, line 5.".

SEC. 10003. CHANGING ERRONEOUS REFERENCE.

Amendment No. 2085 (DeConcini) to S. 1970 is amended as follows—

In subsection (b) of section 9, striking the term "29" and replacing it with the term "30".

SEC. 10004. TECHNICAL AMENDMENT TO REMOVE SURPLUS LANGUAGE.

(1) Amendment No. 2086 (Reid) to S. 1970 is amended as follows—

In the preamble to the amendment, striking the words, "None of the provisions of this Act shall take effect unless the following is enacted:"

(2) Amendment number 2104 (Biden/Managers) to S. 1970 is amended—

by striking everything from the words "Title—VICTIMS OF CHILD ABUSE ACT OF 1992" through the words, "Chapter 7 of title 18, United States * * *"

SEC. 10005. DELETING OBSOLETE REFERENCE.

Amendment No. 2084 (Gramm) to S. 1970 is amended in section 401—

(1) by striking out "eligible for parole, nor shall such person be".

SEC. 10006. STRIKING PENALTIES ENACTED TWICE.

Amendment No. 2085 (DeConcini) to S. 1970 is amended—

(1) in section 6, by striking the language beginning with "(j) Whoever steals any firearm" until the end of the section; and

(2) by striking section 8.

SEC. 10007. FIREARMS TECHNICAL AMENDMENT.

Amendment No. 2085 (DeConcini) to S. 1970 is amended—

(1) in section 2 by striking out "The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon."; and

(2) in section 6 by striking out, in the amendment adding subsection (i), "fined under this title" and inserting "fined not more than $1000 (in accordance with section 3571(e) of this title)".

SEC. 10008. DELETING DUPLICATIVE MONEY LAUNDERING AMENDMENT.

At page 61 of S. 1970, strike lines 3 through 10.

SEC. 10009. GAMBLING FORFEITURE TECHNICAL AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1112—

(1) by striking "is amended to read as follows" and inserting "is amended—"; and

(2) by striking "this section" and inserting "this subsection" each time it appears.

SEC. 10010. DRUG TESTING TECHNICAL AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended, in the unnumbered title entitled "FEDERAL PRISONER DRUG TESTING" (Simon)—

(1) in the section entitled "CONDITIONS ON PROBATION" by inserting in subparagraph (3) "and" after "such sentence;" inserting a period after the second reference to "controlled substance," and by striking in subparagraph (4) the term "Court" and inserting "Courts";

(2) in the section entitled "CONDITIONS ON SUPERVISED RELEASE" by striking "prior to the imposition of such sentence" and inserting "prior to the commencement of service of such sentence" and by inserting "with" after "in accordance"; and

(3) in the section entitled "CONDITIONS ON PAROLE" by striking "prior to the imposition of such sentence" and inserting "prior to release", by inserting "with" after "in accordance", by striking "provision" and inserting "provisions", and by striking "Court" and inserting "Courts".

SEC. 10011. SEXUAL ABUSE PENALTIES TECHNICAL AMENDMENT.

Amendment no. 2099 (Biden) to S. 1970 is amended, in section 1726—

(1) by striking "imprisoned for any term of years or life" and inserting "imprisoned for any term of years not less than thirty or for life"; and

(2) by adding at the end of subsection (a) the following:

"(3) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release."

(3) by adding in subsection (g) after the term "this chapter", the first time it appears, the following: ", except as provided in section 2241(c),".

SEC. 10012. "ICE" TECHNICAL AMENDMENT

Amendment No. 1683 (Akaka) to S. 1970 is amended—

(1) by inserting "at least" before "80 percent pure" both places that phrase appears;

(2) by striking "5 grams" and replacing it with "2.5 grams"; and

(3) by adding the following at the end of section 2:

"(c) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof:

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

(H) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;"

"(d) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) in subparagraph (F) by striking "or" at the end thereof;

(2) in subparagraph (G) by adding "or" at the end thereof; and

(3) by adding after subparagraph (G) the following new subparagraph:

"2.5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline;".

SEC. 10013. REPLACING MISPLACED AMENDMENT

Amendment No. 2104 (Biden/Managers) is amended by adding at the end, the following—

Section 2000. A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

SEC. 10014. REPLACING MISSING LINE IN STATUTE.

Amendment No. 2104 (Biden/Managers) is amended in the unnumbered section entitled "AMENDMENT TO THE CONTROLLED SUBSTANCES ACT" (Levin) by—

(1) inserting after "(21 U.S.C. 845a)" the words, "as redesignated by this Act";

(2) striking the period after the term "playground" in subsection (1)(A) and subsection (2)(A); and

(3) inserting at the end of the section after the term "and", the following: "(B) inserting "or a public or private playground," after "university," ".

SEC. 10015. STRIKING ERRONEOUS CHANGE IN TABLE

Amendment No. 2099 (Biden) is amended by striking section 1715.

SEC. 10016. CHILD ABUSE TECHNICAL AMENDMENT.

Amendment No. 2086 (Reid) to S. 1970 is amended—

In section 1555(a), by striking "16. Abuse" and inserting "116. Abuse";

In section 1555(d), by striking "(as defined in subsection (c))" and inserting "(as defined in said section 16)";

In section 1575(b)(1)(D), by striking "not including an attorney pro se for the defendant" and inserting "not including an attorney pro se for a party";

In section 1575(c)(7), by striking "an attorney pro se for the defendant" and inserting "a party acting as an attorney pro se" and by striking "but not a defendant acting as an attorney" and inserting "but not a party acting as an attorney pro se";

In section 1575(b)(1)(B), by striking "in the presence of the defendant, jury, judge, and public," and inserting "in the presence of the defendant", and in (b)(1)(B)(iii), by striking "testifying in open court" and inserting "testifying";

In section 1575(c)(2), by inserting "and" at the end of subparagraph "(xi), and by striking "; and" at the end of subparagraph (xii) and inserting a period, and by striking subparagraph (xiii);

In section 1575(d)(1), by striking "a violation of rule" and inserting "A knowing or intentional violation of rule".

SEC. 10017. DELETING SUPERSEDED DRUG PENALTIES.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1734 (Levin) by—

(1) striking subsection (a), entitled "DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE";

(2) striking subsection (c), entitled "EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE"; and

(3) in subsection (b), entitled "DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES,"—

(a) striking after "21 U.S.C." the term "405a(a)" and replacing it with "845a(a)), as redesignated by this Act";

(b) inserting after "21 U.S.C. 845a(b))," and "21 U.S.C. 845a(c))," the following: "as redesignated by this Act,";

SEC. 10018. CONFORMING AMENDMENT.

Amendment No. 2099 (Biden) to S. 1970 is amended in section 1615 (Simon) by—

(1) inserting after "(2)" the words, "section 924(c)(1) of title 18 of the United States Code, as amended by this act, is further amended by"; and

(2) striking the period after "machine gun," and inserting "wherever the term "machine gun" appears in section 924(c)(1).".

The National Child Search Assistance Act of 1990 in the Biden (McConnell) amendment No. 2104 is amended in—

(1) section 03(a)(2)(A) by inserting "race," after "sex,"; and

(2) section 03(a)(3) by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

The Gun-Free School Zones Act of 1990 in the Biden (Kohl) amendment No. 2104 is amended to read as follows:

SEC. . GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gunfree school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial. or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.

Prior to "Section 1956", insert "(a)".

Strike "section 16", and insert in lieu thereof "(D)".

Strike subsection (a)(2), and insert in lieu thereof the following:

"(2) inserting "; or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)"

Add the following new subsection:

"(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: "Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and such elements of the Environmental Protection Agency as the Administrator of the Environmental Protection Agency may direct."

In subsection (b)(1), strike "sentences" and insert in lieu thereof "sentencing provisions".

In subsection (b)(2), after "unwarranted", insert "sentencing".

SEC. 10020. CLARIFICATION OF THE TERM "COMPENSATION JUDGMENTS" IN WORK REQUIREMENTS FOR PRISONERS AMENDMENT.

Amendment number 2089 (Lott) to S. 1970 is amended by—

Inserting in the unnumbered subsection entitled "Use of Funds" immediately after the words "compensation judgments", the following; ", restitution, fines, or other legal liabilities of prisoners".

SEC. 10019. ELIMINATING INEFFECTIVE LANGUAGE ON "DRUNK DRIVING VICTIMS' PROTECTION ACT".

Amendment number 2104 (Biden/Thurmond/Managers) to S. 1970 is amended by—

Striking the sentence immediately prior to the unnumbered section entitled "Drunk Driving Victims' Protection Act" that reads: "Strike out all after the enacting clause and insert in lieu thereof the following:".

Substitute the following for section 1(b):

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer, provided that the total annual benefits paid under this section may not exceed $5 million. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary. Provided further, that these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

Substitute the following for sections 3 (a) and (b):

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

Strike all of title V and insert the following:

TITLE V—INTERNATIONAL MONEY LAUNDERING

SEC. 501. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereinafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at lest one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology; and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the U.S. Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force of otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress the summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 502. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1) by striking the last sentence.

SEC. 503. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 504. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 505. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 506. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005–07 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 507. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

Section 1103(c) of the Right to Financial Privacy Act (12 U.S.C. 3403(c)) is amended in the last sentence—

(1) by striking "or" after "such disclosure" and inserting a comma; and

(2) by inserting before the period the following: ", or for a refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a government authority.

SEC. 508. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 509. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

AMERICANS WITH DISABILITIES ACT

HATCH AMENDMENT NO. 2118

Mr. HATCH proposed an amendment to the language of the motion of Mr. FORD to recommit with instructions the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, as follows:

At the end of the instructions add the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall—

"(1) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

"(2) publish the methods by which such diseases are transmitted; and

"(3) widely disemminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under (a) and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any state, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.".

HELMS AMENDMENT NO. 2119

Mr. HELMS proposed an amendment to the language of the motion of Mr. FORD to recommit with instructions the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 933, supra, as follows:

At the end of the instructions insert the following:

The conferees are instructed to include the following language in the conference report on S. 933:

"SEC. . (a) The Secretary of Health and Human Services, not later than 6 months after enactment of this Act, shall

"(1) publish a list of infectious and communicable diseases, including human immunodeficiency virus, that may be transmitted through the food supply;

"(2) publish the methods by which such diseases are known to be transmitted; and

"(3) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public. Such list shall be updated annually.

"(b) In any case in which an individual has an infectious or communicable disease that is included on the list developed by the Secretary which may pose a significant risk to the health or safety of others, which risk cannot be eliminated by reasonable accommodation as required under this title, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

"(c) Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, pursuant to the list developed by the Secretary.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on the following three bills:

H.R. 3694. A bill to authorize reimbursement by the Secretary of the Interior of certain expenditures at the Minidoka Project, Idaho and Wyoming:

S. 1118. (Armstrong and Wirth) A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District; and

S. 1932. (Domenici and Bingaman) A bill to provide further relief to the Vermejo Conservancy District from its repayment obligation.

The hearing will take place on July 24, 1990, at 2 p.m. in room SD–366 of the Senate Dirksen Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD–364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224–2366.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2659, the Reclamation Reform Act Amendments of 1990, and title XVI of H.R. 2567, the Reclamation Project Authorization and Adjustment Act of 1990.

The hearing will take place on July 31, 1990, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD–364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224–2366.

Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2807, the Grand Canyon Protection Act.

The hearing will take place on July 24, 1990, at 9 a.m., in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Health Care Fraud/Medicare Secondary Payer Program.

These hearings will take place on Wednesday, July 11, 1990, and Thursday, July 12, 1990, at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel Rinzel of the subcommittee's minority staff at 224-9157.

JOINT COMMITTEE ON PRINTING

Mr. FORD. Mr. President, I wish to announce that the Joint Committee on Printing will meet on Thursday, July 19, 1990, in SR-301, to hold hearings. At 9:30 a.m., the committee will receive testimony on the General Accounting Office's investigation of the management of the Government Printing Office.

Senators, Representatives, and other interested individuals and organizations who wish to testify or submit a statement are requested to contact John Chambers, staff director of the joint committee, on 224-6707.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 2 p.m. in executive session for markup of the National Defense Authorization Act for fiscal year 1991 and other pending legislation referred to the Senate Armed Services Committee.

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

PROJECTION FORCES AND REGIONAL DEFENSE SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Projection Forces and Regional Defense Subcommittee of the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 9 a.m. in executive session for markup of projection forces and regional defense programs of the Department of Defense Authorization Act for fiscal year 1991.

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

STRATEGIC FORCES AND NUCLEAR DETERRENCE SUBCOMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Strategic Forces and Nuclear Deterrence Subcommittee of the Committee on Armed Services be authorized to meet on Wednesday, July 11, 1990, at 10:30 a.m. in executive session for markup of strategic forces and nuclear deterrence programs of the Department of Defense Authorization Act for fiscal year 1991.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, be authorized to meet during the session of the Senate on Wednesday, July 11, 1990, to hold a hearing on Health Care Fraud/Medicare Secondary Payer Program.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 11, beginning at 10 a.m., to consider S. 2729, legislation to amend the Coastal Barrier Resources Act.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., Wednesday, July 11, 1990, for a hearing to receive testimony on the Department of Energy's Human Genome Project.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, July 11, 1990, at 10 a.m. and at 2 p.m. to conduct hearings on the administration's proposal, Capital Markets Competition, Stability, and Fairness Act of 1990.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 11, 1990, at 2 p.m., to hold a hearing on the nomination of Robert C. Bonner to be Administrator of Drug Enforcement.

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

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 11, 1990, at 9:30 a.m., to hold a joint hearing with the House Subcommittee on Court, Intellectual Property and the Administration of Justice, of the House Judiciary Committee, on S. 2370, a bill to amend section 107 of title 17, United States Code, relating to fair use, to clarify that such section applies to both unpublished copyrighted works.

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

ADDITIONAL STATEMENTS

A TIME TO CELEBRATE AND REFLECT

● Mr. SIMON. Mr. President, this week in Washington the Greek-American community is celebrating the 30th biennial Clergy-Laity Congress.

This week the Clergy-Laity Congress is celebrating two significant events. First, this occasion marks the first visit to the United States of His All-Holiness Dimitrios I, the Ecumenical Patriarch of the Greek Orthodox Church. Second, this is the 30th anniversary of the elevation of His Eminence Archbishop Iakovos to the leadership of the Greek Orthodox Archdiocese of North and South America.

This is an important congress for Greek-Americans. And it is a time to reflect on some of the more difficult problems facing Greeks everywhere, particularly on Cyprus.

Cyprus remains one of the continuing tragedies of our time—a tragedy of conflict and separation of families and friends, a tragedy particularly painful today when many other tragedies and conflicts are being settled around the world.

That tragedy is the Turkish occupation of northern Cyprus.

It is a tragedy because a green line still separates Greek and Turkish Cypriots from one another. It is a tragedy because many Cypriots have needlessly died.

It is a tragedy because many Greek Cypriots remain missing in the northern part of Cyprus. It is a tragedy because misunderstanding and distrust have festered for too many years.

And it is above all a tragedy because we know it is a conflict that can be resolved.

The time has come for Congress to stand up and send a strong and unmistakably clear message to our friends in Ankara. I have done this through legislation I introduced on June 28, S. 2808, that would cut United States military and foreign assistance to Turkey by 20 percent a year over a 5-year period unless Turkey completely removes its troops and colonists from Cyprus.

My aim in doing this is not to set back our relations with Turkey. My aim is to tell a friend that continuing the occupation of Cyprus in violation of international law carries a heavy pricetag.

Cyprus can be settled: It only takes the political courage to say "no" to conflict and "yes" to peace—that is my message to Turkey, that is the message many of my colleagues share, and that is the message I want the United States to send to Turkey.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through June 28, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 25, 1990, the Congress has cleared for the President's signature the Amtrak Reauthorization and Improvement Act, H.R. 5075, changing the current level estimates of budget authority and revenues.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer.)

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG. 2D SESS., AS OF JUNE 28, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
FISCAL YEAR 1990			
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,092.3	3,122.7	−30.4
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3]14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT 101ST CONG., 2D SESS. SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JUNE 28, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire Emergency Supplemental Appropriations (Public Law 101-303)	2,293	666	
An act making technical amendments to Title 5, U.S. Code Public Law 101-303)		−1	
Total enacted this session	2,293	665	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
Amtrak Reauthorization and Improvement Act (H.R. 5075)	−10		−10
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment of judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for Economic and Technical Assumptions	−28,685	−26,763	−8,900
Total current level as of June 28, 1990	1,326,110	1,169,393	1,060,256
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,290		5,244

[1] Less than $500 thousand.●

Notes.—Numbers may not add due to rounding. Amounts shown in parentheses are interfund transactions that do not add to totals.

TRIBUTE TO OFFICER LARRY TALVY

● Mr. DECONCINI. Mr. President, I rise today to bring to the attention of my colleagues the life saving efforts of Officer Larry Talvy, formerly of the Sedona Police Department. The June 1989 edition of The Bulletin, the magazine of the Federal Bureau of Investigation, recognized this police officer, and I want to take a moment to do so as well.

On August 29, 1989, Officer Talvy was flagged down by a 9-year-old boy who told him that his father had fallen, hit his head and was not breathing. When Officer Talvy arrived on the scene, he found a 70-year-old man who had a head injury sustained from a fall and had suffered from a heart attack. The man was not breathing and had no pulse. Officer Talvy notified Sedona Fire Dispatch of the situation and immediately initiated CPR and continued CPR until the arrival of Sedona fire personnel. Officer Talvy was successful in his efforts, and the man was again breathing on his own when the rescue personnel arrived on the scene. Because Officer Talvy handled this critical situation calmly and professionally, he was responsible for saving the man's life.

Mr. President, often in the hectic business of the Senate we do not take time out to recognize the heroic efforts of those individuals working outside the beltway. I commend the heroic efforts of Officer Talvy, and feel privileged to have him as a member of Arizona's police force.●

WORLDWIDE DAY OF PRAYER FOR FREEDOM AND DEMOCRACY IN CUBA

● Mr. MACK. Mr. President, I would like to bring to the attention of my colleagues in the Senate that on July 15, there will be a Worldwide Day of Prayer for Freedom and Democracy in Cuba.

Our Nation just celebrated its 214th birthday and will soon be observing the upcoming 199th anniversary of the ratification of the Bill of Rights. As we commemorate this wondrous occasion, we must be ever mindful of those who still struggle for freedom, justice and human dignity.

Only 90 miles from our shores lies an island ruled by a ruthless dictator. That island is Cuba and the dictator is Fidel Castro. From the time he stole the Cuban people's revolution up until now, thousands have risked everything, including their lives, in hopes of seeking the freedoms we enjoy in this country—freedoms such as political self-determination, speech, press, peaceful assembly and religion. These are the most basic democratic rights, but Castro still denies them to his own people.

On countless Sundays, millions of people in this country exercise their right to worship and thank God for the blessings they have. I would urge my colleagues to ask their constituents to keep Sunday, July 15 in their prayers as many in the international community will pray for freedom and democracy in Cuba.

Now, more than ever, as the winds of freedom are sweeping through Europe and elsewhere, the Cuban people need to know that they are not forgotten. They need to know that people from around the world are with them as they try to rid themselves of Castro and the cancer of communism.

Cuban-Americans in this country want their homeland to be free. They want their relatives and friends still left in Cuba to be able to enjoy the same freedoms we have in this country.

This July 15 will be a day dedicated to the Cuban people as they struggle for freedom. It will also be a day of hope and peace. But most of all, a day for those who have freedom to remember and pray for those who want and hope for freedom.●

"A LITTLE S&L BUDGET HONESTY, PLEASE"

● Mr. SIMON. Mr. President, Herbert Stein, who many of us have come to have great respect for over the years, recently had an op-ed piece in the Wall Street Journal that calls on us to be honest and candid on the whole savings and loan budgetary situation.

As he so frequently has done over the years, Herb Stein is once again giving us sound advice.

I urge my colleagues to read his statement.

I ask that it be placed in the RECORD at this point.

The statement follows:

[From the Wall Street Journal, June 25, 1990]

A LITTLE S&L BUDGET HONESTY, PLEASE

(By Herbert Stein)

The valiant budget summitteers seem to have agreed on one thing. The costs of the Savings and Loan bailout do not have to be included in total budget expenditures, at least not for the purpose of determining how much expenditures have to be cut or taxes increased to meet the Gramm-Rudman deficit target.

For a change, this politically convenient decision has the support of distinguished economists. Thus, more than a year ago (March 1, 1989) Martin Feldstein, former chairman of the Council of Economic Advisers, said on this page:

LIABILITIES EXIST

"The proposed thrift-rescue plan is fundamentally different from other debt-financed spending because the outlays are essentially only a formal recognition of government liabilities that already exist. The $50 billion of new government outlays will therefore not cause spending on goods and services to rise and will not reduce the pool of funds available to finance private investment in plant and equipment or housing."

Since that was written, of course, we have discovered that we are talking about much more than $50 billion. And just the other day (June 19) Robert Eisner, former president of the American Economic Association, repeated the Feldstein argument on this page, saying:

"Current government borowing to finance the purchase of S&L assets only makes explicit an element of deficit or debt that was implicit earlier in the commitment of backing to S&L liabilities—the deposits or money of S&L creditors. . . . [T]he S&L bailout has nothing to do with the current budget deficit."

The argument is ingenious, but I do not find it convincing. The liabilities that already exist and are now being formally recognized were incurred earlier, mainly in the 1980s when the S&Ls had losses that the Federal government had committed itself to make good to the depositors. These liabilities were not included in government expenditures when they were incurred. Now it is proposed to exclude them when they are recognized. This is a plan to keep the government's books on a cash basis when obligations are incurred and on an accrual basis when the obligations are paid off. That would really be Wonderland.

Following that principle, we could exclude from the current budget all expenditure for Social Security benefits because the obligation to pay those benefits was incurred long ago and today's payments are only a formal recognition of liabilities that already exist.

There are two reasons—one economic and one political—for setting a limit to the government's deficit. The economic reason is to protect the growth of the nation's capital stock by limiting the extent to which the government's deficit absorbs private saving and crowds out private investment. The political reason is to limit government spending to the amount the government and the public are willing to pay for explicitly. Both reasons argue for including the S&L losses in expenditures today.

The nation's capital stock is now smaller than it would have been if there had been no deposit insurance. One may take the clearest example. Suppose that between 1981 and 1988 the owner-operators of the S&Ls stole $100 billion from depositors—which is, of course, not entirely true. Then the owners spent $100 billion on Mercedes and champagne. But the depositors who lost the money did not cut their purchases of Chevrolets and beer by the same amount, because the government had committed itself to make their losses good. There was more consumption and less investment than there would have been in the absence of the government commitment. It is as if the government had borrowed the $100 billion from the depositors and given it to the owner-operators.

Or, suppose that the $100 billion had been lost because it had been invested in projects that were no good—houses that no one wanted to live in, for example. One hundred billion dollars of the nations saving had been crowded out of productive investment. Because the government insured their deposits, however, the depositors did not feel any loss and did not feel any need to increase their saving to restore their assets.

In any case, because of the government's commitment, there was more consumption than there would have been without it and

less investment during the period when the loses were being incurred. Some will say that is water over the dam or, as economists put it, bygones are forever bygones. Perhaps these losses should have been counted as government expenditures when the government's liability was incurred, but there is no point to counting them as expenditures now, they will say.

But the consequences of these losses are not bygones. We are left with a smaller stock of productive capital than we would have had if the government had not insured the deposits. That is a present fact that is relevant to present budget decisions. Unless we are satisfied with the loss of the capital stock, we should take steps to compensate for it now. One way to do that would be to include the outlays in expenditures now and cover them by additional revenues or reduced expenditures for other purposes.

BAD MISTAKES

The political argument for paying the costs of the S&L bailout is, in my opinion, even stronger than the economic one. Someone in the government, or many more than one, made bad mistakes about the S&Ls. They allowed the government's liability, through the insurance of deposits, to get far out of line with the government's willingness or ability to limit its risks by regulating the S&Ls. Some will say that the insurance was too big. Others will say that the regulation was too weak. I do not want to enter that argument now. But surely the insurance was too big for the regulation or the regulation was too weak for the insurance. And someone is responsible for allowing that to happen.

If the costs of the S&L bailout are included in the budget that the public has to pay for explicitly, either in higher taxes or in reduced expenditures for other purposes, there will be a demand to find out how that happened and who was responsible. That will be unpleasant for some people, but it will induce more prudence in the future. On the other hand, if the S&L thing is swept under the rug as far as today's public is concerned, politicians will be reassured that there is no limit to the liabilities they can safely incur in the taxpayers' name.●

STEEL SUBSIDY OF THE DAY NO. 6: VENEZUELA

● Mr. HEINZ. Today, Mr. President, I present to the Senate yet another example of the unfair use of steel subsidies by foreign governments and how that practice damages the U.S. Steel industry.

Today's subsidy comes from Venezuela. This country is representative of a third group of nations who subsidize their domestic steel industry, thus hindering the Bush administration's efforts to negotiate an international agreement. In this series I have spoken of countries like Brazil and Italy who are violating their bilateral consensus agreements [BCA] with the United States by using steel subsidies. I have also spoken of nations like Turkey who are wildcards in the sense that they have refused to enter into either a BCA or a voluntary restraint agreement [VRA] with America and hence have no discipline placed upon their steel production and trade in the international market.

Today, I speak of a third group, led by Venezuela, who have signed only a VRA with our country and are therefore in a unique situation with regard to steel subsidies.

Unlike BCA's, VRA's do not mandate that the signatory restrict the use of subsidies in steel production. However, this does not negate the responsibility of these countries to compete in a fair manner in the international steel market. On the contrary, nations who have only a VRA with the United States should still feel compelled not to subsidize their steelmakers, for it is this practice, among others, which causes the need for VRA's in the first place. Unfortunately, this fact is not apparent to many in this group, including Venezuela.

In March of this year, the Venezuelan Government determined that domestic steel exporting companies will continue receiving export-incentive payments of 18 percent of product value. A recent World Bank report declared that SIDOR, Venezuela's dominant state-owned integrated mill, is "technically bankrupt." Yet, according to the company's president, SIDOR's serious debt problems will be resolved as soon as an agreement with the Government is signed in which the State will wholly or partially assume the company debt. Furthermore, SIDOR was scheduled to receive a 1989 equity infusion of $1.8 million from the State's development corporation, CVG. The company was also authorized to float Government-guaranteed bonds worth $13.8 million in 1989.

Mr. President, situations like this one cannot be allowed to continue. The fact that three different types of relationships exist with our trading partners in steel should be reason enough for a new, all-encompassing worldwide agreement like President Bush has proposed. But the widespread abuse of these relationships by our partners, including in the area of subsidies, gives us more than enough reason to be convinced that the administration's negotiations must succeed. The Office of the U.S. Trade Representative must be fair but tough in its efforts. An international agreement on steel production and trade will not come easy, but a successful conclusion to this initiative is not optional. I hope all Senators will do what they can to help the President reach this important goal.●

PRINTING OF BOOKLETS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be printed for the use of the Senate Commission on Art 50,000 copies of the booklet entitled "The Senate Chamber, 1810–1859" and 50,000 copies of the booklet entitled "The Supreme Court Chamber, 1810–1860".

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

ORDER FOR STAR PRINT

Mr. DOLE. Mr. President, on behalf of Senator GARN, I ask unanimous consent that S. 2827 making technical changes to the Federal Deposit Insurance Act, be star printed to reflect the following cha ıges which I send to the desk.

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

ADDITIONAL CONFEREES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Chair be authorized to appoint additional conferees on the part of the Finance Committee on H.R. 1465, the oilspill liability legislation.

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

The Chair appointed Mr. BENTSEN, Mr. BAUCUS, and Mr. PACKWOOD as additional conferees.

UNANIMOUS-CONSENT AGREEMENT—H.R. 4328

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of Calendar No. 644, H.R. 4328, the textile footware and apparel bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow, and that there be a period for morning business for 1 hour, with Senators permitted to speak therein for up to 5 minutes each.

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

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order until 10:30 a.m. tomorrow.

There being no objection, the Senate, at 7:44 p.m., recessed until Thursday, July 12, 1990, at 10:30 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO ED KELLAHER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MICHEL. Mr. Speaker, as all Members know, the House could not operate without the dedication and the skills of men and women whose names are not known to the public. Symbolic of this kind of selfless public service was the late Ed Kellaher, one of the early recipients of the John W. McCormack Award for Excellence for House Employees.

Clerk of the House Donn Anderson delivered a eulogy in Ed's honor and I want to insert it into the RECORD at this time as a tribute to a fine public servant who served the House for 29 years:

TRIBUTE TO ED KELLAHER

I deeply mourn the death of Ed Kallaher in the realization that I will not likely have such a friend again. But in my grief, I rejoice in the lasting happiness of Ed's friendship, his love, his sensitivity and his unfailing kindness. Ed leaves a legacy which extends beyond his special relationship with each of us—as husband, father, grandfather, brother, friend. His legacy is tangibly measured in the works with which he has been associated.

Ed's exceptionally long service to the House of Representatives, 29 years, spanned six speakers, from Sam Rayburn to Tom Foley, and five clerks, from Ralph Roberts to myself. It was a period of remarkable change and expansion and Ed was very much a part of it.

When Ed started in 1961 as assistant property custodian, there were 26 employees in a few cramped rooms in the Cannon Building basement. The total operating budget for furnishings, repair services and salaries was $254,000.

Today the office of property supply and repair has 151 employees, nearly one-third of the clerk's workforce, with a total operating budget of over $5 million. During the same period, the Rayburn Building and the east front extension to the Capitol were completed and two major office building annexes were acquired.

Ed has the resourcefulness and foresight to meet the technical, material, and personnel needs of the greatest growth period in the history of the House. The new methods and efficiency, which Ed brought to property, have made the office the great and essential service organization which it is today.

Ed's work to him was a stewardship. A prudent manager of resources and a tough negotiator, he insisted that the House get the best value for the taxpayers' money. Most of all, Ed loved the shops and the craftsmen, taking a very personal pride in their splendid work. How often he said so.

Ed became involved with the Wright Patman House Credit Union during the era of a single counter and green eye shades. Over the years he held a variety of credit union offices, and worked energetically for its growth and prosperity, because he recognized the great good it could render to the House community. Today, the Wright Patman Credit Union is one of the largest, fastest growing and best managed in the entire Federal Credit Union system, and the results of Ed's dedication are to be found everywhere.

Ed was a great Democrat. In times gone by, no boiler room operation was complete without him. He worked generously and with a zeal for the improvement of the National Democratic Club. He appreciated the need for a place for Democrats to come together socially.

Ed was a constant delight to his friends and co-workers. He took his work seriously, but never himself. His unfailing wit, good humor and story-telling ability were the products of his New York-Irish heritage, as were his self-assurance and determination. Ed was comfortable with everyone, because he was always comfortable with himself. Ed was the genuine article, a "what you see is what you get" kind of guy. Ed had no hidden agenda.

His objectives were clear: The happiness and security of his family, doing his work faithfully and to the best of his ability, promoting the integrity and respect of the House of Representatives, and involving himself in things which improve the lives of others.

In witness to the affection and respect of his co-workers, Ed became one of the early recipients of the John W. McCormack award of excellence for house employees. With every passing year, he continued to validate the appropriateness of the award. Ed takes with him the only property a man can carry out of this world—his good name and reputation, and for those he will receive a kindly judgment.

Ed best represented the old-time sense of loyalty, commitment and institutional memory which has declined steadily in the House service over the years, and yet again declines measurably with Ed's passing. Ed was a rock of constancy, purpose and reliability in a place where tradition has been assigned diminishing importance.

Each of us knew Ed in a special way. He was the friend and mentor of my youth, and in later years, my confidant.

During the past 4 years, Ed was my trusted and highly valued senior department head, but always first my friend. He never hesitated to argue or disagree when he thought I was wrong, but if my judgment was not his, Ed would say "Okay" and carry it out with typical loyalty. My sense of loss is both deep and wide.

I extend the most heartfelt sympathy to Ed's beloved wife, of many years, Eleanore, his children Ken, Don, Susan and Mary and his eleven grandchildren. You blessed his life and graced his home with love, support and joy. You were the sacred repository of his hope and happiness. You gave him all the contentment he could have ever wished for.

I will miss you, Eddie. I will recall the happy times we spent together and think of those which might have been. I will miss your thoughtful expressions for all occasions and for nothing in particular. I will even miss your stories, although I had heard most of them before because of the delight you took in tellimg them.

Farewell, beloved friends of years. Go in peace with our love and gratitude for all that you have meant to us. We will always remember you, and each time that we do, we will smile.

CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1990

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GONZALEZ. Mr. Speaker, I am reintroducing a bill today that I first introduced in 1984 to ban professional boxing and to establish a Congressional Advisory Commission on Amateur Boxing. Incident after tragic incident occurs, bringing pain and sorrow to families of men who are injured or killed in this violent so-called sport, and it is time for Congress to do something about it. After all, boxing is not really a sport—it is an industry that capitalizes on the prurient display of brutality and human degradation. There is no sport involved when the goal and determining factor in all too many fights is the rendering of the opponent physically defenseless.

For many years, I have watched as young men, mostly black or Hispanic, mostly poor, uneducated and without trade or employment, have been recruited, trained, and encouraged to fight their way out of poverty into the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future respect. I have watched all this—and listened—and I am impelled now to act.

My bill bans only professional boxing in order to remove the illusory incentives of a professional boxing career. For amateur boxing, my bill would establish a Congressional Advisory Commission. This Commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities for young men, but prolonged participation in boxing clearly has proven harmful effects on the health of fighters. With some safeguards, amateur boxing can be a positive experience—but only if the boxing is carried on with strict safety regulations and for only a short period of time.

But professional boxing is another matter. What kind of opportunities are provided these young men through professional boxing? The opportunities I see all involve violence, personal injury, and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking his opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and has reached the same conclusion as I have—that professional boxing should be banned. Every professional boxer suffers some degree of brain damage—every one. Some of the damage is minimal; some is readily evident; some does not manifest itself for years, all the while keeping its dreadful consequences hidden form the knowledge of the boxer. We all know the familiar stereotype of the has-been Palooka, the shambling wrecks of fighters who took one, or a thousand, too many punches.

If boxing provides such wonderful opportunities, as I am told, then they aren't young men from all walks of life recruited for the sport? Why are education opportunities, mainstream employment, and long-term beneficial opportunities saved for some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that at the expense of a real future—a future of health, of learning, of meaningful work—young men devote their early years to training to become fighters at the expense of their education and time to learn a trade of profession.

Young men are exploited by the boxing profession—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but all risk their health. We all know that for every Leonard or Ali there are 1,000 Kims, 10,000 punched-out wrecks. We look in fear at young boxers, wondering how soon it will be until the effects of their boxing careers render their quick minds and sparkling eyes as muddled and dull as Mohammed Ali's. How long can we continue to encourage young men to become boxers, when we know beyond a doubt that the medical experts are right—that the probability is that these young men whom we admire so much in the ring will some day become as inarticulate and incoherent as the great Ali? For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develop his mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be no illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short, and the damage to his health, particularly with the use of safety equipment and stringent safety regulations, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financially satisfying employment. It is our responsibility. Each young man has the right to his health, and we owe each young man an education and future—a road out of poverty that does not dead end in boxing, but a mainstream of education and training that leads to a healthy and secure future.

TRIBUTE TO MEMBERS OF NAVY PATROL BOMBING SQUADRON NINETEEN

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to honor the members of Navy Patrol Bombing Squadron Nineteen of World War II. This group will be holding their fourth reunion this fall and it is important that we as a nation never forget the service and sacrifice our veterans have made.

Squadron Nineteen served in the Pacific Theater during World War II. They patroled the waters from the Marshall Islands to the final assault on Saipan and Iwo Jima. Their contribution to our Nation's fight for freedom cannot be understated. Over the years the members of this squadron have gone their separate ways, however, their service and sacrifice together forged a bond that time and distance cannot break. They confronted danger and endured terrible hardships, and together they rose to a challenge. Many of their members gave their lives so that others might live in freedom. The sacrifices these veterans made in defending their country were great and they deserve our continued recognition and thanks.

The United States has remained free and has stood as a symbol of freedom and democracy throughout the world and this is due in no small part to the contribution of Americans such as the members of Patrol Squadron Nineteen. Recent events around the world have shown that people want to be free and that the fight for freedom is never ending.

Mr. Speaker, please join me in honoring all the members of this squadron for their accomplishments in defense of liberty in the Pacific Theater and their unending service to their country.

CONGRATULATIONS FOR CAPT. DANIEL C. RAINEY'S EFFORTS ON BEHALF OF PHILADELPHIA'S WASHINGTON SQUARE MEMORIAL PARK

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute the excellent work by Daniel C. Rainey and his crew on the U.S.S. *Kitty Hawk* on behalf of Washington Square Memorial Park in Philadelphia.

The U.S.S. *Kitty Hawk* has been in the Philadelphia Naval Shipyard since 1988 while undergoing her service life extension program [SLEP] modernization. In addition to leading this extraordinary complex modernization, Captain Rainey and his crew have devoted their off-duty time and attention to maintaining and improving the state of affairs at Philadelphia's Washington Square.

It started when the executive officer of the *Kitty Hawk* and his family toured Independence Hall and witnessed the adjacent historic, but neglected, Washington Square Memorial Park. Since that time, the officers and crew of the *Kitty Hawk* have contributed countless off-duty hours on behalf of the square.

They have instituted a daily flag-raising ceremony. They have an Annual Constitution Day ceremony at which foreign members become naturalized citizens. In addition, they have volunteered their time and energies to assisting in park clean-up and maintenance, as well as using the base for community-based park activities, such as house tours, park fairs, and social functions.

Captain Rainey and his officers and crew on the *Kitty Hawk* are held in the highest regard by the families and businesses of Washington Square.

Captain Rainey, congratulations on your contributions to Washington Square. Your tireless efforts are greatly appreciated by all of Philadelphia. We salute you.

TRIBUTE TO DAVID JAMES

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. TANNER. Mr. Speaker, I rise today to recognize my good friend David James, the president and chief executive officer of the E.W. James and Sons supermarket chain, for his recent selection as Grocer of the Year by the Tennessee Grocers Association.

It is always a special honor to be chosen by your peers for such a distinction. In David James' case, it was long overdue. Throughout his career, he has been committed to providing the people who shop in his 16-store chain good service and excellent quality at the lowest prices possible. But his interests go beyond just the dollars and cents of business.

He has organized programs to help his employees attain personal and professional

achievement. He has established a program that allows company associates to purchase an equity position in the company. He has devoted time to his community by serving two terms on the city council and is an active member of the Obion County Chamber of Commerce.

David James is a sterling example of a businessman who brings a positive attitude to the challenges he faces and who gladly accepts the responsibilities we all have to our communities, co-workers, and others with whom we associate.

I congratulate David for this honor. I include a recent newspaper article from the Union City Daily Messenger be printed in the record so that all of our colleagues may learn about David James achievement.

[From the Union Daily Messenger, June 20, 1990]

UC GROCER'S DOMAIN BRANCHING OUT ACROSS STATE

(By Kevin Bowen)

He is an avid sportsman, a devoted family man and is active in his community, but most notably David James is a successful businessman.

The 47-year-old chairman, president and now sole owner of the E.W. James & Sons Inc. supermarket chain in West Tennessee wears many hats.

Strolling through his Nailling Drive store, the anchor store of his 16-store chain, he welcomes customers with a warm smile and a friendly handshake. He expects the same from his 530 associates, who respect him as much as a friend as their employer.

Many customers recall his father, the late E.W. James, who started the chain of stores more than 50 years ago. He died Nov. 16, 1989.

"Dad worked really hard. He worked lots of hours. He worked on weekends," James said. "I can remember coming home for dinner at night and always being interrupted with phone calls and things like that. I remember being upset that he couldn't sit down and enjoy being with us."

The second generation grocer has learned many lessons in business and in life from his father and has applied them to his own management style.

It must be working. The supermarket chain is experiencing tremendous growth and its owner was only recently elected Grocer of the Year by the Tennessee Grocers Association.

Being honored by your peers is quite an accomplishment, according to James, but more important is that his associates know the award is as much theirs as it is his.

An impressive plaque noting this accomplishment hangs on the wall of his cluttered office on the second floor of the Nailling Drive store, along with other plaques and various photographs of his family. Behind his desk is a wall-to-ceiling bookshelf that is laden with business charts, marketing manuals and various trinkets representative of his diverse lifestyle.

James' day starts every morning with a three-mile sunrise jog through Graham Park, after which he clocks in about 7:30 a.m. for a workday that regularly stretches into evening.

It was in 1934 that E.W. James bought his first grocery store in Hickman. He bought that store from his brother-in-law and shortly thereafter bought a second store in Hickman, called the Cash-N-Carry.

Success came quickly and soon he was adding other stores around West Tennessee to make up the supermarket chain.

It was in the mid-'50s that the elder James opened a store in Union City. A new 20,400-square-foot store was built in Union City in 1967 and later expanded to 30,400-square-feet.

In the past three years, each of the stores in the chain has been completely remodeled. Colorful neon lights dress up the stores along with other changes that make shopping easier, according to James.

In the near future, a new store will be built in Dresden, and the Ripley store will trade places with the Fred's store there.

The grocery business was handed down from E.W. James to three of his four children, David, Billy Joe and Ms. Nancy Halterman. David has since bought out his brother and sister and is now the chief operating officer, president and principal owner of the company.

A second sister, Mrs. Wanda Naylor, lives in Hickman, Ky.

Since taking over the business about a year ago, James has made some major changes in the company, including the introduction of program which gives his associates part ownership in the company. Over a 20-year period, the associates will own 30 percent of the company.

A graduate of Fulton County High School, James attended Murray State University and graduated in 1966 with a degree in business administration with emphasis on accounting. After graduation and in the height of the Vietnam War, he was drafted into the Army and went through basic training at Fort Campbell, Ky.

He attended officer candidate school and advanced individual training school before being trained as a forward observer in artillery. James never saw active duty overseas but still values his military duty.

During that duty, following officer training school, he married Miss Tommye Faye Kilpatrick on Aug. 5, 1967. They have two children, Lee Ann, 19, a senior at the University of Tennessee at Knoxville and who is employed at Disneyworld in Florida this summer, and David II, 17, a student at Union City High School.

James serves on the board of directors with his wife, who serves as secretary, director of marketing Larry Mink and meat supervisor Wayne Cagle.

James is a firm believer in building and maintaining a positive attitude and setting goals. He works at instilling those qualities in his associates, and the employee ownership program is just one way he gives them an incentive to excel in the workplace.

"I've always wondered where I got my positive attitude. I've always tried to have a good, positive attitude and of course I kind of preach it a little bit to people around us with the tapes we have available and my attitude positive and a handshake and I try to show some enthusiasm about everything I do," he said. "And I've always wondered, well, where do I get that enthusiasm . . . In all the years growing up I can never remember Dad having a negative attitude about anything. I never heard him say, 'I can't do this' or 'I can't do that.' I don't believe I ever heard him say the word, 'can't.' "

James said his father practiced, not preached, a positive attitude.

James takes one day out of his week to tour each of the stores in the chain, visiting with his managers, associates and customers.

"We just go out and see that our stores are in good shape and are up to the standards that we like to maintain," James said. "We just go out and do an inspection and have a lot of fun visiting with our customers and our associates."

James takes great pride in a program he has set up that requires associates and managers to listen to motivational tapes every six months and attend educational classes. He is interested in his associates' personal growth as much as their job performance.

Associates and managers go through an evaluation every six months.

James is also acutely concerned about maintaining a drug-free workplace and screens all job applicants before they're hired.

"When we do these evaluations, we set goals for each job," James said, comparing job performance with bowling, where a bowler works toward a goal and is instantly gratified when he achieves that goal.

James has given back to his community some of what it has given him, having served on the Union City Council for two terms and a current member of the Obion County Chamber of Commerce.

He was instrumental in attracting developers Steve Horrell and John Horrell to Union City, who then developed County Marketplace.

While on the city council, James was involved in the construction, and the later sale, of the city's spec building to VF-Factory Outlet as well as several other projects that helped the city grow and prosper.

BASEBALL BELONGS IN BUFFALO

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. LAFALCE. Mr. Speaker, in approximately 14 months the National League expansion committee will be deciding the location of two new baseball franchises. There is, understandably, much speculation as to which two cities will be selected. A number of possible candidates have been mentioned, including Washington, DC, Tampa-St. Petersburg, and Denver. Those are all good second picks. But I have no doubt which city should be chosen as a first pick. Buffalo, where the baseball movie, "The Natural," was filmed, is the natural choice for the expansion of major league baseball.

I recently wrote the following column, which appeared in the Lockport Union-Sun Journal, to spell out all the reasons why Buffalo should be the first and natural choice for an expansion of major league baseball.

[From the Lockport (NY), Union-Sun Journal, July 9, 1990]

BASEBALL IN BUFFALO—IT'S A NATURAL CHOICE

(By Rep. John LaFalce)

Sorry Washington. Sorry Tampa. Sorry Denver. Baseball belongs in Buffalo. Period. No "ifs." No "ands." No "buts." If, as recently announced, the National League is to add two new teams by 1993, the Natural choice is Buffalo.

As one who has represented Western New York in Washington for 15 years, I know full well that some Washingtonians would like to see major league baseball return to

the nation's capital. Sorry. The simple truth is that the Baltimore-Washington area is not big enough to support two teams. History has demonstrated that.

And no one can blame the old Washington Senators. Washington is about as supportive of baseball as the President is of broccoli.

Washington is simply not a baseball town. A football town, definitely. But baseball, no.

Come the summertime, people in Washington would much rather enjoy indoor air conditioning (and who can blame them) and watch reruns of the Iran-Contra hearings. Besides, Washington has enough red ink to its name, it doesn't need another failing baseball franchise.

That brings us to Tampa-St. Petersburg and some similar problems. In an effort to improve their chances of landing a major league franchise, and coping with their summer weather, officials in St. Petersburg recently opened a domed stadium with artificial grass. Now, in my humble estimation, there's something Unnatural about that.

Baseball was always intended to be played out-of-doors and on the kind of grass that grows under your feet. In April, when the umpire yells, "Play Ball!" the smell of spring should be in the air. In a domed stadium you might as well be in Antarctica.

The original domed stadiums were engineering wonders and items of curiosity, but for the average baseball fan, the sense of wonder is long gone and the only thing that's curious about a domed stadium anymore is why people continue to build them. They may be good for beating the heat, as in Tampa, but they don't do much for the game of baseball.

Denver, to its credit, does not have a domed stadium to offer up to a major league franchise. That's good, but Denver does not have a major league park at all! It would have to build one. And that, we're told, would require a public referendum and higher taxes. Given the minuscule interest Denver has shown in its minor league baseball team, approval would be highly conjectural.

Denver is simply not a baseball town. Last year, Denver's minor league team drew only 336,000 fans. There may be more mountains populating Denver than baseball fans.

And that leads me back to Buffalo, the site of the great baseball film, "The Natural." Buffalo is the Natural!" Buffalo is ready now and we're proving it where it counts—on the field. Buffalo's new Pilot Field is major league in every way. Indeed, it may be the best baseball park ever built; it is destined to become as famous as Fenway Park or Ebbets Field.

The Buffalo Bisons, although a minor league team, are already drawing major league crowds. Last year, the Bisons drew an attendance of over 1.1 million. That's three times more than Denver's minor league team and more than such major league teams as the Chicago White Sox and the Atlanta Braves. Small wonder, for Buffalo fan loyalty is legendary, and we also draw from Rochester and the more than seven million tourists who visit Niagara Falls every spring and summer.

And aside from the joys of baseball, visiting Pilot Field is a joy in itself. People flock there to savor its gourment ice cream, barbecued pork, Polish kielbasa, beef on weck, pizza and chicken wings, and well as the traditional hot dogs, popcorn, peanuts and Cracker Jacks. We're also entertained by groups like the Beach Boys, Willie Nelson, Chicago and Gloria Esteban—all for the price of a baseball game.

Washington, Tampa and Denver, eat your hearts out, stand aside and wait your turn. The first and Natural choice is and must be Buffalo. We've earned it.

"THE DYNAMIC DUO," HARRY AND MAXINE ORR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives a recent article in the A.C. Sparkler, the newspaper of U.A.W. Local 651 at the A.C.-Rochester plant in Flint, MI. This article, written by Evelyn Comerford, beautifully and clearly demonstrates that the real strength of America is rooted in the goodness of her people. She writes so eloquently of Harry and Maxine Orr, two of my constituents who have given so much of themselves in support of the March of Dimes that their fellow U.A.W. members have termed them the "Dynamic Duo."

[From the A.C. Sparkler]

1990 WALKAMERICA MARCH OF DIMES UAW AWARDS

(By Evelyn Comerford)

While Local 651 didn't come out as the top award winners, we can still be proud of our contribution to this most worthwhile project, after all, we did turn in $1,376.88 and we also are the Home Base for that "Dynamic Duo", Harry and Maxine Orr!

It's regretable that they couldn't be there to receive the recognition given to them that evening, June 1, at the Regional offices. Maxine's sister had been taken to McLaren Hospital in critical condition due to a near massive heart attack. So, while it was a beautiful surprise tribute planned for Maxine, it also conveyed the heartfelt prayers and well wishes for her and her sister. Rose very very graciously accepted the beautiful plaque that was to be presented to Maxine in appreciation for her generous and outstanding service to the March of Dimes program and the certificate that went with it along with one naming them "the Dynamic Duo". Our hats are off to you two wonderful people—you are a credit to our local and we are so proud of you! You accept every challenge placed before you by any humane cause and every job you do—you do well! Congratulations, folks!

The local also received a plaque and certificate for participation and raising over $1,000.00 which also was accepted by Rose; (what would we do without her?)

There were other awards given to other locals similar to ours, but there was one given that really made quite an impression on me. A very tall trophy with a silver plated walking shoe mounted on top; all down the front are little nameplates, with room for many more, bearing the names of the locals that have had it thus far. This trophy is given to the local that gives the most money per capita—to explain: our local gave $1,376.88. as I previously stated—we have 7,959 members. The local that won "custody" of that trophy was Local 1811 with 513 members giving $562.75—$1.10 per member! Our local's donation figures to 17¢ a member! Come on! We can do better than that! You would love that trophy.

It is the donation of Stan Marshall and Ruben Burks—that's what it's called—what an honor it would be to win it! And what a good feeling we would receive in knowing where the money we raised was spent! If you don't know—find out—what a learning experience you would receive!

It was my first encounter with these dedicated people—believe me, it won't be my last—as long as I'm able! They are, beyond doubt, one of the friendliest groups I have been privileged to be with—I felt very welcome and very much at ease! Not only that—Temple Dining Room catered the meal—need I say more?

How about joining the March of Dimes Walkathon?

Talk to Maxine and Harry about it!

POLAND AND A UNITED GERMANY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SOLARZ. Mr. Speaker, last month, I had the honor of moderating a panel discussion at Georgetown University on "Poland and a United Germany." The discussion was sponsored by the Polish Institute of Arts and Sciences, and among the featured speakers was Jan Nowak, National Director of the Polish American Congress. Mr. Nowak, who during World War II traveled between Warsaw and London as an emissary of the Polish Underground Movement, is one of the keenest observers of developments affecting contemporary Poland and has over the years provided Members of Congress with essential information and advice on events in that country. During the panel discussion at Georgetown, Mr. Nowak's presentation provided an invaluable perspective on the legitimate concerns of the Polish people regarding the Polish-German border question. I have enclosed a copy of Mr. Nowak's address, which I recommend my colleagues examine carefully.

POLAND AND A UNITED GERMANY

(By Jan Nowak)

On April 23 the Polish Minister of Foreign Affairs, Krzysztof Skubiszewski, made the following statement before the Polish Parliament:

"Polish-German reconciliation is vitally important to both our nations and to Europe. It is important above all for moral reasons. The grave crimes and sufferings of World War II belong to the past, particularly from the perspective of young people. They should be remembered only as a warning but not as a source of enmity or even hatred. We now need peace of mind and peace of hearts . . . Today on the threshold of German reunification we want to close the chapter of the past, once and forever."

Skubiszewski said that there is only one roadblock on the way to new relations between Germany and Poland, a psychological barrier of fear that one day-five, ten or 20 years from now—a reunited Germany may use its might to take away one-third of Polish lands which once belonged to Germany. Fear of Germany can be removed only by a treaty which would make present borders permanent, inviolable and final.

When I visited Poland last summer after 45 years of absence, I was astonished by the changed attitude toward the Germans. The turning point came 25 years ago when the Polish Bishops sent a letter of reconciliation to their German brothers, ending with the words: "We forgive and ask forgiveness." The dialogue between the Polish and German Catholics and Protestants paved the way to recognition without any reservations of the Polish borders by Bonn in the treaty of 1970. The treaty helped greatly to allay traditional enmity. Soviet and Communist propaganda has been feeding hate and fear of the Germans so obtrusively and incessantly that it lost its credibility. Then anti-Communist and anti-Soviet feelings became so strong that little room was left for hostile sentiments against anybody else, including the Germans.

Most of the people I met believed that Poland should follow the example of France in seeking friendship and cooperation with their neighbor. Mitterand and Kohl put a final seal on the French-German reconciliation by meeting at the battlefield of Verdun. Poles decided to do something similar.

West Germany's highly respected President Weiszaecker was invited to Poland to join in commemoration of the 50th anniversary of the outbreak of World War II in Gdansk, where the first shots were fired. I was there and I saw what a shock it was when the visit was suddenly cancelled by Bonn. The Poles did not even receive the courtesy of an official explanation—just a statement by Theo Weigel, leader of the Bavarian CSU and Minister of Finance, that such a visit from the German president at this place and on this day would be an act of penitance. What was meant as a symbolic act of reconciliation turned into a German refusal to admit guilt for the invasion of Poland and all that followed.

Only a few weeks earlier, Theo Weigel told expellees from former German territories that Germany still exists within the pre-war borders and that territorial questions remain open in a "legal, political and historical sense."

The border question, which seemed to be closed, was indeed reopened by Chancellor Kohl's statement that treaties with both German states recognizing inviolability of the present Oder-Neisse frontier will not be binding on a reunited Germany. "Only the Parliament of a reunited Germany," said Kohl, "will have a right to decide the border question." This would mean that the frontier would have to be negotiated, established and recognized again after reunification, with the whole process starting from scratch.

The legalistic postion taken by the German Chancellor does not, however, have any legal basis whatsoever. According to international law, the future German state will be a successor to all international commitments of both German states except the ones that are in conflict with each other. The treaty with Bonn does not contain any clause stating that the treaty would expire at the time of reunification. Chancellor Kohl has not challenged other international settlements and treaties concluded between the Federal Republic and Belgium, Holland and France, nor did Kohl ever mention a treaty with the Soviet Union. The fact that only the validity of a settlement between the Federal Republic and Poland was challenged makes it a political and not a legal issue.

It is true that at the time when the treaty with Poland was ratified in 1972, the Bundestag passed the resolution that the treaty was concluded only in the name of the Federal German Republic and not the whole of Germany. But it was a unilateral act, which was never negotiated with Poland and never officially communicated to the Polish Government. The Bundestag resolution was therefore deprived of any international legal standing.

Chancellor Kohl further complicated the problem by introducing three new conditions which have nothing to do with the territorial issue: 1) Poland should formally apologize for harm inflicted by Poles on Germans in the last few months of the war and immediately after the war; 2) Poland should renounce any claims for war indemnities both from the state and from private citizens; and 3) Poland should guarantee the rights of German minorities in Poland.

There was no need to raise any of these issues. Postwar resettlement of Germans was decided by the Allied powers in Potsdam and was carried out under supervision of the Allied Council. Polish Bishops asked German forgiveness at their own initiative. Minister Skubiszewski expressed regret for human suffering resulting from the transfer of the German population. Any request, however, that such an apology should be included in a treaty, would be insulting to victims of the greatest crimes committed in the history of mankind. The problem of indemnities was settled to German satisfaction last November. German minority rights denied by the Communist Polish regime were fully restored to Germans still remaining in Poland by Mazowiecki's government. No complaints have been raised since.

Poland will never accept any international commitments which would infringe upon its sovereignty. It must be remembered that alleged discriminations against Sudeten Germans in Czechoslovakia and German minorities in Poland served Hitler as an excuse for aggression.

I do not want to appear as anti-Kohl. I have the highest regard for the German Chancellor as a statesman who is trying to serve his country's best interests. But I am not the only one who deplores his many gestures and pronouncements which unnecessarily reopen old wounds and bring back old memories. Here are a few examples.

1) Kohl made his visit to Poland subject to several conditions. One of them was that he would address German minorities in Silesia in the city of St. Ann Mountain. This was the battlefield of a bloody struggle between Germans and Poles over Silesia in 1921. The Poles were defeated. Hitler built a monument there with Nazi emblems to commemorate re-incorporation of Upper Silesia into the German Reich in 1939. The monument was destroyed after the war. The symbolism of a German Chancellor addressing his compatriots from this very place was much worse than Bittburg. And yet the Chancellor rejected Polish objections until he was told that if he insisted, the visit would be cancelled.

2) When the Chancellor spoke to Germans in Silesia in a non-controversial location, he was confronted with a banner and a slogan that read: "Helmut, you are our Chancellor, too." Kohl did not disassociate himself from this welcome, but Peter Schneider of the New York Times Magazine found later that the banner was brought from Munich to Poland by a group of expellees ("Is Anyone German There?", Peter Schneider, New York Times Magazine, April 15, 1990).

3) An alarm was sounded by Kohl's statement that the future Germany will be a fatherland to all Germans. Senator Claiborne Pell, Chairman of the Senate Foreign Relations Committee, rightly pointed out that Nazis used this same motto to justify Anschluss and to turn German citizens of neighboring states into Germany's fifth column.

4) Last August the German Press Agency—DPA—reported that the Parliamentary Secretary of State in the Ministry of German Affairs, Ottfried Henning from Kohl's CDU, proposed to the Soviet Minister of Foreign Trade the formation of a German duty-free zone in former East Prussia which now belongs to the Soviet Union. Germany offered to invest heavily in the area provided that the Soviets transfer there Germans settled two centuries ago on the Volga River. The idea of resettlement was not accepted by the Soviets. It was perceived in the Soviet Union and in Poland as the intended first step towards restoration of East Prussia.

5) The greatest concern was raised by Chancellor Kohl's private statement in Strasbourg, quoted by Margaret Thatcher in her interview with "Der Spiegel"; "I heard Helmut saying, 'I will not guarantee, I will not accept the present border."

This, I understand, was said privately as an expression of Kohl's personal feelings. It has been argued that when he speaks in public he is guided solely by his election considerations, since he cannot afford to lose the votes of nationalist elements that are raising the banner of territorial revisionism. The very fact, however, that the leader of the major party and the head of the government is willing to adopt this program as a price for election victory must be considered as dangerous for the future.

You may say that this is all past history since the Federal Government has issued a statement which will be passed as a resolution by both German parliaments and which recognizes that the Polish people have a right to live within secure borders and that the Germans will not put this right in doubt now or in the future through territorial claims.

But have Kohl and his supporters reversed themselves? This very question was put to the Chancellor by Horst Egon Rehnert, leader of the League of German Expellees. According to the New York Times of March 1, Rehnert emerged reassured from the meeting with Kohl and told the press that "the Chancellor did not move." "The resolution," Rehnert said, "will be a political Band-Aid to humor the Poles and those who insist that something has to be declared—no matter what." "In principle," he continued, "all this will be a repetition of the Bundestag resolution of last November."

The Polish government welcomes the proposed resolution but maintains the position that present treaties with both German states—which are binding in international law—cannot be replaced with unilateral resolutions or statements, which may be changed at will be any future government or parliament.

Poles do not reject Kohl's desire that the border treaty should be ratified by the parliament of a reunited Germany, provided only that this new treaty should simply consolidate two existing treaties into one instrument of international law and that technical negotiations to this effect should lead to the draft treaty being initiated before the reunification of Germany. They reject the idea that the frontiers should be considered an open issue and that negotiations should start from zero.

Let me add that the formula—"Poland has a right to live in secure borders"—is meaningless as long as Germany declines to say that they have the present borders in mind. And the pledge that Germans will not raise in the future any territorial claims remains ambiguous as long as the German courts and German political bodies claim that Germany exists within its pre-war borders. Do the Germans renounce territorial claims beyond the present borders or beyond the pre-war frontier of 1939? This question has to be answered.

The draft of a new treaty was sent by Warsaw to Bon towards the end of April. Negotiations are in progress. We hope and pray that they will be concluded by July, when Poland will participate in the Four-Plus-Two meeting. The reopening of international debate over territorial issues is not in anybody's interest.

A treaty between Poland and a reunited Germany will be an important step for psychological reasons. It will remove ambiguity and close any openings for extreme German nationalists on both sides of the Elbe River who would like to push Germany back to its old path. But the treaty will not solve everything. Many solemn treaties were violated in my lifetime. The settlement between governments should pave the way to friendship between people. It will take a long time. Negative stereotypes formed over centuries are not easily erased.

People of goodwill on both sides of Oder-Neisse River will have to join hands in a common effort to promote better mutual understanding, knowledge of each other, human contacts and an exchange of people.

I spent almost a quarter of a century in the lovely German city of Munich. I discovered that we have there not only implacable enemies but also dedicated friends who want a better future no less than we do. Germany is a great nation. Germany was made great not only by the extraordinary skill of its people, but above all by its magnificient spiritual heritage.

The United States made possible the postwar recovery of West Germany and Western Europe. The prestige and influence of America in the eastern part of the continent was never greater because the U.S. helped to regain freedom and democracy without asking anything in return. A reunited Germany has an historical chance to play the same role with Poland and all of East Central Europe. Germany, which would no longer be an enemy but a friend, not a threat but a source of hope, not the great state which wants to dominate, but to cooperate, would become a center of gravity of tremendous, attractive power—not only to Poland, but to other countries. Germany seeking territorial expansion would become a threat to the balance of power and to the integration of Europe. Germany, respecting the territoral integrity and independence of its neighbors, would become a pillar of Europe, and reunited in peace and liberty.

Poland is now at the crossroads between east and west. For Poland, the only road to a reunited Europe leads through a reunited and friendly Germany.

CONSTITUTIONAL AMENDMENT TO ABOLISH THE DEATH PENALTY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GONZALEZ. Mr. Speaker, violent crimes have unfortunately become a constant in our society. Every day people are robbed, raped, and murdered. We are surrounded by crime and yet feel helpless in our attempt to deter, to control, and to punish.

The sight of any brutal homicide excites a passion within us that demands retributive justice. We feel a righteous anger that stirs the depths of our being—we feel outraged at the heinous crime committed against the civilized society that we so strongly seek to maintain. Indeed, many of these brutal homicides, such as the rape and mutilation of a child, take us beyond the realms of reason. We have difficulty comprehending that which cannot be understood. How could anyone; why would anyone seek to destroy and desecrate not only the fabric of our society but also the fundamental respect accorded to the life of another? How could anyone despoil the dignity of life?

These questions unfortunately have no answers. We could search for eternity, seeking to explain the unexplainable, and we woud fail. Mr. Speaker, we who dedicate our lives to creating a better safer Nation will never comprehend the rationale of violent crime. But this incomprehension of the motivational force behind such an action does not relegate us to inaction. We can and must act. The atrocity of the crime must not cloud our judgment, and we must not let our righteous anger undermine the wisdom of our rationality. We can not allow ourselves to punish an incomprehensible action with a retaliation that is equally irrational. Violent crimes, indeed any crime, must be punished. But why must this punishment be capital?

I am here today to reintroduce a resolution proposing a constitutional amendment to prohibit capital punishment within the United States. I believe that the death penalty is an act of vengeance veiled as an instrument of justice. And revenge is not an acceptable motive for society to pursue. Not only do I believe that there are independently sufficient moral objections to the principle of capital punishment to warrant its abolition, but I also know that the death penalty is meted out to the poor, to a disproportionate number of minorities, and does not either deter crime or advance justice.

I agree, as we all do, with the United Nations Universal Declaration of Human Rights which states that "No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment." The death penalty is torture. The psychological trauma of awaiting death, then having it incessantly postponed has caused mental illness in many death row criminals. Numerous examples exist emphasizing the cruelty of the execution. Witness Jimmy Lee Gray, who was executed in 1983 in the Mississippi gas chamber. During his execution he was reported to have repeatedly struck his head on a pole behind him in addition to experiencing convulsions for 8 minutes. The modernizaton to lethal injection serves only as an attempt to conceal the reality of cruel punishment. Witness the execution by lethal injection of James Autry in 1984. He took 10 minutes to die, and during much of that period he was conscious and complaining of pain.

Despite the obvious mental and physical trauma resulting from the imposition and execution of the death penalty, proponents insist that it fulfills some social need. This simply is not true. Studies fail to establish that the death penalty either has a unique value as a deterrent or is a more effective deterrent than life imprisonment. Of course, from a logical standpoint it would seem rationally sound to assume that the greater the penalty for a crime, the greater will be the consideration of the ramifications by persons of their actions. The problem is we are not always dealing with rational actions. Those who commit violent crimes do not always rationalize the consequences because many of these serious crimes are committed in moments of passion, rage, and fear, at times where irrationality reigns supreme.

Rather than act as a deterrent, some studies suggest that the death penalty may even have a brutalizing effect on the society. For example, Florida and Georgia, two of the States with the most executions since 1979, had an incease in homicides following the resumption of capital punishment. In 1984 in Georgia, the year after executions resumed, the homicide rate increased by 20 percent in a year when the national rate decreased by 5 percent.

Yes, execution undoubtedly prevents the criminal from repeating the crime, but this also fails to provide sufficient justification for the death penalty. The success enjoyed by abolitionist nations in protecting society by incarcerating dangerous criminals suggests that we can do likewise. My personal experience with a wrongful near execution shows that prosecutors and courts are capable of enough misconduct or error to lead to an unjust execution. The death penalty because of its finality can not be remedied or undone.

The empty echo of the death penalty asks for simple retribution. Proponents advocate that some crimes simply deserve death. This argument is ludicrous. If a murderer deserves death, I ask you why then do we not burn the arsonist or rape the rapist? Our justice system does not provide for such punishments because society comprehends that it must be founded on principles different from those it condemns. How can we condemn killing while condoning execution?

In practice, capital punishment has become a kind of grotesque lottery. It is more likely to be carried out in some States than others—in recent years more than half of the Nation's executions have occurred in two States—Texas and Florida. It is far more likely to be imposed against blacks than whites—the U.S. Supreme Court has assumed the validity of evidence that in Georgia those who murder whites were 11 times more likely to receive the death sentence than those who kill blacks, and that blacks who kill whites were almost 3

times as likely to be executed as whites who kill whites. It is most likely to be imposed upon the poor and uneducated—60 percent of death row inmates never finished high school. And even among those who have been sentenced to die, executions appear randomly imposed—in the decade since executions resumed in this country, well under 5 percent of the more than 2,500 death row inmates have in fact been put to death.

The imposition of the death sentence in such an uneven way is a powerful argument against it. The punishment is so random, so disproportionately applied in a few States, that it represents occasional retribution, not swift or sure justice. My fellow Members of Congress, I implore you to correct this national disgrace. Nearly all other Western democracies have abolished the death penalty without any ill effects; let us not be left behind. As we begin a new decade, let us release ourselves from the limitations of a barbaric tradition that serves only to undermine the very human rights which we seek to uphold.

TRIBUTE TO LAWRENCE J. SHINER

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to honor a constituent of the Fourth Congressional District, Mr. Lawrence J. Shiner, for his heroism.

Mr. Shiner recently was rewarded the Carnegie Medal by the Carnegie Hero Fund Commission.

On October 24, 1989 Mr. Shiner rescued Sherry L. Wilda from burning. Mrs. Wilda was the driver of a minibus that overturned onto its driver's side in a highway accident. Witnessing the accident, Mr. Shiner immediately ran to the bus. He climbed atop the bus and struggled to open its passenger door as the rear of the bus, where its fuel tank was located, caught fire. Propping the door open with his shoulder, he reached down for Mrs. Wilda, whom he then seized and pulled away from the bus as flames grew. After pushing Mrs. Wilda to the highway he jumped from the bus and carried her to safety. Within seconds the bus was engulfed in flames. Mrs. Wilda required hospital treatment for first- and second-degree burns. She recovered from her wounds, but owes her life to Mr. Shiner.

In this day and age it is rare to find individuals willing to reach out and help others. Lawrence Shiner is an outstanding example of courage and consideration. His actions deserve our recognition and thanks.

It is my pleasure to honor this outstanding individual for his courage and act of heroism and ask that you join me in extending our congratulations to him.

CONGRATULATIONS TO EDWARD J. LOWRY FOR HIS WORK WITH VETERANS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to congratulate Edward J. Lowry for receiving the Veterans of Foreign Wars [VFW] Distinguished Service Award. Presented annually by the Department of Pennsylvania VFW, this is the State organization's highest honor.

Mr. Lowry has been executive director of the Philadelphia Veterans Multi-Service Center since 1981. During his tenure, the center has placed more than 4,000 veterans in career jobs.

The center has given help to veterans in a wide range of causes, including career guidance, job development and placement, disability compensation, posttraumatic stress disorder, drug and alcohol rehabilitation, and housing and emergency assistance.

Mr. Lowry has brought the center other great honors. For example, in November, 1989, the center was awarded a grant from the Agent Orange Class Assistance Program to help the children and families of Vietnam vets who may be suffering the effects of exposure to the agent orange defoliant.

Recently, the center started the first of a series of computer applications training programs for veterans. Each 12-week course teaches basic and advanced elements of computer applications, along with career guidance and counseling, and job placement upon completion of the program.

Mr. Lowry, congratulations on your prestigious honor. I am sure that I am joined in my applause by all the thousands of veterans who have received your helping hand.

AMBASSADOR MAX KAMPELMAN'S RETURN TO CSCE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOYER. Mr. Speaker, the Vienna follow-up meeting to the Conference on Security and Cooperation in Europe [CSCE] mandated a number of subsidiary activities leading to the fourth main followup meeting, to be held in Helsinki in 1992. One set of those meetings is the Conference on the Human Dimension of the CSCE, combining discussion of human rights, human contacts and other humanitarian issues into three 4-week meetings. The first of the CDH meetings took place in Paris in 1989. The second of those three meetings was held in Copenhagen from June 5 to 29, 1990. At the end of the meeting, the United States and the other 34 States participating in the CSCE Conference on the Human Dimension in Copenhagen adopted a far-reaching political document setting forth ambitious new goals in the areas of free elections, rule of law, and minority rights. It is a document that expresses the conviction that as part of an expanding CSCE process the role of governments in ensuring the rights of individuals is to be strengthened institutionally and procedurally.

Mr. Speaker, many people contributed to the successful outcome of the Copenhagen Conference on the Human Dimension, including several Helsinki Commission staff members. But one individual deserves much of the credit, for it was his masterful leadership, clear vision, and steady direction that guided the process throughout. I speak of Ambassador Max Kampleman, who was head of the United States delegation to the Copenhagen Meeting. Ambassador Kampelman served in a similar capacity during the Madrid CSCE followup meeting. It is a fitting commentary that a leader of Ambassador Kampelman's stature was recalled by the U.S. Government to meet the challenges facing CSCE today. He did so with eloquence and with strength of conviction.

Mr. Speaker, I respectfully request that Ambassador Max Kampelman's final plenary address on June 29 at the Copenhagen meeting be included as part of the CONGRESSIONAL RECORD. It is an eloquent statement of vision and hope but also one of warning. We must never become complacent for freedom can never be taken for granted. I urge my colleagues to read these remarks.

PLENARY REMARKS BY THE HONORABLE MAX M. KAMPELMAN

Mr. Chairman, our meeting comes to an end this morning. It has a been highly successful meeting. The Conference on Security and Cooperation in Europe [CSCE] has taken an extraordinary step forward in strengthening the human dimension portion of its responsibilities. The Copenhagen Concluding Document will be regarded by our successors as a major contribution to an historic process which is moving the peoples of our countries toward a period of increased security, stability, human dignity, and peace.

In this connection, Mr. Chairman, I express the most profound appreciation of my delegation to Ambassador Turk of Austria, who with his very conscientious and able associates from Finland, Hungary and Switzerland, labored intensely and constructively to produce for us a consensus behind a splendid document.

The Helsinki Final Act has again demonstrated its enduring qualities. What we have produced here, in the one month of our work together, represents, I believe, the most significant advance in the Helsinki process since the agreement itself came into being on August 1, 1975. We have now clothed our values in a political structure and framework—that of democracy and the rules of law.

The atmosphere of freedom which permeates Danish society, its gracious capital, and its heroic people, has contributed immensely to our work here. I wish to express my appreciation, and that of my Government not only to the Executive Secretary and his capable staff, but to the people and Government of Denmark whose spirit of freedom helped us to produce an extraordinary document of freedom.

The democratic revolution we are dramatically experiencing in Europe has been a triumph of the human spirit. It is a vindication of the values that have animated this process. The forces of freedom, embodied in

courageous men and women whose common bond is the aspiration for human dignity, have been energized in a remarkable and heartening way. They have changed the course of the 20th century. We have here properly reflected that change and pointed the direction for further change.

Yet, as the Irish poet Yeats said in another context, "All is changed; but not, alas, changed utterly." Freedom can never be taken for granted. Structures of freedom and political cultures supportive of democratic pluralism are the indispensable foundations for the democratic future of Europe. Strengthening those structures, and promoting political cultures which cherish pluralism as a precious human and national asset, are now and in the future essential components of the CSCE process.

What we have done here is to link the human dimension of CSCE to the process of democracy-building. That is why we have emphasized the rule of law: for it is only under the rule of law and a constitutional regime of liberties that human dignity can be preserved and democratic consolidation take place.

That is why we have emphasized the importance of free elections, the role of independent political parties, and the importance of international observers in the electoral process. An orderly, free, open, and regular process of testing the people's will is essential if governments are to have legitimate and effective authority to pursue the common good.

That is why we have emphasized constitutional and legal protection for the rights of minorities. Only when those safeguards are in place can the politics of persuasion replace the politics of coercion, fear, and intolerance.

Mr. Chairman, we have met in Copenhagen in the first year of the last decade of the 20th century—a century which Charles Dickens, had he lived among us, might well have described as "the best of times" and "the worst of times."

Ours has been a century of immense, unprecedented, and breathtaking scientific and technological progress. When I was a boy—which was, I add, not quite so long ago!—there were no vitamin tablets, no penicillin, no antibiotics, no trans-continental telephones, no fax machines, no Xerox, no frozen foods, no plastics, no man-made fibers, no television, no microchips, and no transistors. Today, you and I live in a world in which science and technology have dramatically altered our lives.

Education, formerly a privilege of a small elite, has now through computerization made the wisdom of the past and the intellectual explorations of the present readily available to the leaders of the future. Economic interaction has built bridges of cooperative enterprise across ancient national, racial, and ethnic boundaries. More than one trillion dollars a day is transferred daily from one part of our globe to another. Communications are virtually instantaneous across the planet. Indeed, while we have been meeting here in Copenhagen, more than two billion people around the world have been participating together, through television, in the same event—the World Cup. No state can, any longer, maintain a monopoly on information or keep its people from access to news. A whisper or a whimper in one remote corner of this planet can be heard in all parts of the world.

Yet, these great advances in the human condition have been paralleled in this century by what often seem to be intractable political conflicts. Hundreds of millions of lives have been lost: tens of millions in war, and an even greater number through political violence and repression.

It is as if the world of politics remained in the dark ages while our scientific, technological and communications worlds moved ahead to the tomorrows of modern civilization.

A secure peace, within and among nations, can only be built on the foundation of the institutions of freedom which protect and develop the inherent dignity and inviolable worth of every human being. It is peace with liberty that we seek. And it is that peace which the Helsinki process has striven to attain.

The Helsinki process has entered a new phase. Democracy-building, we know, is a never-ending task. All of us are constantly testing, as our former president Abraham Lincoln said in his famous Gettysburg Address, whether nations "conceived in liberty and dedicated to the proposition that all men are created equal" can "long endure." As we in the United States reflect on our own efforts to strengthen and deepen our democracy, and as we think about the remarkable process of democratic consolidation that we see in the new democracies of central and eastern Europe, we know that there is important work still left before us.

Our fourth President, James Madison, one of the most learned framers of the American Constitution, taught that freedom was not secured simply by the "parchment barriers" of constitutional and legal texts. These had to be given life by democratic institutions and by the virtues and habits of a people. Tolerance of others; respect for the rule of law; the willingness to compromise and to renounce violence as a means to redress grievances; the capacity to cherish and celebrate the cultural, ethnic, and religious heritage of others as precious stones in the human mosaic—these "virtues" are essential components of a political culture which can sustain and develop the institutions of democratic governance.

Civic virtue is nourished, in considerable part, by the free association of citizens in voluntary organizations: religious institutions; trade unions; business associations; political parties; non-governmental human rights organizations; agencies that care, as a matter of conscience, for the weak, poor, the illiterate, the sick, the elderly, and the dying. The great religious traditions of Europe are an essential part of that democratic process. When people believe it to be the will of God that they not murder or maim or violate each other over what constitutes the will of God, a tremendous step toward building a culture of true freedom has been taken. A society with a robust sector of private, voluntary organizations is a society in which tensile strength of democratic culture is less likely to go slack in times of difficulty. Our concluding document reflects this reality.

Mr. Chairman, we are living in a time when no society can isolate itself or its people from ideas and information; or from the changes which the scientific revolution has brought into all our lives; or from the ebbs and flows of commerce; or from the effects of modern technology. Canada cannot protect itself from acid rain without the collaboration of the United States. The Mediterranean is polluted by at least 18 different countries. Science, technology, and commerce are increasingly turning national boundaries into patterns of lace through which can flow ideas, money, people, crime, terrorism, ballistic missiles—none of which recognize national boundaries. National boundaries can be used to keep out vaccines, but they cannot keep out germs, or broadcasts, or ideas.

This suggests, among many other things, the need to reappraise traditional understandings of sovereignty. That process is already well-underway. Nations are, by agreement, curtailing their sovereign power over many domestic and security affairs for the sake of a larger good. Under the Universal Declaration of Human Rights and the Helsinki Final Act, States have freely agreed to treat their own citizens in a humane and responsible manner. States have recognized the right of other States to evaluate that internal behavior. On-site inspectors have been given the right to inspect military facilities and observe maneuvers as confidence-building measures and as a means to verify arms control and arms reduction agreements. In this conference, we have extended that principle and agreed to the confidence-building measure of observing elections.

No country can be secure in isolation. We cannot achieve unilateral security by withdrawing from the world, or seeking national impregnability. Peace, freedom, and security require that we learn to accept, in each of our countries, a mutual responsibility for the security and dignity of peoples in other countries. We cannot escape from one another. We are bound together in an equation that makes the security of each of us dependent on the security of the others.

Mr. Chairman, we have come to understand, perhaps even more clearly than was understood by our predecessors at Helsinki in 1975, that the security dimension of CSCE and the human dimension of CSCE are mutually reinforcing. They are, in fact, two aspects of our common quest for peace-with-freedom-and-security.

This past year, we suffered a profound loss in the death of one of the true heroes of our century, Dr. Andrei Sakharov of the Soviet Union. In the 1975 Nobel Peace Prize speech which he was not permitted to deliver in person, Andrei Sakharov said this: "I am convinced that international trust, mutual understanding, disarmament, and international security are inconceivable without an open society with freedom of information, freedom of conscience, the right to publish, and the right to travel and choose the country in which one wishes to live."

We have, since 1975, made great strides toward realizing the kind of Europe that Andrei Sakharov envisioned. Copenhagen has added a major dimension to that forward movement, perhaps the most fundamental since 1975. There is more work to do, greater effort to make. We look ahead to our Moscow meeting in September 1991 as a waystation toward fulfilling our future responsibilities.

Change is never easy; it can be frightening. But the political, economic, and scientific changes we are witnessing today hold out the prospect of a world catching up with the demand for decency, fairness, tolerance, and freedom that now energizes tens of millions of human beings around the world. Historic forces for democratic change are at work, and we can be proud that our Copenhagen deliberations have played an important role in their evolution.

When we are growing up, Mr. Chairman, we are taught not to be afraid of the dark. In this moment of history, so pregnant with hope and the promise of a free and decent

tomorrow, I respectfully suggest that we must not be afraid of the light—and of where the light can take us.

JOFI JOSEPH WINS CITIZEN BEE COMPETITION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. VANDER JAGT. Mr. Speaker, I rise today to offer my wholehearted congratulations to one of my outstanding young constituents, Jofi Joseph of Muskegon, MI. Jofi, a graduate of Muskegon Catholic High School, is the winner of the fifth National Citizen Bee competition conducted by the Close Up Foundation. Members may already know the Citizen Bee challenges high school students on their knowledge of American history, government, geography, economics, and current events. What you may not know is that this educational competition was originally developed by Dr. Robert J. Clarke and the Citizen Bee Association of Grand Rapids, MI.

It was no easy feat for Jofi to become the National Citizen Bee winner. Approximately 50,000 students from 40 States, Guam, American Samoa, and Department of Defense Dependent Schools participated in school, regional, and State competitions throughout the year. Ninety-nine other students joined Jofi in Washington for the national finals answering questions that would baffle most Members of Congress. Mr. Speaker, I want to offer congratulations to each of these finalists for the countless hours of study and preparation which this rigorous competition demands, and I ask that a list of all the finalists be entered in the RECORD at the end of my statement.

At a time when our Nation's attention has been directed to the lack of civic knowledge among young people, it was refreshing to meet with this young man and learn more about one organization's work to reverse this trend. The Citizen Bee is yet another successful program of the Close Up Foundation. It is unique in that it combines the talents and determination of the student participants with the encouragement and dedication of their teachers, parents, and community sponsors that spent long hours preparing for the competitions.

Mr. Speaker, I would like to also express my gratitude to all of the local, State, and national sponsors who helped to provide this learning opportunity for our young people. Specifically I would like to thank the national sponsors—the Milken Family Foundation, the Burger King Corp., Kraft General Foods, and KPMG Peat Marwick; and the Michigan sponsors—the Michigan Department of Education, Michigan State Board of Education, Consumers Power Co., the Detroit News, Gerald R. Ford Museum, Guardian Industries Corp., and Meijer, Inc.

Again, please join me in expressing enthusiastic congratulations to Jofi Joseph of Muskegon. He and his family should be very proud of his outstanding accomplishment. I know my colleagues in the House will join me in wishing him and the other Citizen Bee finalists continued success in their studies and throughout their lives.

The following is a list of the Citizen Bee State winners and an article that appeared in the Muskegon Chronicle regarding this competition and Jofi's outstanding accomplishment.

CITIZEN BEE STATE WINNERS

Alabama: Tracy Lynn, Albertville; Stephen Thompson, Prattville; David F. Cook, Florence.

Alaska: Thomas Wilson, Soldotna; Kurt Niebuhr, North Pole.

Arizona: Frank Pasquale III, Phoenix; Edward Kim, Glendale.

Arkansas: Debasish Bhattacharyya, Pine Bluff; Ajay Patel, Fort Smith; Shane Smith, Beebe.

California: Everett Wai Kitt Chun, San Gabriel; Ivo Labar, San Pedro; Aarti Verma, Walnut.

Colorado: Sean Stallings, Colorado Springs; Craig Holton, Delta.

Delaware: R. Vaughan Williams, Wilmington; Vipul Tandon, Hockessin.

Department of Defense Dependents Schools: Krysta Davis, West Germany.

District of Columbia: Kadeshia Matthews, Washington.

Florida: Steve Heckler, Ft. Myers; Anthony Gancarski, Jacksonville; Christopher Hand, Jacksonville.

Guam: Shane Mize, Agat.

Hawaii: Simon Wong, Honolulu; Michael Immings, Aiea.

Iowa: Molly Holz, Ames; Benn Kuecker, Eagle Grove; Chad Morgan, Harlan.

Kansas: Matthew Strong, Towanda; Kenneth Hofer, St. Paul.

Kentucky: Randall Fine, Lexington; Michiele Langley, Lebanon.

Maine: Michelle Guillemette, Sanford; Heather Searles, Gray.

Maryland: John Davidson, Bethesda; Narayanan Kannappan, Greenbelt.

Massachusetts: Johnny Su, Northboro; Madeline Silverman, Revere.

Michigan: Jofi Joseph, Muskegon; Jason Carr, Hastings; Justin Bauer, Utica.

Minnesota: Jacinta Goering, Montevideo; Mark Schmitz, Southland; Tim Rummel, Fridley.

Mississippi: Amie Chapman, Horn Lake; Russell Nord, Jackson.

Missouri: David Grebe, St. Charles; Eve-Lynn Nelson, Springfield.

Nebraska: Lance E. Schupbach, Crete; Beth Kirschbaum, Omaha.

Nevada: Matthew Jones, Reno; Jonathan Conley, Sparks.

New Hampshire: Travis Blais, Manchester; Christopher Arnold, Nashua.

New Mexico: Anna Richardson, Clovis; Matthew R. Chrisman, Lake Arthur.

New York: John Van DeWeert, Dryden; Samuel Thompson, Albany; Jeffrey Haring, Champlain.

North Carolina: Jamie Smarr, Gastonia; Robert Brady, Jr., Burlington; Robert Waters, Brevard.

North Dakota: Carlton Larson, Dickinson; David Isaak, Bismarck.

Ohio: Ken Robinson, The Plains; Timothy Wyse, Genoa; Julie Cutlip, Jeromesville; Paul Rinkes, Martins Ferry; Matthew Eayre, Wyoming; Benjamin Wright, Lima.

Oklahoma: James Marshall, III, Enid; Theodore Waller, Preston; Jennifer Carr, Fort Gibson; Nathan Hobbs, Norman.

Oregon: Katherine Stock, Sweet Home; Syra Johnson, Portland.

Pennsylvania: Faisal Chaudhry, Stroudsburg; Christopher Kramer, Schuylkill Haven.

Rhode Island: William T. Johnson III, Warwick; Alan Presel, Cranston.

South Dakota: Dan Stanton, Rapid City; Beth English, Sioux Falls.

Tennessee: Gayle Livingston, Ooltewah; Michael Everton, Memphis.

Texas: Gautam Dutta, Irving; Steve Bartels, Houston; Barry Boyett, Houston; Won B. Lee, Pflugerville.

Utah: Matt Goff, Clinton; Amanda McPeck, Ogden.

Vermont: Mike Beller, Charlotte; Maxwell X. Schnurer, Bennington.

Virginia: Derek Baxter, Fairfax; Timothy Jarrett, Newport News.

Washington: Mel Wheaton, Spokane; Eric Daume, Brush Prairie.

Wisconsin: Dan Henning, Oshkosh; Kori Krueger, Antigo.

Wyoming: Erik Babel, Saratoga; Dixie Dick, Wheatland.

[From The Muskegon (MI) Chronicle, June 19, 1990]

MUSKEGON YOUTH WINS NATIONAL CITIZEN BEE

(By Mike Magner)

WASHINGTON.—The third time in the national Citizen Bee was a charm for Jofi Joseph of Muskegon.

Joseph, 17, who graduated from Muskegon Catholic Central High School this spring, capped a three-year career in the Close Up Foundation's social studies competition Monday by winning the national title and a $7,000 scholarship.

He compiled 143 out of a possible 150 points by correctly answering written and oral questions about American history, government, geography, economics, current events and culture. The second-place finisher, Derek Baxter of Fairfax, VA., finished with 136 points.

"It's a great feeling of relief," Joseph said after the two-day event in the Smithsonian Museum of Natural History. "I won't have to do this anymore."

Joseph won local, regional and state contests to get to Washington for the third time. He finished third in the national competition after his freshman year in 1987, he was ineligible to compete as a sophomore, and he finished fifth last year.

Errors on only two questions kept Joseph from a perfect score in Monday's competition against 15 finalists who had survived Sundays written exam when he listed one of the president's military powers as being able to commission officers. The judges decided his answer was incorrect, and Joseph's appeal was denied.

Then Joseph lost six points in the oral contest by incorrectly answering this question: "If you travel in a straight line from Cheyenne, Wyoming, to Chicago, Illinois, what two states and what river at the Illinois border do you cross?

Joseph said Colorado, Iowa and the Mississippi River. The correct answer was Nebraska, Iowa and the Mississippi River.

"Obviously, geography is not my favorite subject," he told the audience as he accepted his first-place award. He said he will use his scholarship next year at Georgetown University in international relations studies.

Joseph said his previous losses were useful this time around: "The experience is so important because you know what type of questions they'll ask."

He said he was especially strengthened by his experience last year, when he was 11

points ahead going into the oral competition, then blew the first question, worth 14 points.

"I would never have lived with myself if I had lost it in the last round," he said.

The final question to Joseph, which was good for 12 points, was to define letters of marque and reprisal and say what branch of government the Constitution empowered to grant them.

The Constitution empowered Congress to grant such letters, authorizing private ships to attack enemy vessels in wartime.

"I'm really proud of him," said Joseph's father, John Joseph, who rehabilitates houses in Muskegon. "There's always a luck factor involved, but he worked very hard."

"He's really a self-made scholar," said Pat O'Toole, assistant principal of Muskegon Catholic. Joseph asked that the school join the Citizen Bee when he registered as a freshman, O'Toole recalled.

"It really was his own initiative and his own goal," she said. "He certainly has raised the level of awareness of social studies at the school, both in teachers and students."

Joseph became the first Michigan winner of the Citizen Bee since it went national in 1985. The first bee was held in Kent County in 1981 under the sponsorship of the Grand Rapids Press. The concept was originated by Robert Clarke, a political science professor at Grand Valley State University.

INTRODUCTION OF THE INDIAN FINANCE CORPORATION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RICHARDSON. Mr. Speaker, today I am proud to introduce legislation creating the Indian Finance Corporation. The 100th Congress passed similar legislation and sent it to the White House where, unfortunately, it was rocket vetoed. I remain committed, however, to establishing this institution, one which will allow American Indian communities to break a cycle of poverty and economic stagnation.

American Indians currently suffer one of the Nation's highest unemployment rates. The unemployment rate of the largest reservation, the Navajo, is 37 percent—seven times higher than the national average. Other reservations across the country have unemployment rates exceeding 50 percent. The millions of dollars spent by the Federal Government over the past 20 years have not broken this cycle of unemployment and poverty.

Progress in overcoming the conditions of extreme poverty and its attendant social problems on reservations can only be met if we create institutions that will foster sustained economic growth over the longterm. Such institutions must enable Indian peoples to do for themselves rather than have the Government do for them. In this very important sense, the Indian Finance Corporation will foster the self-sufficiency and independence which tribes so desire.

The Indian Finance Corporation will spur economic development by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and will stimulate the development of the private sector of tribal economies. I believe it will usher in a new era of growth for Indian enterprises and economies.

Mr. Speaker, I look forward to working with all interested parties to see that the Indian Finance Corporation becomes a reality. I truly believe this is critical legislation not only for those of us who represent Indian country, but for all Members who would like to see the American Indian community share in our Nation's prosperity.

RATIONAL APPROACH TO AIDS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues a recent column by Peter Kent which appeared in the Atlanta Journal. His cogent explanation of a rational approach to AIDS is worthy of every Member's consideration.

[From the Atlanta Journal July 2, 1990]

WE DIE, THEY DO NOTHING—NOTHING IS MORE UNTRUE

(By Peter Kent)

"Shame, shame. We die, they do nothing."

Protesting the federal government's response to the AIDS epidemic, the angry chants of militant AIDS activists drowned out U.S. Health and Human Services Secretary Louis Sullivan's speech to the sixth International Conference on AIDS convened in San Francisco two weeks ago.

"Shame, shame. We die, they do nothing."

Had AIDS activists listend to Dr. Sullivan, they would have heard that the Bush administration opposes Sen. Jesse Helm's legislation to prohibit AIDS-infected people from handling food.

"Shame, shame. We die, they do nothing."

Federal funding for AIDS research and treatment this year will exceed $1.5 billion. Washington now spends more on AIDS than any other disease. Relative to its public health impact, AIDS is funded disproportionately well. In 10 years AIDS has killed 83,000 people in the United States. Heart disease kills 83,000 Americans every six weeks; cancer claims that many every nine weeks.

"Shame, shame. We die, they do nothing."

Current congressional measures call for spending between $2.9 billion and $4 billion more during the next five years for AIDS. Most of the money will be allocated for expanding Medicaid to people infected with AIDS who now do not qualify for benefits. The increases will cost an additional $600 million annually. Medicaid payments for AIDS are projected to reach $670 million this year alone.

"Shame, shame, We die, they do nothing."

While neither a cure nor a vaccine has been discovered for AIDS, scientists have not only come to understand the disease but also have developed a drug for its treatment within a remarkably short research time span. At the insistence of AIDS activists, the Federal Drug Administration waived its lengthy drug-testing process and initiated a fast-track testing procedure, speeding up the availability of any new AIDS drugs.

"Shame, shame. We die, they do nothing."

AIDS, for the most part is preventable. Infection typically requires persistent involvement in risky personal behaviors—engaging in unsafe sexual activities and sharing drug syringes. For a behavior-induced disease, society has shown considerable compassion, providing funding for AIDS exclusively and resisting misguided attempts at AIDS discrimination. America's response to AIDS is not unblemished, but it hardly merits the hostility, resentment—and, yes, ingratitude—expressed by AIDS activists.

"Shame, shame. We die, they do nothing."

Nothing is more untrue.

THE 134TH ANNIVERSARY OF THE BIRTH OF NIKOLA TESLA

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RINALDO. Mr. Speaker, this week the Serbian American community celebrates the 134th anniversary of the birth of Nikola Tesla, a distinguished scientist and inventor.

Nikola Tesla, son of a Serbian Orthodox clergyman, was born on July 10, 1856, at Smiljan in the Lika region of what is now Yugoslavia. He emigrated to the United States at the age of 28 and 5 years later became an American citizen. He died in New York City on January 7, 1943.

Tesla's inventions radically altered the world in which we live. He invented the alternating-current motor that made universal transmission and distribution practicable. He invented modern radio technology, the bladeless turbine, and fluorescent lighting. Tesla introduced us to the fundamentals of robotry, computers, and missile science and helped pave the way for such space-age technologies as satellites, microwaves, and lasar beam weapons and nuclear fusion.

Tesla had a spectacular career in research and invention. By the turn of the century his accomplishments had made the name of Tesla as world famous as that of Edison.

Tesla's outstanding contributions to our way of life deserve special recognition as well as our gratitude, and on the anniversary of his birth, it is appropriate that Congress honor this great American.

ARMY CORPS REPORT TO CONGRESS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PORTER. Mr. Speaker, section 47(b) of the Water Resources Development Act of 1988 required the U.S. Army Corps of Engineers to report to Congress on a proposed landfill project in Illinois.

I consider construction of the proposed project to be one of my highest priorities in Congress, and I submit for your consideration the executive summary of the Army Corps report to Congress.

The information follows:

REPORT TO CONGRESS ON THE IMPACT OF A PROPOSED MUNICIPAL LANDFILL (BALEFILL) ON THE NEWARK VALLEY AQUIFER

REPORT PURPOSE

This report was prepared in accordance with the requirements of Section 47(b) of the Water Resources Development Act of 1988 (WRDA), which states that: 1) the Secretary of the Army must provide a report to Congress on the impact of a sanitary landfill proposed to be built in Bartlett, Illinois on the Newark Valley Aquifer; 2) the Secretary of the Army shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer; and 3) the Secretary of the Army shall consider the impact of such landfill on the ability of water from the Newark Valley Aquifer to dilute naturally occurring radium in ground water to meet the USEPA mandated standard for drinking water supply.

SYNOPSIS AND CONCLUSIONS

As required by the 1988 WRDA (See Annex B—Congressional Requirements), the U.S. Army Corps of Engineers has:

1. Considered "the imapct of such landfill on the Newark Valley Aquifer."

It has been concluded that as long as the landfill is constructed, operated, and maintained as designed, and the additional recommendations of this report are implemented, then there is virtually no risk to the Newark Valley Aquifer from the landfill (Balefill) project.

2. Consulted with the United States Environmental Protection Agency (USEPA) "with respect to the impact of such landfill on the Newark Valley Aquifer."

Attachment 8 to this report summarizes the formal consultation meetings between the Corps and USEPA. Attachment 9 to this report contains copies of the correspondence indicating the consultation ended in general agreement about the conclusions and recommendations of this report.

3. Considered "the impact of such landfill * * * on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater."

The Corps, concluded that as long as the landfill is constructed, operated, and maintained as designed, and the additional recommendations of this report are implemented, the ability of water from the Newark Valley Aquifer to dilute radium enriched groundwater for purposes of drinking water supply will not be impacted by this project.

GENERAL OVERVIEW

The sanitary landfill (known locally as the Balefill) is designed to be a multi-lined, inward gradient facility with full leachate and active gas collection systems. The Balefill would consist of six waste disposal cells which would provide solid waste disposal space for approximately 800,000 residents of northwest Cook County, Illinois for 15 to 20 years. The Balefill would be located approximately 3,000 feet east of the Newark Valley Aquifer, a major source of drinking water for the region. (See ANNEX A—Project Overview).

FINDINGS AND RECOMMENDATIONS

The Chicago District, U.S. Army Corps of Engineers conducted a technical review of information provided by the project's design engineers, the U.S. Environmental Protection Agency, and other sources. Based on this review, the Chicago District has made the following conclusions and recommendations. (Expanded discussions can be found in ANNEX C—Technical Review and ANNEX D—Conclusions and Recommendations).

1. Findings.

a. The permeability of the recompacted till liner can meet or exceed the requirements of the Illinois Environmental Protection Agency (IEPA).

b. The liner system design meets or exceeds IEPA standards.

c. The applicant's plan to locate weaknesses in the in situ till by conducting one boring per acre exceeds IEPA standards.

d. The applicant has satisfactorily addressed all of the potential failure problems with the leachate collection system, except ensuring long term performance.

e. The applicant's leachate monitoring plan is in compliance with the IEPA development permit.

f. Water from the Newark Valley Aquifer can be used to dilute radium enriched groundwater for the purposes of drinking water supply.

g. There is virtually no risk to the Newark Valley Aquifer from the landfill (Balefill) project, as long as the landfill is constructed, operated, and maintained as designed.

2. Recommendations.

a. The Balefill must be properly maintained over an extended period of time (at least forty years after closure) to ensure the continued safety of the site.

b. Because of the great dependence on engineered systems to prevent groundwater contamination, and independent Quality Assurance Program should be implemented in conjunction with the applicant's Quality Control Plan during the project construction phase.

c. The Chicago District recommends that one of the following measures of protection be added to the proposed liner system:

(1). The applicant should excavate and recompact the in situ till to a depth of ten feet below the project site; or

(2). The applicant should increase the number of exploratory borings and conduct mini-pump tests (to verify the permeability of the in situ till). If sand seams are discovered in the till, the applicant must excavate and recompact the till to a depth of ten feet; or

(3). The applicant should supplement the proposed borings with mini-pump tests and a series of closely spaced inspection trenches. These inspection trenches and any identified sand layers would be filled with recompacted clay; or

(4). The applicant could supplement alternative two or three with geophysical testing or other methods such as cone penetration. The applicant would conduct borings at locations identified by the testing methods as potential sand seams and if any sand seams are discovered, the applicant must excavate and recompact the till to a depth of ten feet.

d. Although the possibility of the simultaneous failure of all engineered systems is not a realistic occurrence, the Chicago District recommends that failure scenarios and action plans to remediate these possible scenarios be developed so that they are ready for implementation if necessary.

JESS J. FRANCO, JR. P.E.,

LTC, Corps of Engineers,
District Engineer

A CONGRESSIONAL SALUTE TO RALPH G. CHADWICK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to Ralph Chadwick on the completion of his term as president of the Wilmington, CA Chamber of Commerce. During his tenure, Ralph displayed an exemplary record of civic leadership. He served the Wilmington Chamber of Commerce as a member of the board of directors from 1982 until assuming the presidency, and earned the universal admiration of his fellow members for his distinctive leadership.

Ralph and his wife Gloria have owned and operated Chadwick Enterprises since 1980. Prior to opening up the present family business, Ralph served 33 years in education. He first served as an elementary and junior high school teacher, then as a teacher and department chairman of mathematics at Lynwood High School, and finally as professor of technical mathematics and associate dean of technology at Cerritos College.

In his younger years, Ralph spent his weekends serving his country at sea. A retired commander of the U.S. Naval Reserve with 33 years of service, he was also an instructor at the Naval College Prep School. He also served a stint as the commanding officer of the Reserve Surface Division at Terminal Island.

Never tiring of assuming extra community duties, Ralph still somehow finds the time after work and the chamber to be staff commodore of both the Southern California Cruiser Association and the Pacific Coast Yachting Association. He also pursues his marine interests as flotilla commander of the U.S. Coast Guard Auxiliary.

Ralph has given us all a true example of a life of service. My wife, Lee, joins me in extending this congressional salute to him in honor of his years of contribution to the community.

"HELSINKI HUMAN RIGHTS DAY" LEGISLATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOYER. Mr. Speaker, today I, as cochairman of the Helsinki Commission, along with my 8 House colleagues on the Commission, and more than 30 Members of this body are introducing legislation which would designate August 1, 1990, as "Helsinki Human Rights Day." This legislation is identical to legislation which unanimously passed the Senate on June 29, 1990.

Since the signing of the Helsinki Final Act in 1975, much has been accomplished to secure and protect the human rights of citizens in the 35 signatory countries. Although there have been periods of tension and intransigence

during the last 15 years, great progress has been made in acknowledging the value of the individual and in preserving the rights thereof.

Indeed, Mr. Speaker, events in just the past few months highlight both the advances in this area and the failures that have yet to be avoided. The allowed emigration of tens of thousands of individuals from the Soviet Union stands as an example of major headway in restoring the rights of the individual. On the other hand, the violent suppression of anti-Government protesters in Romania and the continued detention of Romanian Students League leader Marian Munteanu and over 100 others stands as a reminder of the Government's blatant and regrettable disregard of the rights of Romanian citizens.

These events depict the present mix of significant, valuable progress and yet continuing failures to guarantee human rights within the 35 signatory states. In order to acknowledge the accomplishments, but also to press on toward greater improvement in this area, I urge my colleagues to join me in cosponsoring and supporting this legislation that designates August 1, 1990 and "Helsinki Human Rights Day."

THE RESPONSIBILITIES OF BEING A CITIZEN OF THE UNITED STATES

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PICKLE. Mr. Speaker, we return to Washington today having spent the past 10 days in our districts, and among out activities I'm sure we all celebrated the 214th anniversary of the Declaration of Independence on July 4.

For most Americans, the Fourth of July is one of the most meaningful celebrations of what it means to be a citizen of the United States. But some Americans, those born in foreign countries who become citizens by their own choice through naturalization, also make their own personal declaration of independence. I'm sure most of my colleagues have spoken to newly naturalized citizens and have been deeply moved on such occasions, as I have.

I recently received a copy of remarks delivered at one such naturalization ceremony. The speaker on this occasion was Jordan W. Cowman, the senior law clerk to U.S. District Judge Joe J. Fisher of the Eastern District of Texas in Beaumont. Mr. Cowman is from Austin in my district and is a graduate of the University of Texas and the University of Texas School of Law.

Mr. Speaker, I commend Mr. Cowman's comments to my colleagues. I think they will agree that these remarks illuminate the responsibilities which come to each of us along with the rights of freedom and liberty.

REMARKS OF JORDAN W. COWMAN

My fellow Countrymen:

It is my great pleasure to address you on this important day in your life. You have just become citizens of the greatest nation in the world—The United States of America. This is an accomplishment that has no equal. It is the fulfillment of a dream. You have made the choice to come to America, and we welcome you with open arms.

Now that you are citizens of this nation, you have a status that is respected and coveted throughout the world. As Americans, we enjoy political freedom and rights that are unprecedented in human history. In 1776, our Founding Fathers, in the Declaration of Independence, made clear that our Nation is based on the premise that all people are created equal, and have unalienable rights to life, liberty, and the pursuit of happiness. Toward this end, our Founding Fathers set out to form a government dedicated to these propositions. Listen to the words of the Preamble to the Constitution:

"We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Our Constitution, the Law of the Land, guarantees that we are equal before the law. The first ten Amendments to our Constitution are known as the Bill of Rights. The Bill of Rights defines and guarantees a wide range of our precious rights and freedoms. For example, we have the freedom of religion, a free press, and the right to free speech. Our property cannot be taken from us without due process of law. We are protected from unreasonable searches and seizures. But the right that is the most cherished, the one above all others, is the right to pass judgment on our leaders. We must exercise this right with courage and wisdom. If our leaders do not carry out the will of the people, our will, we will vote them out of office. This is our right and our duty as Americans.

As you can see, citizenship brings with it tremendous benefits. But with those tremendous benefits come tremendous responsibilities. You have just taken an oath of allegiance to this country. But this is only the beginning.

From the inception of this Nation, Americans have had a profound sense of duty, honor, and country. We value our freedom above all else. Patrick Henry, a great American Patriot, said in his Call to Arms: "I know not what course others may take; but as for me, give me liberty or give me death." This is the spirit that lives within every American, and we each are charged with upholding the principles for which our Nation stands.

* * * * *

The greatest threat to our country is not that of foreign nations, but rather complacency in our citizens. Those of us who were fortunate enough to be born here often taken citizenship for granted. That is the reason you are in a unique situation. You each have a story, a great story, of what it took to get to America and why you chose to come here. You have that pioneer spirit which has always been the force behind America's success. Every American has that spirit within them. It needs only to be rekindled and set ablaze. I charge you now to go forward and continue the ideals of freedom, equality, liberty, and justice. For without a healthy respect and jealousy of these unique rights that are bestowed upon us as our birthright, or by choice, we will be the slaves to our government rather than the masters of our government.

Democracy works. Freedom works. America works. Our country continues working because of strong people like yourselves who have gone through much personal sacrifice to be here today. You are the lifeblood of America. You remind us that we derive our strength from the diversity of our population. We are a melting pot, a nation of immigrants. You are the newest citizens. You are the bold, adventurous ones who followed your dreams and turned those dreams into reality. Study American History, and become good, law-abiding citizens.

As new citizens, you are entitled to share in the blessing of liberty and freedom that is sacred to us all. This is a significant occassion for all Americans. It is time for us to devote ourselves to the achievement of the aspirations of the Patriots who founded this great Nation. American citizenship is a precious privilege indeed. Exercise your rights and privileges and enjoy the benefits of American life. But do not forget that these rights and privileges have corresponding duties and obligations. You must love this Country. You must vote. You must serve on juries when called upon to do so. You must be willing to defend this Country and die for this Country.

EDWARD ORTIZ

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RICHARDSON. Mr. Speaker, New Mexico suffered a tragic loss this week with the death of Edward Ortiz, superintendent of the Santa Fe Public Schools for the past 7 years. Mr. Ortiz died Tuesday of complications during surgery at 53.

Mr. Ortiz was a native of Santa Fe and attended local schools. He began his education career as a junior high English teacher in 1959 and served as principal of that school for 5 years. He was administrative assistant to a former superintendent of schools in Santa Fe and in 1971 became assistant superintendent for personnel.

But Edward Ortiz was far more important to Santa Fe's education community than even his impressive résumé would suggest. He served as a bridge between many different cultural and other special interest groups and provided leadership in ushering in educational reforms.

Said Santa Fe school board member Michael Gross, "He was the heart and soul of Santa Fe education."

Mr. Speaker, these are perilous times for education in our country and educators with vision are too few. I ask my colleagues to join me in saluting one who accomplished much in the field he loved.

SOUND BUDGET ADVICE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GINGRICH. Mr. Speaker, I would like to call my colleagues' attention to a column which appeared in the Atlanta Journal. Bob Akerman has very sound advice for the Presi-

dent and the Congress to consider during the budget process. His position on controlling spending and enforcing the budget is exactly right.

[From the Atlanta Journal, July 9, 1990]

GEORGE BUSH RUNS THE RISK OF BEING "HOOVERIZED"

(By Robert Akerman)

I'm one of those who doesn't believe that a tax increase is the answer to the budget deficit problem, and if it ever was, it certainly isn't now. When the experts say there has been an alarming increase in projected deficits because federal revenue isn't growing as fast as predicted, that means we are either in a recession or heading for one.

And what school of economics advocates raising taxes in the face of a recession? It certainly isn't the supply-side school, nor is it the Keynesians. In fact, the last president who sought a tax increase to balance the budget in a time of declining revenue was—well, Herbert Hoover. It didn't work for him.

But George Bush now lists "tax revenue increases" as a necessity for solving a budget crisis, and the Democratic politicans and Washington pundits have been quick to trumpet that this means he has abandoned his "no new taxes" pledge.

At first, I doubted it. Democratic politicians have reasons for wanting us to think that George Bush is breaking his promise, so when the word comes out of Washington that he is doing it, it doesn't necessarily mean that he is.

I still say that before a final judgment is made, we must see what deal, if any, emerges from the budget summit. But the president's press conference explanation of his "tax revenue increases" statement certainly didn't help to dispel the impression that he has been maneuvered away from his campaign promise.

He himself said that he is "thinking anew," and implied that it would be right for him to break a promise if conditions had changed. But he hasn't yet given us a clear explanation of what has changed and what his new thoughts may be. Thinking like Herbert Hoover did is hardly "thinking anew."

If the problem is to avoid damaging spending cuts that will be imposed by the Gramm-Rudman meat-ax, the answer is what it always has been: for the president and the Congress to agree on less damaging cuts in time to avoid the Gramm-Rudman meat-ax. And surely the emerging "peace dividend" should make that easier this year than it was the last time around.

If, in the end, we emerge with a tax increase as the primary deficit reduction measure and no reforms in the budget process to prevent another one next year, then it indeed will be time for conservatives to go into opposition. And, despite what some politicians say now, the president will find that it does matter to a lot of people that he broke his promise—not to mention that he won't be very popular anyway when the recession deepens and he realizes that he has been "Hooverized."

JERRY KAMEN, MAN OF THE YEAR

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RINALDO. Mr. Speaker, I am pleased to offer my congratulations to Jerry Kamen of Mountainside, NJ, a resident of the Seventh Congressional District. He has been honored by Springfield Lodge 2093, B'nai B'rith as "Man of the Year."

Jerry Kamen's leadership and generous support of the lodge and its membership have earned him the respect and affection of his friends and the community he has served so well and unselfishly. He has been an active member of the executive board of Lodge 2093, and has been involved in membership drives, fundraising, and programming.

The Springfield Lodge is one of the most active in New Jersey, and has promoted many worthwhile causes that have helped to build the reputation of B'nai B'rith as an organization striving for racial and ethnic justice and harmony. Jerry Kamen has been at the forefront of this effort at his lodge.

He also has been active in the community. He is a past president of the Mountainside Lions Club and has been a booster of local community arts. He is active in the Cranford Dramatic Club, the Westfield Community Players, and has appeared in various musical and dramatic productions. In short, he has used his talents in a variety of ways to enrich and benefit others.

I join with the members of Springfield Lodge of B'nai B'rith in paying tribute to an outstanding citizen of Mountainside, Jerry Kamen.

AIDS PROTESTERS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PORTER. Mr. Speaker, recently protesters shouted down Secretary of Health and Human Services Dr. Louis Sullivan during his speech to the AIDS Conference in San Francisco.

With thousands of people dying each year from AIDS, and many more suffering from this horrible disease, I can understand the protesters' frustration. In the past, these disruptive activities helped to focus Federal attention on AIDS and move forward our research and treatment efforts.

But, Mr. Speaker, these disruptive activities are no longer productive. They only obscure the truly important issues.

Recent Federal initiatives to combat AIDS are unprecedented in our Nation's history. We have responded more dramatically and forthrightly to AIDS than to any other public health problem.

Since 1984, Federal spending for AIDS has increased from $61 million to several billion dollars. In fiscal year 1991, six Departments of Government will spend $3.5 billion on AIDS. The Public Health Service alone will spend $1.7 billion—as much as it spends for cancer.

Mr. Speaker, AIDS activists should work responsibly with the Federal Government, rather than shouting down the very officials who are most dedicated to helping them.

A CONGRESSIONAL SALUTE TO JAN HALL UPON HER MANY YEARS OF SERVICE TO THE LONG BEACH COMMUNITY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding community leader and public servant who has spent the last 12 years serving the Long Beach community. Councilwoman Jan Hall will be honored on Thursday, July 12, in honor of her many community contributions. This occasion gives me the opportunity to express my sincere appreciation and gratitude for all her efforts.

Since first being elected Long Beach's third city council district representative in 1978, Jan Hall has been instrumental in bringing critical funding and newly developed programs to her area and constituency. Her early accomplishments during her first term as city council member led to her reelection both in 1982 and 1986. As one of nine council members, she was responsible for drafting and directing a $1 billion annual budget, as well as formulating the policies and duties of 5,800 employees. During her tenure on the city council, she served in many capacities. Among them included chairwoman of the city council personnel and civil service committee, elected chairwoman, city housing authority, chairwoman, transportation and infrastructure committee, and chairwoman, city council tidelands and public utilities committee. It is quite evident from her involvement that she held her job with the city council in the highest regard.

While her city council achievements are indeed long and distinguished, they are by no means all-inclusive. She has been involved with a seemingly endless list of community and civic organizations. Among some of the organizations she has been involved with are the Junior League of Long Beach, the National Association of Business Owners, Goodwill Industries, Comprehensive Child Development, Clean City Committee, Citizens Transportation Committee, and the Long Beach Housing Task Force. She has also contributed substantially to the success of the Southern California Rapid Transit District [SCRTD]. During the last decade, she has served this organization in numerous leadership roles, peaking with her presidency of the board of directors for SCRTD from 1986 to 1988.

The sheer magnitude of her involvement in the community is a testimonial to her enduring commitment to the Long Beach community and its citizenry. Not surprising, she was inducted into the Long Beach College Hall of Fame, and is an Honorary Life Member of the PTA. In addition, she was named Executive of the Year in the field of travel and transportation by the Executive magazine, and named

Most Powerful Woman In Long Beach by the Long Beach Press Telegram.

As one who has shared in the pleasure of working with Jan Hall over the years, I can attest to her significant contributions to Long Beach. Our fine city of Long Beach has many programs and services today that are the result of Jan Hall's efforts. On this occasion, and in her honor, my wife Lee joins me in extending our heartfelt thanks and congratulations. We wish Jan all the best in the years to come.

COMMITMENT, CONTRIBUTION, AND COMMUNITY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mrs. MORELLA. Mr. Speaker, we have recently celebrated Asian-Pacific American Heritage Month. Each year, we pass congressional resolutions authorizing the celebration and recognition of many cultures which comprise the mosaic of our country. Indeed, we have a rich, proud heritage in our country, melding into one great Nation.

One aspect of our country which makes it so unique is that we retain our diversity—our ethnic heritage—and we celebrate this diversity with people of other ancestries.

Mr. Speaker, I would like to submit the following remarks which were made by Commissioner Joy Cherian, of the Equal Employment Opportunity Commission, a resident of the Eighth District of Maryland, who has encapsulated the pride, commitment, and responsibility which is felt by Asian-Pacific Americans.

[From Asian Week, May 16, 1990]

COMMITMENT, CONTRIBUTION, AND COMMUNITY

(By Dr. Joy Cherian)

Respected Attorney General Dick Thornburgh and my colleagues in government service:

It is indeed a great honor for me to be here with distinguished members of our government—I mean all of you at the U.S. Department of Justice—all of you who make the American government a living symbol of democracy in the truest meaning of that word.

A democratic form of government enriches the society through the commitment and contribution of its own people, people who exhibit commitment to the general welfare of the people through their individual and collective achievements of excellence in the workplace.

Today, by celebrating Asian-Pacific American Heritage Month, the Department of Justice is recognizing one of our greatest communities—the Asian-Pacific American community—for its members' commitment and contribution to the well-being of our great nation of immigrants.

Many people, when they hear the term "Asian-Pacific American," think of a community of newcomers to the American scene. But that impression is not accurate. If you think about it, you may recall that many of the workers who helped to build the great transcontinental railroad across America were of Chinese descent. And it is common knowledge that people of Asian-Pacific heritage in centuries past came to America as marine merchants and as indentured servants.

Historians report that people of Asian-Pacific heritage inhabited the shores of this continent as early as 1610, when records show the ship San Buenaveniura brought Japanese sailors. In 1763, immigrants of Filipino heritage founded Manila Village in Louisiana. In 1775, Chinese sailors who had landed in Baltimore stayed in America for good. And documents dated 1780 tell us that a man from Madras, India resided in Salem, Massachusetts at that time; several indentured servants or slaves from India were known to be living in Maryland and Pennsylvania around that same time. Asian-Pacific Americans were here, involved in the building of the new American republic from the very beginning of the era.

As an Asian-Pacific American I can take pride in the contribution of Asian-Pacific commerce to the discovery of America. You may recall from your history lessions from elementary school days that Christopher Columbus' objective was to establish a new sea route for trade with an Asian country, India. In his rush to defeat the Portuguese explorer Vasco da Gama, Columbus landed on the shores of this continent in 1492 and, little realizing that he had made one of history's most glorious errors, called the people here "Indians." But all of us have become beneficiaries of that innocent error of Christopher Columbus.

Four years later, in 1496, Vasca da Gama reached India. I don't need to elaborate on a history lesson you all know; I mean only to illustrate how a country in Asia inspired European navigators and ultimately played a part in the discovery of this great land of our dreams.

Some of you may or may not be so familiar with the fact that an Asian-Indian man, Mahatma Gandhi, developed a model of thought and action that was picked up by Dr. Martin Luther King, Jr., and adapted to the circumstances in the United States to become one of the greatest civil rights movements in all of history and which led to the passage of the Civil Rights Act of 1964, which is enforced in part by the Equal Employment Opportunity Commission and also in part by the Department of Justice. We know that among Mahatma Gandhi's philosophical antecendents were Americans such as Henry David Thoreau and Ralph Waldo Emerson.

It is important to realize how important Asian-Pacific influences have been in the formation of American history. But how much more important it is to consider the thousands upon thousands of Americans of Chinese, Japanese, Filipino, Indian, Korean, Vietnamese, Guamanian, Cambodian, Laotian, Pakistani, Sri Lankan, and other Asian-Pacific ancestral groups who are making American life richer and better every day. Please join me in saluting all my fellow Americans of Asian-Pacific origin for their deep commitment and precious contribution to this land of equal opportunity.

When I speak of equal opportunity, I have to be honest with you about what I believe: that mutual respect and recognition among members of the various communities—communities such as European American, African American, Hispanic American, Asian American, Native American and other similar groups—in this nation can preserve our inherited or acquired rights of equal opportunity and American justice which all of us are enjoying today. To this purpose I want to point out that our people will not receive equal opportunity and American justice through laws and regulations alone but most importantly through the labors of government officers—whether political appointees or career employees—who are fully committed to the elimination of discrimination under our legal system. This is the role that all of us in the U.S. government have undertaken. I believe that my position at the EEOC is not a mere job; it is a mission, a mission to protect and preserve the equal employment rights of the 250 million people of this land of hope and pride.

Allow me to end my remarks today with a quote from President George Bush which succinctly describes my own sentiments. On January 28, 1990, President Bush said, and I quote:

"Let us recommit ourselves to work for justice and the unity of our people."

Thank you for giving me the opportunity to speak with you.

SUPPORT THE JOHNSON-TOWNS BILL

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SCHEUER. Mr. Speaker, the United States has the highest rate of teenage pregnancy, teenage abortion, and teenage childbearing of all Western countries. These teenage parents and their babies face higher instances of infant death, low-birth weight, serious child disability, and a higher incidence of pregnancy and childbirth complications. While the pregnancy rate of unwed young mothers continues to rise, funding for Federal Government programs targeted at educating young adults and reducing incidents of teen pregnancy has dropped from $15.7 million in 1987 to $9.9 million in 1989—measured in 1990 dollars—a decrease of over 30 percent.

The United States is a world superpower with a Third World population program. This is once again an example of our country, our Government, falling short in its most basic obligation to its citizens. For the United States to lead all Western countries in teen pregnancy is ludicrous. For us to be 20th in infant mortality is even more ludicrous. It is a crime against our youth and must not be allowed to continue.

My distingusihed colleagues, NANCY JOHNSON and ED TOWNS, have recognized the inherent folly in allowing this situation to continue. They have introduced the Adolescent Pregnancy Prevention and Parenthood Act of 1990 to expand and restore pregnancy-related services to teenagers. I support the Johnson-Towns bill and urge my colleagues to join me in supporting it as well.

ENOUGH QUESTIONS TO FILL UP THE CANAL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. JACOBS. Mr. Speaker, Abraham Lincoln said, "Let the people know the facts and the

country will be saved." Our colleague, CHARLIE RANGEL, is seeming very Lincolnesque lately.

[From the New York Daily News, July 11, 1990]

ENOUGH QUESTIONS TO FILL UP THE CANAL

(By Earl Caldwell)

Go back to the American invasion of Grenada, for that's where it started. It marked the first time American troops went off to fight a war in which news reporters were denied what they always had—the right of being there.

But Grenada was just a test case. To know exactly what it means when reporters are kept out, look to Panama.

It was seven months ago that U.S. troops invaded Panama. From the start, there was no intention of letting any reporters anywhere close enough to see what was taking place. The thing that reporters know best is that nothing matches being there. When you are there, you can see, and then you know. Reporters also know that when they are kept out, it is for a specific reason.

The military, a wing of the American government, conducted the invasion of Panama. The same military also provided the news coverage through the first days of the operation. So only the military knew for sure what really took place.

The official story characterized the invasion as being a gem. It was even portrayed as being among the most successful military operations in history. But after seven months, the official story has begun to fall apart. And that hasn't happened by accident. Once the door was opened and reporters were able to get into Panama, they began to dig around and ask questions, and bit by bit another picture of what took place last December has begun to emerge.

The official story reported some 500 Panamanian deaths—civilian and military—in the invasion. Now persistent reports say that as many as 2,000 or more civilian lives were lost. The official story said that 20 pounds of cocaine were found in Gen. Manuel Noriega's bunker. It has come out that it wasn't cocaine but instead tamale flour. The official story said the Stealth bomber, a controversial piece of military hardware, performed admirably in combat. It has come out that the Stealth bomber missed targets by as much as 160 yards.

The official story was that Americans suffered 347 casualties. News reports contend that as many as 60 of those soldiers were victims of supposedly "friendly" fire. Further, those reports says that as many as nine of the 23 Americans soldiers killed were victims of American fire.

All of it raises the question: What really happened in Panama?

From the start, there had been questions. So much so that an independent commission headed by former Attorney General Ramsey Clark was organized to investigate. For a while, it was just that commission asking questions. But no more. Now, U.S. Rep. Charles Rangel (D-Harlem) has joined in asking exactly what it is the military is covering up.

"I'm running into an information void on this Panama issue," Rangel said. "The Pentagon has not responded in full to a single one of my requests for information. It is becoming clear to me that the military does not wish to deal openly with this issue." He adds, "And it is sad to say that, with a few exceptions, the press has done little or nothing to fill that void."

Rangel's criticism of the media is aimed primarily at television. Rangel has demanded military tapes of the action. For the most part, he has been refused. But he believes that television too, ought to be demanding those tapes. He says that is not happening.

Rangel has a ton of questions. He wants to know about reports of atrocities. He wants to know why the operation itself was so large. He wants to know more about what it was that compelled the invasion in the first place. He also wants to know if bombings in Panama were directed at poorer sections. In short, Rangel questions whether there was a coverup.

Rangel does not say it outright, but his questions indicate the need for a congressional inquiry. Panama reflects the new reality and the questions now are a reflection of what happens when reporters get shut out. It also explains the reason reporters fight so hard to protect what they always had, the right of being there even when those assignments were dangerous ones in war zones.

A CONGRESSIONAL SALUTE TO CHARLES STEVENSON IN HONOR OF HIS DISTINGUISHED SERVICE TO THE CITY OF WILMINGTON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and a person I hold in the highest regard, Charles Stevenson. His years of dedication and commitment to the betterment of his community have made him a giant among his peers. I consider it an honor to tell you a little about Charles Stevenson.

Following the close of World War II, Charles Stevenson and his family moved to the city of Wilmington. Although he enjoyed the surroundings of that wonderful city, his work as a chemical engineer and process startup specialist kept him traveling quite extensively, including various assignments at Cape Canaveral and the Philippines.

After retiring from his profession, Charles Stevenson became the consummate volunteer and public servant. His successes were many and his leadership always counted on. As a member of the Banning Manor Senior Citizens Club, he produced membership rosters, printed newsletters, and videotaped several meetings for distribution to local cable companies.

When it was discovered that toxic waste sites existed in Wilmington, Charles Stevenson went to work with other volunteers to urge further environmental study of the land before commercial development was approved. Mr. Stevenson is always keeping a keen eye out for any cause of disruption to the local environment.

As evidence of his competency and diligence in community affairs, he was asked to serve as treasurer for Councilwoman Joan Flores' Wilmington Community Advisory Council and as secretary of the Wilmington San Pedro Employment and Economic Incentive Area Community Advisory Council. He further served as a member of the mayor's harbor area mobility action committee which studied and implemented plans to improve the flow of traffic in the harbor area.

Perhaps Charles Stevenson is best known for his involvement with the Wilmington Chamber of Commerce. He has been a delegate to community meetings, served on the parade committee, and assisted the new public library in obtaining funds from the harbor area for a nautical section.

Charles Stevenson's greatest satisfaction however, comes from his volunteer efforts to maintain the Drum Barracks Civil War Museum. He has helped with the publication of newsletters, videotaping, display of artifacts, and other support activities. In addition to the Drum Barracks Civil War Museum, he is equally involved in the effort to save and restore the Camp Drum Powder Magazine, and he is treasurer of the Drum Barracks Trust Association.

Mr. Speaker, Charles Stevenson is a person who channels his efforts to those groups that truly reflect total community betterment as opposed to those groups which serve special interest groups. I take great pride in recognizing Mr. Stevenson for all his vast achievements and activities in the community. He has done a great deal to make living and working in southern California a little better. I salute Charles Stevenson and wish him and his family all the best for the future.

A TRIBUTE TO THE FLORIDA ALLIANCE FOR THE MENTALLY ILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to pay tribute today to the Florida Alliance for the Mentally Ill and the outstanding work they have done, and continue to do, advocating for our mentally ill loved ones.

The Florida AMI is to be commended for its recent gathering in Tallahassee of its Education and Advocacy Meeting. The members were all left energized and inspired. At the meeting, this dedicated group continued to push for equity for the mentally ill and achieving the goal of continuity of adequate care and services for them.

I would like to wish much success for the National Alliance for the Mentally Ill, of which the Florida AMI is an affiliate, in their upcoming convention, this July 19–22, in Chicago. There will also be a conference on minority outreach groups, this August, in Tuskegee that has my best of wishes.

Special praise is due for Florida AMI president Joyce H. Friedman for the excellent work she has done promoting this noble cause. I am also pleased to give recognition to the fine accomplishments of First Vice President Allen F. Hodges, Second Vice President Maxene Kleier, Treasurer Janette Griffin, and Secretary Lee E. Good.

I would like to congratulate Jo Swan for being named Florida's family education specialist and wish her success in setting up

workshops and family support groups. Joanie Halberg and Steve Watts, cochairmen of the Florida Client Council deserve commendation for their laudable efforts in improving funding for case management and obtaining direct services for the dually diagnosed and unfortunate homeless.

Mr. Speaker, the Florida AMI deserves the gratitude of us all, in their selfless dedication to the mentally ill and other disadvantaged groups. For too long, the mentally ill have been wrongfully stigmatized and discriminated against by society and government. The Florida AMI is changing that. By combating the myths about mental illness, informing the public, and never giving up in advocating for our mentally ill loved ones, they have kept the spotlight on that part of our population that should never be overlooked.

IN HONOR OF NIKOLA TESLA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ENGEL. Mr. Speaker, I rise to honor the birth 134 years ago today of a distinguished scientist and inventor, Nikola Tesla.

Mr. Tesla was born in 1856 in Serbia, which is now Yugoslavia, and emigrated to the United States at the age of 28. Mr. Tesla was a scientist ahead of his time because he believed that alternate electric current could provide light and power systems. Most scientists of his time rejected this idea.

Mr. Tesla remained firm in his convictions and worked with George Westinghouse to market this system. Today's electricity, of course, is provided through alternate current. Mr. Tesla's other inventions include transformers, induction coils, condensers, and incandescent lamps.

The work of Mr. Tesla has had a great impact on all our lives and I am proud to be honoring this great man today.

PHOENIX ACADEMY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. RANGEL. Mr. Speaker, I wish to take this opportunity to inform my fellow colleagues about the Phoenix Academy High School-Drug Rehabilitation Center. Founded by the talented and dedicated president of Phoenix House, Dr. Mitchell Rosenthal, the Phoenix Academy is an excellent example of progressive and positive advances in the treatment of narcotics abuse.

The academy combines 18 to 24 months of rehabilitation treatment with high school and, if required, special education classes. This year, Phoenix Academy will graduate 57 students, who have both completed their education and their treatment.

Dr. Rosenthal has demonstrated that there are constructive ways in which we can help our drug addicted youths. His academy combines traditional treatment with education in an attempt to address the underlying unhappiness which originally caused the individual to abuse narcotics.

Mr. Speaker, I would like to once again commend Dr. Rosenthal's efforts on behalf of treating narcotics abuse, and I have submitted into the RECORD an article from the Daily News magazine—June 24, 1990—which describes more thoroughly the Phoenix Academy.

This article briefly mentions Dr. Rosenthal's fear that the United States lacks a coordinated public policy which will permit innovative effective drug treatment programs to expand and flourish. I hope that as the Congress in the future considers drug abuse packages, we will find some manner in which to encourage pioneering drug treatment efforts such as Dr. Rosenthal's Phoenix Academy.

[From the Daily News magazine, June 24, 1990]

Yesterday was Phoenix Academy's annual Graduation Day.

Seated atop 140 arces of green, rolling hillside, this sprawling, suburban Westchester County campus has the smart, clubby look of a fancy private prep school.

But this is no boarding academy for the sons and daughters of pampered privilege. Phoenix Academy is a residential high-school and drug-treatment facility operated by the Phoenix House Foundation. And the 57 members of the school's eighth graduating class—like all the rest of the 200 residents, aged 14 to 20, undergoing a recommended period of 18 to 24 months of treatment here—are recovering drug abusers.

While many of the academy's adolescent residents are white, middle-class youngsters from suburbs throughout the metropolitan area, most are poor black or Hispanic inner-city youths. All have had considerable trouble in dealing with family, prior schools and even with the law—often repeated and serious trouble; one-third were remanded into the academy's custody to avoid incarceration. And everyone—black or white, poor or middle-class, inner city-bred or suburbs-reared—have had deep, long-lasting relationships with drugs. According to school officials, some 70% of the student body had developed a strong affinity for that particularly addictive form of crystalline cocaine called crack before joining the student body; another 13% had abused marijuana and the remainder had become dependent on a cornucopia of drugs—from pills to cocaine to heroin, a phenomenon clinicians call "polyaddiction."

"These are the sickest kids" among all the millions of America's young who have been stricken by the plague of drug addiction, says Phoenix House president Dr. Mitchell Rosenthal. His agency is the nation's No. 1 private, nonprofit drug-treatment operation, with 1,400 clients, including some 300 adolescents, enrolled in treatment programs in New York and California.

Here in New York, besides the academy program with 250 beds that account for half the total number of residential spaces allotted to addicted adolescents in the state, Phoenix House runs an outpatient high school and an after-school drug-prevention program. But, Rosenthal notes, while such programs "can be beneficial for some youngsters, they're not for these kids. They've been out of control too long. Residential placement is the treatment of last resort."

The expectant faces of a representative sampling of the newest Phoenix Academy graduates are bright as the big day approaches. They are turned to the future. But behind their expressions of hope are the memories of despair that brought them to this place of last resort:

Jaquel Paige, a pretty 20-year-old, was a dropout of Manhattan's Julia Richman High, a girl enfeebled by drugs and able to read only at a sixth-grade reading level, before she entered the academy two years ago. Today, she bitterly recalls "feeling stupid because I couldn't read."

Another 20-year-old, Terence O'Connor, was a drugged-out teen, a denizen of all-night parking lots and upstate jail cells until his older brother, a Poughkeepsie cop, arrested him and worked a deal with the courts to have Terry sent here almost a year ago. Now outwardly confident and assertive, he recalls his unsuccessful attempts to check himself into other treatment programs. "Unless you have money or insurance," he says, "nobody wants to know you."

Queens' John Margies, 19, had quit school in the 10th grade and was working intermittently as an unskilled laborer until, stoned on drugs and booze, he simply stepped off the top of a 24-foot ladder to land at the academy about a year-and-a-half ago. These days, he "plays the tapes of those bad days in my head" to help him focus more clearly on his future.

Each has come a long way. But perhaps none has had any further to come to be able to mount yesterday's graduation stage than 20-year-old Charlene Jackson of Brooklyn.

These days, Charlene is a robust young woman with earnest brown eyes and an easy smile. It was not always that way, however, and her voice is soft and shy, her tone matter-of-fact, as she tells of the years of drug use that brought her to the academy.

"Back home, back where I grew up in Brownsville, I was smokin' crack, snortin' heroin," she acknowledges. "I'm a dope fiend."

Born of a father she's never met and a drug-addict mother who gave her up at birth, Charlene Jackson spent her early years shuttling among foster-care homes. At age 7, she moved in with her godmother and came to regard the woman and her husband as her "parents"; the couple's six natural children became her older "brothers" and "sisters."

But having a family does not necessarily mean a happy homelife. "My mother and father, they never had no time for me, "Charlene recalls. "They was always workin'." And school, too, can prove a hollow experience. In junior high, Charlene could neither read nor do math.

"They put me in a special-ed class," she remembers, "but the kids like to make fun of you if you're in special ed. So I would just kinda react off that. I always was getting suspended for fighting." Finally, in the middle of the ninth grade, at age 16, Charlene quit going to school.

But as the luster of home and education faded for the teenager, the lure of drugs brightened. "I got started drinkin' beer and smokin' reefer when I was 12," Charlene says. "I used to hang around with an older crowd. They was usin' drugs, so one day I just picked up a pipe and smoked some crack. Then I just started getting' high all the time."

Still, Charlene might have escaped her early flirtation with the crack pipe. Others have. Instead, she says, she was raped by one of her brothers. "That same night," she recalls, "I went out and got real drunk and

high. I came back and tried to hurt him. I used a knife on him."

Unaware of the reason behind the attack, Charlene's godmother called the police. The girl spent months in the city lockup at Rikers Island, where she claims to have continued her drug use. Back in Brooklyn, she was quickly re-arrested, when a stolen car in which she was riding was stopped by police, and sent to an upstate women's facility for another brief term.

There, Charlene received her first dose of drug counseling. The advice didn't take. "I went back to Brooklyn," she says, "and I started seein' the same people again and started gettin' high again." Haunted by the memory of the rape, "that was the only way I could feel good about myself."

In prison, however, Charlene also had discovered she was pregnant. Her son, William Tyrrell Jackson, now 3, was born in Kings County Hospital shortly after her return home. Recognizing her inability to care for the boy, the young mother gave her infant to the city Bureau of Child Welfare for foster care—as her own mother had done with her years before. "I knew a lot of people there," Charlene says. "So I gave him over to one of the case workers I knew."

The BCW case worker, now the guardian of the boy, tried to talk his mother into seeking help in overcoming her growing addiction. But Charlene, though she visited the child often, was not yet ready for help.

Meanwhile, Charlene's godmother had no more patience to spare for the girl, who took up life on the streets. "I was out there by myself," the young woman recalls. "Just me feelin' lonely. The only friend I had out there was the pipe."

That friendship was demanding, and costly. "I used to sell drugs and sell my body to get high," she says. "I robbed people, robbed their houses. One time, we robbed a truck and got $1,000. We spent it all in a day."

Day and night, Charlene returned to the corner dealers who supplied her neighborhood to purchase fistfuls of $10 vials of crack. "I'd buy 20 and I'd smoke 'em all in maybe two, three hours," she says. "Then, I'd go back again. I can't count how much I spent over the time I was gettin' high. I used to smoke all day, every day. Maybe once a week I got to go to sleep."

Heroin, either snorted or mixed with crack-cocaine in a pipe—called "space-basing" on the street—became Charlene's sleeping pill. "When you come down off crack," she explains, "you get depressed, or you want more. When you come down off space-base, the dope is the last thing that comes down and you get sleepy. I got hooked on that, too."

There were the other, more sudden dangers on the street as well. "I seen one of my girlfriends shot by a dealer," Charlene says. "We went to her house and she was lying on the bed. She was dead."

Charlene, too, had her brushes with death. Often, with nothing else to exchange for the crack she craved, she would offer her body to dealers in return for vials of the drug. "We used to go around the neighborhood, y'know, and just get into cars," she says. On one occasion, "I met this crazy guy and he put a gun to my head in the back seat of a car and made me do things I didn't want to."

Fear now bore down on a young mind and body already overburdened by nonstop drug use, by lack of food and sleep. "I just got tired of goin' around hungry," the young woman says. Sickly, weighing 90 pounds—only slightly more than half her current weight—after a year on her own, Charlene Jackson finally was ready to accept a way out of her predicament. "It was my godmother who told me about Phoenix House," says Charlene. "She's active in the community and she'd heard about the program. So one day, I couldn't take it no more and I just came in."

About 3,000 youngsters have "just come in" since the academy's opening in 1981, says Phoenix House chief Rosenthal. But, he notes, the agency wasn't originally founded to care for them.

The academy program is an evolution of the "therapeutic-community" that, with methadone maintenance, has in recent years become one of the mainstays of treatment "modalities" nationwide, explains Rosenthal. However, he adds, the original community idea was aimed at the adult heroin-abusing population of the late-1960s.

In the mid-1970s and early '80s, "we began to see many other drugs being abused, and the age of onset took a sharp drop. More adolescents, more youngsters from middle-class homes began coming in," Rosenthal says. "The academy model was developed to focus on the educational and family needs of these kids. Youngsters deeply involved in drugs have deficits in these areas, and it's very important to address them as well as the problems of abuse."

Treatment at the academy blends family counseling and group-encounter therapy, intended to modify the behavior that led to the adolescent's addiction, with classroom work and vocational planning to prepare the youngster for a return to the outside world. "We provide them with everything they'll need to lead normal, productive lives later on," says Glenn Nichols, managing director of the academy. "Therapy, education and discipline."

A 60-day orientation period prepares newcomers for this unfamiliar regime, an introduction that very often scares away those youngsters not serious about rehabilitating themselves. On average, officials estimate, 40% of new arrivals drop out during the initial stages of the program. And the dropouts continue: Another 30% depart without completing treatment. Of the seven out of 10 who quit, however, one will return to try again.

The new residents are assigned to groups, which meet for two-hour sessions three nights, and given work assignments around the facility, Nichols says. "They also go to class full-time, and there are study sessions for those who need them."

Such treatment does not come cheap—roughly $47 a day per adolescent. Funding for the 18-person teaching staff—New York City certified high-school teachers—and a three-member administrative and support staff is provided by the city Board of Education. Various federal and state substance-abuse and social agencies, with Phoenix House's private and corporate grants, support all other academy operations and its 31-member clinical staff.

But Rosenthal does not see money as the chief problem facing the drug-treatment community. "The real problem," he stresses, "is the lack of a coordinated public policy that will allow us to expand our programs, to build new facilities. We have fewer than 5,000 beds in the state, and only 500 for adolescents." At the federal and state level, he says, "there is nothing on the horizon."

Though high school now is behind them, none of the new graduates are packing to leave the academy. Terence O'Connor and John Margies are hoping to go on to college but have not completed primary treatment. Jaquel Paige and Charlene Jackson, the most senior of the quartet, both are in the final phase of treatment; Charlene is preparing to depart later this summer.

During her 26 months at the academy, she has undergone more than 600 hours of group therapy and hours more in counseling. She has remained drug- and alcohol-free. In addition, she has earned a state Individual Education Plan diploma—one issued to special-education students who successfully complete an individualized curriculum. "A lot of our students are severely learning disabled," explains Nathalie McFarlane, the academy's principal. "Whether it's a result of their drug use or something else, we don't know. But our goal for these individuals is to take them as far as they can go, to turn their interests into work skills. The IEP diploma opens doors for them."

Her education complete, Charlene is concentrating on the first job of her life, working in a nearby McDonald's. Newly promoted to crew chief, a position that pays $7 an hour, she already has saved almost $1,000—roughly half the amount she and her Phoenix Academy counselors figure she'll need for a deposit on an apartment and other expenses when she leaves the institution.

"We call this final phase of the treatment process 'reentry,'" notes Nichols. "It's a slow process," he explains. "The resident is gradually reacclimated to the outside world. There are trips to restaurants and shows, that kind of thing. The youngster 'works out'—takes on full-time employment in the local community—but returns to the institution at night. That way, he can work through problems that crop up in everyday life and still have a supportive environment."

How well Charlene and her fellows will fare beyond the academy's walls is anybody's guess. According to a distillation from records by agency officials 33 of 100 residents who entered the program between 18 and 20 months ago will achieve total success—"No drugs, no criminal activity and steadily employed between three and five years after completion," explains spokesman Chris Policano—and another 48 will successfully meet one or more of these criteria. "We consider that for the remaining 19, treatment was a failure," Policano adds.

And an overview of the past 15 years of research into the outcome of drug treatment backs up the Phoenix House 5-to-1 success estimate. Entitled "Treatment Works" and published last March by the National Association of State Alcohol and Drug Abuse Directors, the report stresses that fewer than one out of every five patients who undergo treatment returns to regular use of drugs, except marijuana, within three to five years while instances of criminal behavior fall drastically—to between a third and a half of pretreatment levels—during that same period.

Charlene, meanwhile, is confident she has conquered addiction. "I feel my chances are good," she says. "If I use the tools I learned here and use them the right way, I'll make it. There's no reason I shouldn't."

CELEBRATING THE 134TH ANNIVERSARY OF THE BIRTH OF SCIENTIST-INVENTOR NIKOLA TESLA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. ROE. Mr. Speaker, it is with distinct pleasure that as chairman of the Science, Space, and Technology Committee I rise today to pay tribute to an extraordinary scientist, inventor, and patriot. Nikola Tesla, son of a Serbian Orthodox clergyman, emigrated to the United States at the age of 28 and proceeded to revolutionize electromagnetic technology and pave the way for many of our modern machines and techniques such as robotics, computers, satellites, and microwaves.

Born on July 10, 1856 in the Smiljan, Lika region of what is now Yugoslavia, he came to this country and in 1889 he became an American citizen. This, as he often told friends, he valued more than any of the scientific honors to come to him. Honorary degrees he tossed into drawers, but his certificate of naturalization was always kept in his safe. He died in New York City on January 7, 1943, but yesterday, July 10, marked the 134th anniversary of his birth, so I take this opportunity to remember a lifetime of accomplishments and scientific advancements which have led us to many of the programs I now oversee on the Science, Space, and Technology Committee.

Nikola Tesla was one of the most extraordinary of scientists, almost supernaturally gifted, erratic, and flamboyant, he was and remains a hero and mentor to many of the 20th century's most famous scientists. At this point I will submit for the RECORD a copy of a brief biography from the Encyclopedia Americana which outlines Mr. Tesla's awesome accomplishments:

Tesla, Nikola (1856-1943), Yugoslav-American inventor, who pioneered in radio and invented the alternating-current motor and system that made the universal transmission and distribution of electricity practicable. He was born in Smiljan, Croatia, on July 10, 1856. His father was a clergyman of the Serbian Orthodox Church and his mother an expert needleworker and an inventor of home implements. Tesla received a technical training at the polytechnic school in Graz and the University of Prague. In 1881 he began work for the newly founded telephone company in Budapest, and in late 1882 he joined the Continental Edison Company in Paris.

Unable to interest European engineers in a new alternating-current motor he had conceived, Tesla went to the United States in 1884. For nearly a year he redesigned dynamos for Thomas Edison in New York City. Establishing his own laboratory in 1887, he began a spectacular career of research and invention. He became a U.S. citizen in 1891. By the turn of the century his accomplishments had made the name of Tesla as world famous as that of Edison.

Electric Power Transmission: Telsa's first and probably greatest achievement was his discovery of the rotating magnetic field (a magnetic whirlwind produced in a motor winding by the interaction of two or more alternating currents) and his brilliant adaptation of it to his induction motor and polyphase system for the generation, transmission, and distribution of electric power (see electric motors—Alternating-Current Motors). The combination of this motor and his system (patented 1888-1896) provided the first practical means for generating large quantities of electricity of a single kind in one place and transmitting it economically over long distances for use at another place. It made possible the original large-scale harnessing of Niagara Falls (1895-1903) and furnished the key that soon changed the era of local electric lighting in large cities to one of electric light and power wherever needed.

Today practically all the electricity used in the world is generated and transmitted by means of the 3-phase form of the Tesla polyphase system and is turned back into mechanical power by updated models of 3-phase and split-phase motors originally covered by his patents.

Tesla Cell: Hoping to develop a light more efficient than the incandescent lamp, Tesla began researches with alternating currents of high frequency and high potential in 1889. At first he produced these currents with high-frequency alternators of his own design. Desiring still higher voltages, he invented the "Tesla coil" (1891), an air-core transformer that had its primary and secondary tuned to resonance. For operation on these high voltages, he created many gas-filled, phosphor-coated, tubular lights without filaments—prototypes of modern neon and fluorescent lights. While investigating currents from his coil, Tesla also made pioneer contributions to the then unborn fields of high-frequency induction heating, diathermy, and radio. One of his discoveries was that alternating current at tremendous high voltage could be harmless if the frequency were high enough.

Tesla's lectures in America and Europe (1891-1893) aroused widespread interest in currents of high frequency and potential. They became known as "Tesla currents," and by 1900 probably every university laboratory in the world had acquired a Tesla coil to demonstrate them.

Radio and Wireless Power: Tesla predicted wireless communication (1893) and devised basic circuits and apparatus that were later adapted by himself and others for actual wireless transmission. At Colorado Springs (1899-1900) he built the largest Tesla coil ever constructed—a 12-million-volt machine that gave sparks up to 135 feet long—in an attempt, partially successful, to send electric power without wires. As early as 1900, Tesla proposed a "world wireless" plant that would send not only ordinary messages but many other services. These included facsimiles of pictures and a program of time, weather, and other reports that was later introduced as "broadcasting." In 1898, anticipating radio-guided missiles and aircraft, Tesla developed torpedoes and ships guided by radio, and in 1917 he accurately forecast radar.

Honors: Among many honors, Tesla received degrees from Columbia and Yale Universities, the Elliott Cresson Medal of the Franklin Institute, and the Edison Medal of the American Institute of Electrical Engineers. In 1956, as part of international commemorations of the centennial of his birth, the term "tesla" (T) was adopted as the unit of magnetic flux density in the mksa system (See MAGNET AND MAGNETISM). He died in New York City on Jan. 7, 1943.—KENNETH M. SWEZEY, *Author of "Nikola Tesla," in "Science."*

Mr. Speaker, I am sure my colleagues here in the House join me in honoring this man who contributed so much knowledge to our Nation and to the world. Nikola Tesla's 700 inventions radically altered and continue to influence the world in which we live. It is only fitting that we honor him here in the U.S. Congress on this the 134th anniversary of his birth.

THE GREAT FRENCH FRY WAR II

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HENRY. Mr. Speaker, the Berlin Wall has been torn down. McDonald's is selling hamburgers in Moscow. Even Albania has begun to open its doors to emigration. But, alas, American potatoes are still frozen out of the Canadian market.

That's right, Mr. Speaker. Our good friends to the north are erecting walls here in the West while walls in the Eastern bloc countries continue to fall. Maybe it has something to do with the Meech Lake accords, Mr. Speaker. After all, the problem is with "french fries." Perhaps if we called them "english fries," there wouldn't be a problem.

Mr. Speaker, this is no laughing matter. The United States Trade Representative believes that the manner in which the Canadian Government is treating processed agricultural products, such as french fries, is a clear violation of the Free Trade Agreement and GATT. The Canadian Government may view this issue as small potatoes, but to those American farmers and food processors who look for equity and fairness from the Canadian Government and good faith compliance on their treaty obligations with the United States, it is a serious matter.

TRIBUTE TO MS. HELEN WAUGH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a dedicated individual, Ms. Helen Waugh, former treasurer of Casco Township, MI. Ms. Waugh has retired as treasurer after 31 years of dedicated service.

What began as a part-time endeavor, turned into a 31-year career. Ms. Waugh claims that when she began her career in 1959, the job wasn't much of a challenge. As times changed the challenge grew, as she became responsible for a budget of over $2 million. In fact, Ms. Waugh remained on the job a couple of months longer than expected to make sure an audit didn't leave any loose ends. That audit received an A plus from the auditor.

Now, after 31 years of never losing an election, a feat few can match, Ms. Waugh looks forward to totally different things. She will travel to California and Washington to visit her children and grandchildren, spend more time

with longtime friends in her seniors group and play cards and enjoy potluck lunches.

I commend Ms. Waugh on her 31 years of dedicated public service. She will long be remembered as a true friend of our community.

A TRIBUTE TO THE MEMORY OF DR. SALVATORE FAVAZZA

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to the memory of Dr. Salvatore Favazza on the first anniversary of his passing. Dr. Favazza was a consular official with the Italian Foreign Ministry posted in Detroit, MI.

Dr. Favazza was a native of Italy, where he was born on December 19, 1933 in the city of Terrasini. Dr. Favazza received his education at the Giovanni Meli Institute at the University of Palermo where he was awarded the bachelor's degree in law.

After completing his military service Dr. Favazza returned to his native Sicily to begin a distinguished career in journalism. During these years Dr. Favazza was both a journalist and publicist with an array of regional and national newspapers, as well as with Italian radio and television.

From journalism Dr. Favazza entered the field of international affairs as an assistant to the vice-consul of Liberia in Palermo, Italy. In 1966, he became a member of the Italian Foreign Ministry and was assigned to the Italian consulate in St. Gallen, Switzerland. In 1977, at his request, he was assigned by the foreign ministry to the consulate in Detroit, MI. With this assignment Dr. Favazza was elevated to the rank of chancellor in the Italian Foreign Service.

Upon arriving in Detroit, Dr. Favazza was made the director of the consulate's administrative section. The area that received Dr. Favazza's greatest dedication and affection was immigration and Italian immigrants in the United States. Dr. Favazza established himself as a liaison with over 200 Italian-American organizations in the Detroit consulate's jurisdiction, which encompasses the States of Michigan, Ohio, and Indiana.

In this capacity Dr. Favazza was able to coordinate activities that allowed these Italian-American organizations, and other interested individuals, to develop ties with Italy that enabled them to cultivate their heritage. Through these activities various cultural exchanges occurred to include the presentation of Italian theater, choral, and cultural groups.

It was through the inspiration and initiative of Dr. Favazza that a monument was dedicated to the faith and labor of these immigrants in both Terrasini, Italy and in her sister city of Warren, MI. An example of Dr. Favazza's accomplishments was the founding of the International Committee of Sicilian Associations in 1985. This association has been a key in furthering the efforts of Italians from Sicily in continuing to keep ties with their land of origin.

Because of these efforts Dr. Favazza was fondly known as the friend of the immigrants. Through both his efforts as a consular official and his work with Americans of Italian descent Dr. Favazza has immeasurably furthered the relationship between the great nations of the United States of America and Italy.

The great passion and spirit of devotion that Dr. Favazza displayed has been sorely missed. In an effort to show a modicum of thanks the Italian-American Cultural Society of Warren, MI along with the International Committee of Sicilian Associations and the Terrasini Club will unveil a memorial bust of Dr. Favazza at the Italian Cultural and Community Center on July 14, 1990.

LYME DISEASE RESEARCH AND EDUCATION ACT OF 1990

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, as the Member of Congress representing the area with the most reported cases of Lyme disease in the country, I rise today to introduce the Lyme Disease Research and Education Act of 1990. Senator JOSEPH LIEBERMAN of Connecticut is introducing identical legislation in the Senate. I appreicate this opportunity to provide my colleagues with some background on Lyme disease, and why I believe that this legislation is worthy of their attention and full support.

First identified in Lyme, CT, in 1975, Lyme disease has become the most common tick-borne disease and one of the fastest spreading infectious diseases in the United States. If treated early, the disease can be cured by antibiotic therapy. However, early diagnosis is often very difficult because of the disease's resemblance to the flu, arthritis, and ringworm. Without early treatment, Lyme disease can cause severe arthritis, heart disease, or neurologic complications. Later effects, often occurring months or years after the initial onset of the disease, include destructive arthritis and chronic neurologic disease.

Many people never even know that they have been bitten by this tick because it is so small. The tick which spreads this disease is the size of a comma in newsprint. The parasite can attach itself, feed, detach itself to go and lay its eggs all without the host's knowledge. Moreover, a person might not develop the telltale rash at the site of the tick bite, leaving the person clueless as to the cause of his or her ailment. Without the characteristic rash, doctors may have difficulty diagnosing Lyme disease. Standard blood tests often do not reveal the presence of the spirochete.

Although originally thought to be exclusively a regional problem of the coastal Northeast, Lyme disease is spreading rapidly to all areas of the country. In fact, since 1982, more than 21,000 cases of Lyme disease have been reported to the Centers for Disease Control [CDC] from 45 States. In 1989 alone, 7,400 new cases were reported to the CDC. However, because diagnosis is difficult and public awareness about the disease is limited, it is estimated that thousands of cases have gone undiagnosed, unreported, and—worse yet—untreated.

New York State, which has been hardest hit by Lyme disease, reported approximately 40 percent of the Nation's Lyme disease cases to the CDC. My congressional district encompasses about two-thirds of Suffolk County, Long Island which by Federal and State statistics is the most endemic area of Lyme disease in the country. Suffolk County alone reported over 1,000 cases or about 20 percent of the Nation's total. The Lyme-carrying tick lives in grasses along the shore, in fields, and at the edge of woodlands. Many people on eastern Long Island have expressed concern about going to the beach, taking a walk in the woods, or sitting in their own backyards for fear of getting this debilitating disease. In some areas of my district, it is believed that most of the ticks carry the spirochete that causes the bacterial infection. Therefore, being bitten by a tick means almost certainty of getting Lyme disease. Dragging for ticks and blood testing of residents will occur this fall to determine the infestation and the actual incidence of Lyme disease on eastern Long Island. Similar research will be conducted in Westchester County.

Last year, Congress appropriated a total of $7.6 million for fiscal year 1990, $5 million to the National Institutes of Health, and $2.6 million to the Centers for Disease Control. Although the CDC received $2.6 million in Lyme disease funds, only $500,000 was available nationwide in contracts and grants. The rest will be used by the CDC internally. Despite the research on Lyme disease already done, there are still many unanswered questions. Additional Federal funds are needed for a specific blood test to isolate and accurately identify the Lyme disease spirochete and a vaccine to prevent people living in endemic areas from contracting this disease. Effective new treatments are needed to stop the reoccurrence of Lyme disease within patients and to find a cure for advanced Lyme disease. We also need to find ways to break the life cycle of the tick. Surveillance, statistical reporting, and improved control methods are needed to limit the spread of Lyme disease and halt the suffering it brings.

I have introduced the Lyme Disease Research and Education Act to ensure that there will be greater funding available next year and that hyperendemic areas, many of which have developed an expertise in this type of research, will be able to participate and contribute to the Federal efforts to combat this problem. This legislation would provide an increase of $3 million for fiscal year 1991 for Lyme disease efforts of the CDC, bringing the CDC's total allotment for Lyme disease up to $5.6 million. My bill would specify that half of the CDC's Lyme disease funds go to competitive grants with preference given to those areas with more than 250 reported cases of Lyme disease. In addition, it would require that a quarter of the extramural grants be made available for education to government agencies or not-for-profit institutions whose primary purpose is to promote Lyme disease education nationwide.

Senator LIEBERMAN and I have also introduced legislation to designate the week of July 22 through 29 as "Lyme Disease Awareness Week." As early treatment of Lyme dis-

ease is the key to warding off its worst effects, and as there is currently no vaccine for Lyme disease, the best defense we have against it is prevention. Prevention depends upon public awareness. This is why I hope that my colleagues will join me in bring this disease to the attention of the American public and support funding for research on Lyme disease.

H.R. 5240, THE SUMMER SCIENCE ACADEMY ACT OF 1990

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. STOKES. Mr. Speaker, today I rise to introduce the Summer Science Academy Act of 1990, H.R. 5240. This measure represents one of many measures needed to address the severe underrepresentation of minorities and women in the science, math, and engineering fields.

The challenges facing our country in the next century are complex and pernicious. The foundation of our economy has shifted from nuts and bolts manufacturing to high-technology. This trend, in part, has been accelerated by a strong, competitive global economy and has brought intense pressures on American productivity. Consider, for example, that the United States has become the world's largest debtor nation, incurring substantial trade deficits and growing increasingly dependent on foreign capital to finance domestic programs.

Following World War II, American businesses dominated world markets. Today, only one-third of the world's top businesses are American. Six years ago, the two largest banks in the world were American. Today, not a single U.S. bank ranks in the top five.

As our Nation attempts to address this changing economic climate, we see that the face of our Nation is changing. A larger share of our Nation is minority, and the numbers are growing. In a 1987 report titled, "Workforce 2000," the Department of Labor estimates that nonwhites will make up almost one-third of the new entrants into the labor force between now and the year 2000, twice their current share of the work force. The Department notes that: "Although this large share of a more slowly growing work force might be expected to improve the opportunities for these workers, the concentration of blacks in declining central cities and slowing growing occupations makes this sanguine outlook doubtful." By the last quarter of the 21st century, as a result of immigration and differing birth rates, Mr. Speaker, it is estimated that minorities, in fact, will be the majority.

While much of the pool of talent for new scientists and engineers is comprised of minority persons, this is the very group which has not had an opportunity to prepare for the scientific and technological demands facing our Nation.

Currently, blacks comprise only 2 percent of all employed scientists and engineers, even though they are 12 percent of the general population. They earn 5 percent of the baccalaureates and 1 percent of the Ph.D's in science and engineering. In 1988 only 47 blacks Americans earned Ph.D's; only 15 earned Ph.D's in engineering. Similarly, Hispanics, our Nation's fastest growing minority group, comparise 9 percent of the population, but account for only 2 percent of all employed scientists and engineers. They hold 3 percent of all bachelor's degrees and 2 percent of all Ph.D's in science and engineering.

Our future national economic growth is dependent on our being able to correct the shortage of labor resulting from the large pool of innercity youth who are not acquiring the basic skills of reading, writing and mathematics. The issue is no longer just a matter of equity, it is a matter of economic necessity as well.

In a report released in December 1989, "Changing America: the New Face of Science and Engineering," it is noted that:

It is time for action * * * many * * * studies have detailed the looming crisis in the science and engineering work force. America faces a shortfall of scientists and engineers by the year 2000. We can meet these shortfalls only by utilizing all our talent, especially those traditionally underrepresented in science and engineering—women, minorities and people with disabilities. Without this kind of world-class science and technical excellence. America's competitive prospects dim.

The legislation I am introducing today addresses this looming crisis. It will contribute significantly to the recruitment of minorities and women in the high-technology, and engineering fields.

Specifically, the bill directs the National Science Foundation to provide grants for the establishment of at least 20 summer science academies for the training of talented economically disadvantaged, minority students in the areas of math, science, engineering design and communications. Each academy will provide 8 weeks of intensive instruction to 50 students in each of the grades 7 through 12. The students will return to the academy each summer until completion of their 12th grade academy term. The cost to run the summer science academies is a modest $2 million in fiscal year 1991. Over a 5-year period, total costs will be about $26 million.

Mr. Speaker, I am confident that this measure will contribute greatly to exposing hundreds of disadvantaged children to educational concepts and experiences to which they otherwise might not be exposed. By taking these steps, we will strengthen the foundation upon which the future of our Nation rests. Equity and economic necessity are now part of the same equation. By opening the doors of opportunity for these youth, we prevent the doors of a socioeconomic crisis from slamming in our face.

In closing, Mr. Speaker, I also would like to acknowledge and commend Dr. Shirley McBay, dean of student affairs at the Massachusetts Institute of Technology, Shirley Malcolm, of the American Association for the Advancement of Science [AAAS], and the Carnegie Foundation for their efforts in addressing this issue. The idea for the summer academies was first published in the "Quality Education for Minorities" report. These individuals, with the assistance of the Carnegie Foundation, helped turn this seed of an idea into legislation. I look forward to working with them, and my colleague from Ohio, Senator JOHN GLENN, in getting this measure enacted into law. Senator GLENN has introduced a similar bill in the Senate.

I urge my colleagues to support this legislation.

TRIBUTE TO THE NATIONAL ASSOCIATION OF HEALTH UNIT COORDINATORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GILMAN. Mr. Speaker, permit me to take this opportunity today to commend and congratulate Ms. Dorothy Barnum, President of the Mid-Hudson Chapter of the National Association of Health Unit Coordinators of my congressional district, for her effort to commemorate the 50th anniversary of the National Association of Health Unit Coordinators, the 10th anniversary of the National Association of Health Unit Coordinators, and the first anniversary of the Mid-Hudson Chapter.

Since World War II, health unit coordinators have made great strides in their field and have expanded their responsibilities, and are recognized today as a vital component of daily hospital operations. The National Association of Health Unit Coordinators offers a number of educational and certification programs which afford their members the opportunity to climb the career ladder. Through these programs health unit coordinators share their skills and expertise, while advancing their knowledge of the new technology in the health care field. Mr. Speaker, the National Association of Health Unit Coordinators are to be commended for their pursuit of excellence and their dedication to professionalism in health care occupations.

Accordingly, I ask my colleagues in the House of Representatives to join with me today in congratulating the members of the National Association of Health Unit Coordinators as they celebrate their founding on August 23, 1990.

PENNSYLVANIA STUDENTS SELECTED FOR TRIP TO GERMANY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. CLINGER. Mr. Speaker, I rise today to congratulate five students from my 23d Congressional District in Pennsylvania on their selection for the Congress-Bundestag Youth Exchange Program [CBYX]. Jila Bakker, Karen Kearney, Jamie Peck, Penny Buterbaugh, and Bridgette Crawford will be traveling to Germany this fall to participate in the CBYX Program, spending an academic year in Germany on a full scholarship sponsored by this body.

The Congress-Bundestag Youth Exchange Program gives students the opportunity to

spend 9 months in Germany to either study in an academic setting, to prepare for university, or work in a profesional setting to receive practical training. CBYX has been in existence since 1983, and has enabled more than 2,200 Americans to study in Germany.

While CBYX has certainly been a great success since its inception, now more than ever in a ideal time for students to be studing in Germany. The historic changes occurring with the unification of the two Germanys will certainly make their experiences a life long memory. As the Berlin Wall continues to fall away, and the spread of democracy metamorphoses the Iron Curtain into an open door, these students will witness first hand not only the rebuilding of Germany, but also monumental changes in Eastern Europe.

Exchange programs such as CBYX are critical if we are to build an understanding between countries of our evengrowing, interdependent world. We are facing a world in which parity among nations is becoming the rule, and the notion of superpowers determining world events is becoming less of a reality. We need, and should continue to support, exchange programs in order to build the understanding which is vital for international cooperation.

Again Mr. Speaker, I congratulate these students on their selection for the program, and wish them a safe journey and an informative experience.

THE 50TH ANNIVERSARY OF PREMIER INDUSTRIAL CORP.

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. FEIGHAN. Mr. Speaker, I rise today to congratulate Premier Industrial Corp. on the 50th anniversary of its founding. It gives me great pride to know that this Cleveland business has been so successful in the past and that it is well prepared for the future.

Premier was founded by Jack, Joseph, and Morton Mandel on August 1, 1940. Begun as an automotive parts distributor, Premier has expanded and grown over the years and has reached the status of an international publicly held company.

That Premier has been so successful is due to its commitment to three core values. First, Premier is known for the great amount of respect it shows to the individual; the people at Premier treat others as they would want to be treated themselves. Premier is also renowned for its superior customer service. Finally, Premier's pursuit of excellence has made it successful in the past and will enable it to compete and succeed in the future.

In addition, the management and staff of Premier have a strong sense of corporate and social responsibility. Combined with the core values, this philosophy reflects the ethical commitment that underlies all of their actions.

I would also like to congratulate Premier's owners, the Mandel family. The Mandels have demonstrated civic leadership and a vision that has made Premier part of the backbone of the Cleveland economy. Their civic commitment has manifested itself in the establishment of the Mandel School of Applied Social Sciences at Case Western University.

So congratulations Premier Industrial Corp. You certainly should be proud of your past and you are well prepared for your future.

ROBERT NOYCE NATIONAL MATH AND SCIENCE TEACHERS CORPS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. LEVINE of California. Mr. Speaker, today I am pleased to introduce the Robert Noyce National Math and Science Teachers Corps Act of 1990.

I believe this legislation will be a critical step towards making America more competitive in the 21st century. Our Nation's greatest resource is our children's minds. We must take immediate and urgent action to ensure them the best education possible.

If we are going to enhance our economic producitivity and guarantee the technological literacy of our workforce, we must provide our students with adequate levels of technical abilities during their elementary and secondary schooling.

Sadly, the overall performance of U.S. schools and students in math and science has been declining sharply over the last decade. The statistics are startling:

—Students in the United States consistently score below their counterparts in other developed nations on comparative math and science tests;

—The average amount of time allotted to science instruction in U.S. elementary schools is 15 minutes per day:

—In 1986, nearly one-third of American high school students were being taught science and mathematics by teachers not qualified to teach such courses.

My bill is designed to address this serious crisis by increasing the number of math and science teachers in our Nation's disadvantaged schools.

In exchange for a full year scholarship, the student will agree to teach math or science at a chapter 1 elementary or secondary school for 2 years.

The bill will serve the dual purpose of encouraging more students to study math and science, while increasing the number of teachers in our disadvantaged schools.

The legislation is named in honor of Robert Noyce, the coinventor of the integrated circuit and the founder of Sematech, who died recently. In addition to being the Thomas Edison of the 20th century, Bob was passionate about the education of underprivileged children.

It is my hope that this legislation will inspire and guide the next generation of Bob Noyce's, who will lead America into the information revolution of the coming century.

H.R. —

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 "Robert Noyce National Math and Science Teachers Corps Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in order to enhance our Nation's economic productivity, and increase employment opportunities for Americans, the Nation must ensure that students are provided with at least minimal levels of technical literacy during their elementary and secondary schooling;

(2) well-prepared teachers are needed to provide United States students the science and mathematics education they need;

(3) in 1986, nearly one-third of American high school students were being taught science and mathematics courses by teachers not qualified to teach such courses;

(4) teacher salaries are such that students who display talent in technological disciplines do not pursue careers in teaching;

(5) a declining number of students are choosing science and mathematics as fields of study at both the undergraduate and graduate levels, indicating that the number of graduates qualified to teach in such fields of study is also declining;

(6) minorities and women comprise a growing proportion of the American workforce and such individuals are needed to address shortages of science and mathematics teachers; and

(7) the Federal Government has both the responsibility and the means to provide support to teachers to enable teachers to improve their qualifications to teach science and mathematics, and to encourage more persons to teach science and mathematics in elementary and secondary schools.

SEC. 3. SCHOLARSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to annually award scholarships to individuals to assist such individuals in obtaining a teaching degree.

(b) AMOUNT OF SCHOLARSHIPS.—Each scholarship awarded under this Act in any fiscal year may not exceed the lesser of—

(1) the cost of tuition, board, and fees for such fiscal year; or

(2) $9,000.

(c) NUMBER OF SCHOLARSHIPS.—(1) The Secretary shall award not more than 5,000 scholarships under this Act in each fiscal year.

(2) The Secretary shall award not more than 4 scholarships under this Act to any 1 individual for undergraduate study.

(3) The Secretary shall award not more than 2 scholarships under this Act to any 1 individual for graduate study.

(d) USE AT ANY INSTITUTION PERMITTED.—Each individual awarded a scholarship under this Act shall use such scholarship to attend any institution of higher education.

SEC. 4. ELIGIBILITY.

(a) IN GENERAL.—A student shall be eligible to receive a scholarship under this Act if such individual is a citizen of the United States or a permanent resident alien.

(c) CONTINUED ELIGIBILITY.—Each individual awarded a scholarship under this Act shall continue to receive scholarship payments under this Act only during such time as the Secretary finds that such student is—

(1) enrolled as a full-time student in an institution of higher education;

(2) pursuing a course of study approved by the Secretary; and

(3) maintaining satisfactory progress as determined by the institution of higher education which the individual is attending.

SEC. 5. APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the course of study the student will pursue;

(2) describe the cost of attendance for which a scholarship is sought; and

(3) contain such other assurances as the Secretary determines are necessary to ensure compliance with the provisions of this Act.

SEC. 6. AGREEMENT.

(a) IN GENERAL.—Each individual awarded a scholarship under this Act shall enter into an agreement with the Secretary.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will, within 2 years of completing such individual's course of study, teach science or mathematics, in an elementary or secondary school that is eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965, for a period of not less than 2 years for each fiscal year such individual received a scholarship under this Act;

(2) provide assurances that the individual will repay to the Secretary all or a portion of the scholarship awarded by the Secretary under this Act in the event that the conditions of paragraph (1) are not complied with; and

(3) set forth procedures under which an individual who teaches for less than the 2-year period required under paragraph (1) will repay the scholarship awarded under this Act to the Secretary according to a schedule established by the Secretary.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1991 and each succeeding fiscal year thereafter to carry out the provisions of this Act.

SEC. 8. DEFINITIONS.

For the purposes of this Act—

(1) the term "Director" means The Director of the National Science Foundation;

(2) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965; and

(3) the term "Secretary" means the Secretary of Education.

IN RECOGNITION OF CHRIS HOLDER'S ELECTION TO PRESIDENT OF KEY CLUB INTERNATIONAL

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PARKER. Mr. Speaker, I rise today to celebrate the accomplishments of Natchez, MS, Chris Holder. A Trinity Episcopal Day School Key Club member, Chris is the first Natchez student to be elected to the honorable position of the international president of Key Club International.

The largest high school youth service organization in America, the Kiwanis Club supports youth and their ambitions through opportunities in clubs such as the Key Club. Chris' impact as president of this organization is an example of success followed by commitment and hard work. Recognized at the international convention in Washington, DC, hosted by 2,300 members from 26 countries, Chris' example will always be a source of pride for the people of Natchez, MS.

At age 16, Chris continues Natchez, MS, tradition of excellence in youth leadership. Serving as the president of Key Club International, Chris not only makes an impact on the organization's sponsor, the Kiwanis Club, but provides an example of strong ambition and success to youth at home and throughout the United States.

WORLD POPULATION DAY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. KOSTMAYER. Mr. Speaker, today, July 11, 1990 is World Population Day. This day commemorates the day when the Earth's population reached the 5 billion mark, on July 11, 1987. We must act on the grave threat posed by the population explosion by stabilizing world population before it more than doubles.

The time has come for humankind to recognize that the Earth's resources will not expand at our command and to confront the problem of uncontrolled population growth. Uncontrolled population growth is an underlying component of many of the major environmental problems inundating the globe, including water shortages, global warming, toxic waste, soil erosion, desertification and forest destruction.

This year, even with the significant gains that have been made in decreasing fertility rates around the world, total population growth is reaching or even exceeding the highest growth rates projected by the United Nations Population Fund. World population at current rates will double in the next 40 years. Africa alone is burdened with 1 million more people to feed every 3 weeks, yet we can not even feed, clothe, and house the 5.3 billion people that inhabit the Earth today.

First, we must realize that in many places on the Earth we have already reached the environmental carrying capacity that our natural resources can sustain. Next, we must recognize that in many areas, population growth in excess of economic growth is halting or even reversing development gains, creating poverty and destroying human lives as well as the environment. Even in areas where population may be below environmental carrying capacity, environmental restoration efforts are slowed as a growing population destroys habitat for agriculture and urbanization.

Our challenge is to solve the population growth problem in the 1990's while the demographic window of opportunity still allows us to prevent world population from more than doubling and before our climate and world environment are beyond repair. We now have a priceless opportunity to make population considerations a positive element in community development and evolve a truly sustainable society. Such an endeavor will begin to actively restore to the Earth its ecological health and productivity. By achieving world population stabilization, we will take the most constructive step humanity can take in the closing decade of this century—and at the same time prepare for the future of this planet in the next century and the centuries beyond.

THE CHANGING TELEVISION INDUSTRY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 11, 1990, into the CONGRESSIONAL RECORD.

THE CHANGING TELEVISION INDUSTRY

Fifthy years ago, when Franklin D. Roosevelt became the first president to appear on television, few could predict the revolution TV would bring to American lives. With explosions in cable TV and video cassette recorders in the 1980s, that revolution—fueled by new technology—continues today. As the U.S. enters a new era in television, fostering competition in the television industry may demand a new role for the federal government.

Americans spend a large part of their lives in front of a television set. Indeed, television has elbowed aside all other ways of spending the days, apart from work. Watching TV ranks high among things Americans say they look forward to each day, and the number who cite television as their primary news source is high and rising.

For many Americans, television still means broadcast TV: over-the-air programs supplied by the commercial networks of CBS, NBC, and ABC. Yet today the networks are losing viewers. Ten years ago, the networks attracted 91% of the prime time television audience; today, that share is down to 67% and expected to erode further. Total time spent watching television is also falling, with one cause being the boom in video cassette recorders. While barely 1% of the U.S. households owned a VCR in 1980, 65% now have at least one.

CABLE TELEVISION GROWTH

But the greatest competition to the networks is cable television. Unlike the networks which depend on advertising revenue, cable companies draw revenues from monthly subscriber fees, pay-per-view programs, and advertising. More than half the homes in the U.S subscribe to cable, with its audience size approaching that of the networks and independent stations. Offering on average more than 30 channels, cable has increased the number and diversity of programs, divided audiences into smaller groups, and diffused television's impact. Cable has also helped spur the growth of independent stations, with their numbers doubling during the 1980s. The growth of independents has increased competition for advertising and demand for programming.

Tremendous growth of cable also brings troubling changes to the television industry. Almost all homes in cable areas have no choice of cable companies, and the cost of lowest price basic service has increased by 43% in the three years since the cable industry was deregulated. As cable company own-

ership becomes concentrated in fewer hands and cable companies own more sources of programming, cable's critics contend that some cable operators give favorable treatment to networks and programming in which they have a financial interest. Also, competition between free TV and cable has increased for national football, baseball, and basketball league contracts, while some local commercial and public stations have been dropped from cable systems. In their defense, cable companies stress that rates were held artifically low under regulation, that quality and diversity of programming for viewers has exploded in recent years, and that cable ownership of programming has resulted in higher quality programs.

REGULATING THE INDUSTRY

I do not want to see a television system that stifles competition, hinders innovation, or harm consumers. There is a widespread feeling in the Congress that there is a cable problem of some sort but no consensus precisely what it is and what ought to be done about it. Some want to re-regulate rates, limit the number of subscribers a cable company can serve, and restrict ties between cable operators and programmers. Others want to inject more competition into the industry, which could be especially important for rural Indiana areas without cable. Potential competitors include direct broadcast by satellite, which would use new technology to deliver over 100 channels to napkin-sized home antennas; wireless cable, which transmits over microwaves; and telephone companies, which are currently prohibited from owning cable systems. Lack of financing and programming hamper some of these alternatives, however. Also, to transmit video, phone companies would face considerable costs to upgrade to new fiber optic cable. Many also argue that letting phone companies into cable would create a new unregulated monopoly. Closer scrutiny of the cable industry is occurring, and efforts are underway in the Congress to set some limits on cable growth.

Other difficult television issues also face the Congress. These include whether local stations should retain exclusive rights to broadcast syndicated programs; whether cable systems should be required to carry local commercial and public stations and at what cost; and whether to drop rules which ban networks from owning rights to most programs and prevent them from selling hits to independent stations. This basket of issues will have a crucial effect on the financial health of the industry and the range of programs consumers can receive.

FUTURE TECHNOLOGIES

The Congress may also grapple with the development of new high-definition television technology (HDTV). Mixing digital computer technology with television images, HDTV technology promises home TV pictures as clear as movies with the sound of compact disc players. HDTV will also likely mark the transition to future computer technologies that would offer high quality video and allow users to interact with the information displayed. In the future, television might become obsolete, replaced by systems which merge voice, data, and video. Current applications of HDTV include industrial, medical, and military systems. Still, HDTV is in its infancy, with the U.S. lagging behind Japanese and European manufacturers.

As a mass medium, television is a powerful social glue—helping to shape who we are, what we think, how we learn. As the old three-channel TV gives way to 100-channel systems, I wonder if television will become less of a shared experience. Since broadcasters are the only ones required to serve local audiences with news and community affairs and public stations are the major source of educational programs, more is at stake than rates and market share. As new technology drives the world of communications, keeping the television industry both competitive and responsive to the public good are critical goals for the Congress.

TRIBUTE TO ED KELLAHER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MANTON. Mr. Speaker, the House and our country lost a true public servant with the recent passing of Edward T. Kellaher, the longtime Chief of Property Supply and Repair for the House of Representatives. Ed Kellaher served the institution with honor and distinction for 29 years, and we will all miss him.

Mr. Speaker, Ed was more than an outstanding public servant, he was also a special friend. As a fellow Irishman from Queens, NY, which I have the privilege to represent, Ed took the time to guide me through the process of setting-up my congressional office when I was first elected to the House. I am sure my colleagues will recall from their first days here that such insider assistance is invaluable. Ed's guidance and friendship meant so much to me, and I truly mourn his passing.

Mr. Speaker, our distinguished Clerk of the House, Donn Anderson, gave a very moving eulogy at Ed's services which I wish to share with my colleagues. I know I speak for all of us when I express my deep sadness at Ed's passing and that our heartfelt sympathy goes out to his loving family.

Mr. Speaker, I am submitting the text of Donn's tribute to Ed for the RECORD.

TRIBUTE TO ED KELLAHER

I deeply mourn the death of Ed Kellaher in the realization that I will not likely have such a friend again. But in my grief, I rejoice in the lasting happiness of Ed's friendship, his love, his sensitivity and his unfailing kindness. Ed leaves a legacy which extends beyond his special relationship with each of us—as husband, father, grandfather, brother, friend. His legacy is tangibly measured in the works with which he has been associated.

Ed's exceptionally long service to the House of Representatives, 29 years, spanned six Speakers, from Sam Rayburn to Tom Foley, and five clerks, from Ralph Roberts to myself. It was a period of remarkable change and expansion and Ed was very much a part of it.

When Ed started in 1961 as assistant property custodian, there were 26 employees in a few cramped rooms in the Cannon Building basement. The total operating budget for furnishings, repair services and salaries was $254,000.

Today the office of property supply and repair has 151 employees, nearly one-third of the clerk's workforce, with a total operating budget of over $5 million. During the same period, the Rayburn Building and the east front extension to the Capitol were completed and two major office building annexes were acquired.

Ed had the resourcefulness and foresight to meet the technical, material, and personnel needs of the greatest growth period in the history of the House. The new methods and efficiency, which Ed brought to property, have made the office the great and essential service organization which it is today.

Ed's work to him was a stewardship. A prudent manager of resources and a tough negotiator, he insisted that the House get the best value for the taxpayers' money. Most of all, Ed loved the shops and the craftsmen, taking a very personal pride in their splendid work. How often he said so.

Ed became involved with the Wright Patman House Credit Union during the era of a single counter and green eye shades. Over the years he held a variety of credit union offices, and worked energetically for its growth and prosperity, because he recognized the great good it could render to the House community. Today, the Wright Patman Credit Union is one of the largest, fastest growing and best managed in the entire Federal credit union system, and the results of Ed's dedication are to be found everywhere.

Ed was a great democrat. In times gone by, no boiler room operation was complete without him. He worked generously and with a zeal for the improvement of the National Democratic Club. He appreciated the need for a place for Democrats to come together socially.

Ed was a constant delight to his friends and coworkers. He took his work seriously, but never himself. His unfailing wit, good humor and story-telling ability were the products of his New York-Irish heritage, as were his self-assurance and determination. Ed was comfortable with everyone, because he was always comfortable with himself. Ed was the genuine article, a "what you see is what you get" kind of guy. Ed had no hidden agenda.

His objectives were clear: the happiness and security of his family, doing his work faithfully and to the best of his ability, promoting the integrity and respect of the House of Representatives, and involving himself in things which improve the lives of others.

In witness to the affection and respect of his coworkers, Ed became one of the early recipients of the John W. McCormack Award of excellence for House employees. With every passign year, he continued to validate the appropriateness of the award. Ed takes with him the only property a man can carry out of this world—his good name and reputation, and for those he will receive a kindly judgment.

Ed best represented the old-time sense of loyalty, commitment and institutional memory which has declined steadily in the House service over the years, and yet again declines measurably with Ed's passing. Ed was a rock of constancy, purpose and reliability in a place where tradition has been assigned diminishing importance.

Each of us knew Ed in a special way. He was the friend and mentor of my youth, and in later years, my confidant.

During the past 4 years, Ed was my trusted and highly valued senior department head, but always first my friend. He never hesitated to argue or disagree when he thought I was wrong, but if my judgment was not his, Ed would say "okay" and carry it out with typical loyalty. My sense of loss is both deep and wide.

I extend the most heartfelt sympathy to Ed's beloved wife, of many years, Eleanore, his children Ken, Don, Susan and Mary and his eleven grandchildren. You blessed his life and graced his home with love, support and joy. You were the sacred repository of his hope and happiness. You gave him all the contentment he could have ever wished for.

I will miss you, Eddie. I will recall the happy times we spent together and think of those which might have been. I will miss your thoughtful expressions for all occasions and for nothing in particular. I will even miss your stories, although I had heard most of them before because of the delight you took in telling them.

Farewell, beloved friend of years. Go in peace with our love and gratitude for all that you have meant to us. We will always remember you, and each time that we do, we will smile.

HONORING MR. RICHARD A. HOVELSRUD, LIBRARIAN, WHITTIER UNION HIGH SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. TORRES. Mr. Speaker, today I rise to recognize an outstanding man, Mr. Richard A. Hovelsrud, librarian at California High School in the Whittier Union High School District. On August 1, 1990, Mr. Hovelsrud will retire.

Richard is married to the former Shirley Ann Arnold and together they have two children, David Paul and Lisa Tricia.

Mr. Hovelsrud graduated from South High School of the Minneapolis Public Schools in 1948. He obtained a bachelor of science in business education and a master of arts in business and distributive education from the University of Minnesota in 1952 and 1958 respectively. He furthered his education at the University of Southern California by earning a master of science in library science in 1960.

Mr. Hovelsrud has an extensive history with the Whittier Union High School District, most of his life has been dedicated to the librarian and teaching professions; to the field of education by any and all standards.

Mr. Hovelsrud began his work in education at his alma mater as a teacher of business education and work experience coordinator. At Whittier Union High School District, he has taken on the role of teacher and librarian in many of the schools within the district.

In addition, Richard has served tenures as both a district administrator and college librarian. He has managed to maintain active participation in numerous professional and civic organizations.

For his invaluable contributions to the community and to his profession, Mr. Richard A. Hovelsrud will be missed, as he retires. The community will not be at a total loss however, as Mr. Hovelsrud has promised to stay on top of his professional and community activities.

Mr. Speaker, at this time I would like to ask that my colleagues please join me in saluting my good friend, Mr. Richard A. Hovelsrud for his unselfish efforts, all in the best interest of the students and citizens in the community of Whittier, CA.

THE 25TH MAN OF THE YEAR

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. WAXMAN. Mr. Speaker, on October 28, 1990, Gateways Hospital Men's Club will honor Manny Feigenbaum as the 25th Man of the Year. Manny was unanimously endorsed in recognition of his many years of commitment to serving the mental health community.

Born in St. Louis, 1901, Mannie Feigenbaum was a natural born salesman. Earning money to help the family and save for the future, he left for Chicago in 1925, where he met Edna Gamson, who, only a month later, became Mrs. Edna Feigenbaum. Soon after, the pair left for Los Angeles, operated a prosperous grocery store, and later Manny became one of the leading auctioneers in Los Angeles. Manny Feigenbaum's success is something he believes in sharing with the less fortunate, always helping those who are truly in need.

Some of the organizations who have benefitted from Manny's generosity are City of Hope, Hollywood Temple Beth El, United Way, Red Cross, B'nai B'rith, American Cancer Society, Foundation for the Junior Blind, Jewish Home for the Aging, Braille Institute, Vista del Mar, American Heart Association, and the United Negro Fund, to name but a few.

A devoted husband of 65 years, he is a pround father, grandfather, and great-grandfather to 3 daughters, 8 grandchildren, and 7 great-grandchildren. Always, his family is "my greatest joy, and the most meaningful achievement of my life."

On behalf of Gateways Hospital, Manny Feigenbaum has spent 25 years helping the mentally ill achieve a normal way of life. Individuals families, and the homeless, who must face the tragedy of mental illness, may turn to Gateways Hospital Mental Health Center.

I ask the Members to join me in congratulating Manny Feigenbaun on this special occasion and to thank him for devoting his time, generosity, and concern to the community. We wish him many more years of success and felicity in all his endeavors.

SENIORS' ACCESS TO HEALTH CARE VERSUS MEDICARE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PALLONE. Mr. Speaker, during the relatively short time I have served as U.S. Representative for the Third Congressional District of New Jersey, Medicare has been the greatest single continuing problem that plagues my senior citizens, hospitals, and physicians. The results of rapidly changing regulations and poor administration in the implementation of those regulations by the carrier and the Health Care Financing Administration are creating havoc in my communities. Certainly the State of New Jersey cannot be the only State experiencing this chaos.

The New Jersey delegation has met with officials of the Health Care Financing Administration and Blue Cross Blue Shield of Pennsylvania and we are constantly assured that things are improving. At the same time, we continue to receive letters from seniors and their doctors pointing out examples of the steady deterioration of the Medicare Program. Example after example flow into my offices—illustrations of confusion, threats to physicians, changes, mistakes, lack of policy, lack of clarity, and the demoralization of patients and physicians alike. The Medicare Program's policies and regulations toward the elderly and physicians are rapidly approaching a complicated and exclusionary level wherein we are beginning to see dire health consequences of sharply limited treatment or untreated illnesses among the Medicare eligible, on top of what we continue to see as detrimental effects on the health of individuals resulting from our seniors being discharged too early from the hospital.

The fact is, in the current environment created by HCFA and the Medicare carriers, physicians have little more knowledge than the patients as to what will be a covered service and how often that service will be covered. I know—as I have made many inquiries for clarification, many of which are still unresolved. After the fact, when it comes to justifying medical necessity, patients are led to distrust the medical judgments of their physicians—those very individuals upon whose judgment they should rely. The apparent result of many of these so-called cost-saving measures—has been the destruction of the confidence of our Nation's elderly in their doctors and their hospitals. Is it really the intent of Congress and the Health Care Financing Administration to imply that most physicians are crooks who will drag elderly and sick Medicare patients into their offices for unnecessary treatments in order to bill Medicare? And then, to proceed on that implication—by authorizing the setting in place of a vast and costly network of big-brother-is-watching review mechanisms that have added millions to the Medicare budget for personnel and related costs for all the existant levels of reviewing—and all the while proclaiming that costs to the program are down.

As many medical services and treatments are evaporating in the maze of changing coverage guidelines, does anyone other than the physician actually consider the patient in these cost-saving measures? Medicare policy has come dangerously close to defining medical care for our country's senior citizens and appears to be attempting to control physicians' judgment about the treatment of patients who are caught in the cross-fire, confused and as terrified of enormous unreimbursed medical bills as they are of illness.

Let me say that there appears to be a shared consensus among physicians, who treat large numbers of seniors—either because of specialty or because of location—that there will be a sharp curtailing in their accepting Medicare patients because of the loss of revenue—not to mention the sheer aggra-

vation, additional clerical costs for Medicare processing and actual loss of time to the physician in aspects unrelated to actual patient care. Very simply, the Federal Government is making it too costly and too cumbersome for doctors in private practice to treat seniors. As a new Member of Congress, I am frightened for my senior constituents, whose access to health care is being systematically eroded.

I am kept well apprised of Medicare problems in my district, through the Medical Society of New Jersey, the Ocean and Monmouth County Medical Societies, and many individual Medicare patients and physicians. Submitted for the RECORD is recent thoughtful correspondence of Michael A. Patmas of Toms River, NJ—whose concern for patients and the integrity of the practice of medicine is well known, and who, among other things has special credentials in geriatrics.

FEBRUARY 20, 1990.

FRANK PALLONE, Jr.,
1174 Fisher Blvd.,
Toms River, NJ.

DEAR SIR: I recently read in the AMA News that the Inspector General is planning to launch a study to investigate whether or not Medicare's reimbursement policies are discouraging internists from attending to patients in nursing homes.

You can tell the Inspector General that he can save the taxpayer quite a bit of money. He doesn't need to do a study to determine this. A few well-placed phone calls while having his morning coffee will tell him all he needs to know. I suggest he call a few internists in different parts of the country and in 15 minutes over the phone, he can be thoroughly convinced that Medicare's reimbursement policies are not only discouraging internists from taking care of patients in nursing homes, they are also discouraging internists from practicing geriatrics in general. One doesn't need a federal investigation to realize the obvious.

As you probably know, I was university-trained in a program with a strong geriatric emphasis, and I am Board eligible for certification as a specialist in geriatric medicine. It is indeed quite a sad commentary that not only have I decided not to take the specialty certifying exam in geriatrics, but I have moved my practice as geographically far away from senior citizens as possible in my area. As you should know, my MAACs for Medicare patients are so appalling low, that the Medicare patient represents a significant financial drain on my practice. Were I to advertise myself as a specialist in geriatrics, my practice would be overwhelmed with Medicare patients and I would quickly be in financial difficulty.

Why should I see a Medicare patient for $25.50 when I can see a non-Medicare patient and charge my usual fee of $40.00? Five years ago, I received $35.00 for a regular office visit from all my patients. Today, my Medicare fee for a regular office visit is $25.00 (reduced 30% by law over the last five years) while the fees for non-Medicare patients have gone up to $40.00 for an office visit. With a $15.00 differential between Medicare and non-Medicare patients, why should I see the lower-paying patient. This disparity is even greater for the new patients wherein I am paid $140.00 for a comprehensive history and physical on a non-Medicare patient. My MAAC for complete history and physical on a Medicare patient is approximately $70.00. One doesn't need an MBA to realize that Medicare patients represent a revenue source slightly better than Medicaid patients. A successful practice must diversify its patient base to include as many non-Medicare patients as possible.

For these reasons, most internists avoid seeing patients in nursing homes and are presently and very subtly trying to decrease their "burden" of Medicare patients. I guess this is the information the Inspector General would be trying to find out with his congressional investigation.

Very truly yours,

MICHAEL A. PATMAS,
M.S., M.D., F.A.C.P.

JUNE 26, 1990
(After investigation by
the Inspector General).

Representative FRANK PALLONE, JR.
Cannon House Office Building
Washington, DC.

DEAR MR. PALLONE: I thought I would send you a copy of a letter I received from Dr. F, which I think you might find very interesting. As you can see, Dr. F is choosing to no longer perform consultations at several area nursing homes. This is indeed unfortunate since Dr. F is an absolutely first-rate psychiatrist, specially trained in geriatric psychiatry. There are only a very few psychiatrists in this area. We indeed have a shortage in that speciality and now the best in the community no longer will do consultations in these nursing homes.

This situation is not unique. In Ocean County, *none* of the elite physicians, that is, the most highly trained, certified, and qualified physicians, attend any patients in nursing homes. This is because the reimbursement rates from Medicare are so appallingly low that nursing home visits simply do not pay. Secondly, paperwork and other hassles from Medicare also contribute to the desire to avoid these settings.

Recently the Inspector General has stated that Medicare regulations have not resulted in any problems with access to care. I would suggest the Inspector General spend some time in Ocean County, identify himself as a Medicare patient, and see how long it takes him to get a visit with any Board-certified specialist, if he can get one at all. All across the county, indeed, in the State of New Jersey and throughout the country, physicians are disgusted. As you well know, almost 65% of doctors in a recent nationwide survey are disillusioned with the practice of medicine and would quit tomorrow if they could. In fact, many of them are already planning alternate careers. In Ocean County, approximately a half dozen quality physicians in the prime of their career have quit in the past two years. Every other physician I know of merit is actively scaling back their Medicare practices. Dr. F's letter is just another example.

The situation for physicians is beyond bad. We are now of the feeling that it is hopeless and that the only option for most of us is to get out of this profession. Medicare does not distinguish among physicians based upon qualifications and credentials.

I would suggest that they should, and see exactly who it is that's attending our elderly patients in nursing homes. Physicians have been a convenient scapegoat for the last several years and physician-bashing a favorite political activity. We have warned that sooner or later we will not be able to take much more and will simply begin to leave the profession. Access to care and certainly the quality of individuals practicing medicine is certain to deteriorate. In fact, this is already occurring. As you well know, quality of medical school applicants is declining rapidly. Medical school competition is almost nonexistent. Virtually anyone can now go to medical school. It won't take long before access and quality must certainly suffer. Thus far, however, there is not a shred of evidence that any elected officials care one iota about physicians' feelings and our perspective on the problems. We are not asked for our input and our opinions really do not seem to matter. The only option left for most physicians is simply to do as Dr. F has done. Much to our regret and to the detriment of the patients. Sooner or later, the politicians better wake up to the desperate state of despair that physicians feel to resort to this drastic type of maneuver.

Sincerely yours,

MICHAEL A. PATMAS, M.D., F.A.C.P.

MARCH 5, 1990.

DEAR SIR: This letter is intended to convey my feelings regarding the Inspector General's reported proposals for the regulation of physician office labs (POL's). As his regulations are proposed, they would constitute a prohibitive hardship for the physician. Even very simple POL's would be required to have a pathologist or Ph.D. scientist on-site to supervise laboratory activity. This is clearly not feasible for a small, solo medical practice.

Further, the $2,000 annual registration fee would wipe out any profit that these small labs produce. The regulations would, for me, necessitate dismantling my POL and terminating my medical technician. It would result in grave inconvenience to my patients, some of whom are elderly and who have difficulty traveling seven miles away to the hospital to have their blood work done. The purpose of the POL is primarily to provide convenience to patients who desire to have the blood work done at the time of their office visit. It is also invaluable medically because I am able to determine if there are critical laboratory test abnormalities while the patient is still in the office. The delay inherent in having to send a patient to the lab to find out that their potassium is dangerously low or high is obvious. I can have the same information in five minutes in my office.

All of the Inspector General's concerns about POL quality can be easily addressed without the need for excessive regulation. Participation in a specialty society-sponsored laboratory quality control program such as the American Society of Internal Medicine's POL monitoring program would address all of the Inspector General's concerns. There really is no need to adopt such severe restrictions as the Inspector General has suggested. The ASIM program provides for reproducibility of results and maintains an excellent quality control program.

I would suggest that you look into the Inspector General's report and consider simplifying it to require that POL's participate in an ongoing quality control program such as that provided by the American Society of Internal Medicine.

Sincerely,

MICHAEL A. PATMAS,
M.S., M.D., F.A.C.P.

Addendum: Oh, and by the way, I really resent the IG's suggestion that a doctoral scientist would have to be present to supervise laboratory function. I have a master's degree in physiology and biochemistry, and spent two years doing laboratory research immeasurably more complex than that which goes on in my office. If I can properly

isolate brain mitochondria and test oxydative phosphorylation, I certainly think I can supervise a medical technologist in drawing a blood specimen and placing a drop of serum on a slide which is then inserted into a machine and gives you the result.

BOOM IN ELECTRONIC SURVEILLANCE GADGETS POSES THREAT TO PERSONAL PRIVACY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. EDWARDS of California. Mr. Speaker, I would like to bring to the attention of my colleagues a disturbing new threat to our constituents' privacy. In an article in New York Newsday entitled "Spies Like Us," reporter Carl S. Kaplan described the recent proliferation of personal surveillance gadgets. These sophisticated audio and video devices are becoming increasingly available to consumers, and their popularity is soaring. Yet, as our society indulges in its fascination with spying, our fundamental civil liberties are threatened. By intruding into the privacy of our conversations and acts, even in our own homes, these devices leave us all vulnerable. This article affirms the importance of the bill H.R. 2551, introduced by my colleague from California, Mr. DELLUMS, which would require two-party consent to electronic monitoring in all non-law-enforcement cases. The Newsday article, printed on June 10, 1990, follows:

SPIES LIKE US

Electronic surveillance has become a family affair—and a big business by Carl S. Kaplan.

High above busy 34th Street, in an 80th floor suite in the Empire State Building that reeks of calm, Ed Sklar is giving a Cook's tour of some of the most popular spy gadgets he sells to paranoid and security-minded consumers.

There's a black-leather attache case with hidden microphone and hide-away tape recorder—perfect for covertly taping conversations and promises that might otherwise be lost.

For women on the go: a recording purse that resembles a sleek, designer bag. At $600, it can be used for documenting sexual harassment on the job or to help prove spouse abuse. "We originally built this at the request of a client who was referred to us by a divorce attorney," says Sklar, the president of Spy Tech. Pulling other gadgets off the shelves, the snoop maestro explains the uses of wiretap detectors, telephone-recording equipment, and something called the "Electronic Stethoscope," an under-$300, amplified hearing device that can detect faint sounds—and voices—behind walls.

"Let's go to covert video surveillance," the designer and vendor says cheerfully, pointing to a cuddly teddy bear. This $1,200 stuffed animal contains a tiny video camera that peeks through the belly button—good for monitoring the baby sitter.

Once upon a time, espionage devices such as the all-seeing bear were the stuff of James Bond fantasies and, perhaps, a government or industrial spook's arsenal. Not any more. Selling for consumer use is the new trend in surveillance gear, creating by one estimate a $100-million industry—and a host of concerns about privacy.

"Maybe the Nineties are going to be the spy decade," said Steve Brown, a buyer for The Sharper Image, whose catalog is expanding its spy gadgetry. "We're doing it because it's fun, different and [will] cause excitement in the stores."

Privacy advocates are excited, too, but for a different reason. They claim that although some surveillance equipment is against federal law, legal loopholes, lax enforcement and a new social acceptability for spying allow the proliferation of equipment to go unchecked. "When people talk about Big Brother, they mean the government. But Big Brother is not the government—it's each of us," said Rudolph Brewington, a privacy advocate who says he was bugged—electronically—by his spouse after she filed for divorce. "The James Bond syndrome . . . people think of [spy gadgets] as romantic, wonderful. But they are despicable," he said.

Professionals such as Sklar, taking advantage of lower prices for the sophisticated wares and popular interest in electronics, say they are marketing to upscale retail stores, glossy catalog companies and directly to shoppers and small-business owners.

For example, The Sharper Image, which also has a Manhattan store, will list three spy gadgets in its August catalog: the Electronic Stethoscope, a phone-tap defeater, and a wireless transmitter/receiver kit, for listening to sounds at a distance.

A particularly intrusive gadget is among those in Sklar's office: a seemingly conventional television set.

"This TV watches you," he says. "It has a built-in video camera behind the speaker."

It works like this: If you think your spouse is cheating, bring the $1,500 set home as a gift, put it in the bedroom, then go away on business. Upon return, check the videotapes.

Demand for sophisticated audio and video surveillance devices is fueled by many factors, including yuppie toy lust, the desire to gain an advantage and high divorce rates—which promote spousal suspicion, according to experts.

Spy gadgets are "epidemic" among warring or litigating couples, said Maureen Gawler, a Maryland-based private investigator. "I see over and over, men and women using different types of bugging devices, including video surveillance . . . just to find things out, for legal blackmail. They want to know what their spouses are doing," she said.

Raoul Lionel Felder, a New York divorce attorney for Robin Givens and Nancy Capasso, said he shuns "slimy" information from amateur spouse spies. But Felder acknowledged that evidence gathered by illegal eavesdropping might be used by some lawyers. "It's never so crude as using illegal surveillance as the evidence," he said. "They work backward. A husband taps a phone and finds out his wife is committing adultery. He takes the tape and destroys it, then [hires someone] to watch the 'Hotbed Hotel' " and gather legal evidence.

"The psychodynamics of it are, you gotta find out, punish, get the edge," Felder continued. "Many people get tap happy, start tape recording their lawyer. Whenever I see a woman with a large pocketbook, I assume she's taping me."

There are other users, though. Sklar—who founded his firm in Miami four years ago with corporate accounts, and who targeted New York and consumer clients last year—said many of his clients are prudent professionals who wish to record oral agreements. He also caters to "people with problems."

"In today's society, with many parents working, the problem of abuse by baby sitters, nannies, is hitting the headlines," Sklar said. "That's generated a lot of interest" in video bugs.

By way of example, Sklar mentioned a notorious "video slapping" case. In 1989, a Chattanooga, Tenn. couple, fearful that their baby sitter was abusing their 6-month-old baby, secretly videotaped her slapping the child. The sitter pleaded guilty to misdemeanor to child-abuse charges, and a judge sentenced her to a year in jail after watching the tape.

The wave of surveillance gadgets also has created a market of response products. Suzanne Harper, vice president of Digitech Telecommunications Inc., a New York-based distributor of security wares to mail-order houses and retailers, said one of her most popular items is "Phone Guard," a $300 phone-tap detector and defeater. Her company also sells various other "bugging" detectors and telephone-voice scramblers—though experts said some "countermeasure" devices give consumers a false sense of security.

"Some of this stuff has no purpose but to feed a particular void in society that can be [filled] for $200. It's paranoia," said Michael Goodrich, owner of Spectra Research Group, a Manhattan-based supplier of security equipment.

One impact of the trend is the creation of spy victims who—through accident or ingenuity—discover they have been bugged.

Brewington, 43, a Washington, D.C.-based government worker, said he fell into the spy trap in Pittsburgh in 1987. "I was going through a very bitter divorce," he said. "One evening, under the pretext of reconciliation, my wife invited me into her bed . . . I was laying there holding her and she started hollering as if I was raping her. My antennae went up.

"Two weeks later, I discovered a voice-activated tape recorder in a closet upstairs," he said. "It had about 45 minutes of secretly recorded conversations of the two of us." Brewington sued, claiming his wife illegally recorded his conversations without his consent, in violation of Pennsylvania law. The case is pending.

The legality of selling and using some surveillance equipment is a "gray area," according to attorney Robert Ellis Smith, publisher of Privacy Journal in Washington, D.C.

For one thing, while federal law makes it a felony to sell, manufacture, advertise or possess an electronic device that's "primarily useful" for the surreptitious interception of wire or oral communications, there can be different interpretations as to what is "primarily useful," Smith said. Many devices, such as the Electronic Stethoscope, can have benign uses, such as checking for water leaks.

Sellers of spy gadgets tend to protect themselves by citing legal uses for their devices, even though "it's pretty clear [some] devices could be used to overhear two strangers," Smith said.

Indeed, ads often deliver mixed messages. Life Force Technologies, a Colorado-based mail-order company that sells more than 30 security devices, promotes its Electronic Stethoscope by saying: "Monitor the baby breathing in the nursery . . . and even diagnose engine sounds." But the accompanying

photo depicts a debonair man in tuxedo pressing the gadget against a white plaster wall. There's also a disclaimer: "It is a Federal Offense to intercept oral communciations, and these devices are not sold for that purpose."

Whisper 2000, an under-$20 amplified hearing headset sold directly via cable TV and newspapers, "has dozens of practical uses," according to one ad. "Take a walk outdoors and you'll hear birds sing like you've never heard them before." Nevertheless, the Washington Post stopped accepting the ads, said a Post lawyer, "because we had some concern . . . about it being a surveillance device."

Besides regulating the sale of devices, federal law also restricts wiretapping and eavesdropping acts. But a loophole exists: "It's legal to bug people when you are a party to the conversation," Smith said. That doctrine, called "one-party consent," enables a person equipped with a briefcase recorder to secretly tape a conversation he's included in. Fourteen states, including Pennsylvania, California and Maryland, have adopted the more restrictive "two-party consent" rule, which requires that all members of a conversation give prior consent. In New York, one-party consent holds sway.

Covert video surveillance, meanwhile, is not covered by federal wiretapping statutes, Smith said. But general principles apply: A bugger can't criminally trespass to place a camera, or put a camera in an area where a victim has a reasonable expectation of privacy, such as a bathroom.

To help curb amateur spying, Rep. Ronald V. Dellums (D-Calif.) last year introduced a bill that would amend the federal Omnibus Crime Control and Safe Street Act by requiring two-party consent in non-law-enforcement cases. The bill also would require manufacturers to equip voice-activated tape recorders with beep tones to help prevent misuse.

Yet even some lobbyists supporting the measure give it little chance of quick passage, because public concern has not caught up with technology. "Until we have more people who have been victimized and write to Congress, we're not going to get this legislation moving," said Janlori Goldman, a privacy attorney with the American Civil Liberties Union.

Some security experts opposed to the Dellums bill say that adequate laws exist to protect privacy. They say the problem is low-priority enforcement.

A spokesman for the FBI countered: "We pursue [illegal surveillance] rather vigorously when it comes to our attention." But Douglas Tillett, a spokesman for the U.S. Justice Department, acknowledged that evidence to prompt an investigation can be hard to get. "As a practical matter, if your neighbor wants to put a device on the wall and listen to you, there's almost no way the government can know that is happening," Tillett said.

The problem of victims not knowing they are victims has caused at least one privacy advocate to adopt a fatalistic attitude toward amateur spying. "I think it is dreadful, but I also think it is hopeless to try and stop it," said Herman Schwartz of American University's Washington College of Law in Washington, DC. "I'm afraid that given the pervasiveness of electronics stuff in society, it's just not feasible to enforce the law."

There's always the chance, however, that peer pressure can force changes. Private eye Gawler tells the following story about one of her surburban neighbors: A mother, concerned about her children's possible drug use, secretly planted a video camera in her house. When the camera recorded one of his children's playmates smoking marijuana, the bugger passed the evidence to the drug user's mother—who grew angry at the invasion of her child's privacy.

"The whole thing exploded in the neighborhood . . . all the parents were mad" at the bugger, Gawler said. "Now no kids go to that woman's house. Her kids lost all their friends."

YOUNG SPIES LIKE US: GROUP CALLS TYCO TOY EAVESDROPPING DEVICE

(By Carl S. Kaplan)

Spy devices aren't only for adults. Tyco Industries Inc. in March started shipping its "Real Working Long Range Microphone," a $16 boom mike with earphones marketed "for ages 5 to adult." The toy, part of the company's "Spy-Tech" line, can pick up sounds "up to 50 feet away!" says the product's packaging.

B. James Alley, senior vice president of marketing at Tyco, reckons he will sell 180,000 units this year. "All little kids like to play spy," he said.

But one child's plaything can be another's weapon. In April, Action for Children's Television, the Boston-based advocacy group, filed a complaint with the Federal Trade Commission, charging that Tyco's toy is an illegal eavesdropping device.

For its part, Tyco scoffs at the complaint. It claims the toy's design renders it ineffective as a secret listening device. "It doesn't work through walls, doors or around corners . . . [and] it's got a red, six-inch microphone, just to make sure everyone can see it," Alley said. The FTC declined to say whether it was conducting an investigation.

HAPPY 90TH BIRTHDAY, AVERILL PARK-SAND LAKE VOLUNTEER FIRE COMPANY NO. 1

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. SOLOMON. Mr. Speaker, this year will mark the 90th birthday of the Averill Park-Sand Lake Volunteer Fire Company No. 1

Like many Members of this House, I was for many years a volunteer fireman in my hometown of Queensbury. I have good reason to appreciate how important these volunteer fire companies are in rural districts like the 24th New York. In these areas, they are the sole source of fire protection. And they do a great job, saving billions of dollars in property and countless lives every year.

Being a volunteer fireman is time-demanding. It can be dangerous. Organizing a fire company and keeping it together as a functioning unit require dedication and civic pride. Those are two qualities that exist in abundance in the Averill Park-Sand Lake Volunteer Fire Company No. 1.

I can only guess at the number of lives and homes that have been saved in the last 90 years because of these brave and dedicated vounteer firefighters.

Mr. Speaker, on the weekend of August 11 and 12 there will be a celebration marking the 90th anniversary of the company. Please join me in saluting Chief Steven Robelotto and company President Robert E. Blaauw, and in wishing the fire company a happy 90th birthday.

BALLARD HIGH SCHOOL: ACADEMIC EXCELLENCE NATIONAL CHAMPS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. MAZZOLI. Mr. Speaker, I rise to honor a special school in Jefferson County, KY, Ballard High School, which won the National Tournament of Academic Excellence competition at Orlando, FL.

The team was ably coached by Elaine Coley, a teacher at Ballard, and the team consisted of Andrew Colville, Mark Roseberry, Ram Nagarajan, Dan Frockt, and Terran Lane.

Ballard has left its mark on the 3-year-old Academic Excellence competition. Ballard was semifinalist 2 years, and this year, brought the first place trophy home to Jefferson County.

Mr. Speaker, as a native of Louisville and Jefferson County it is my privilege to represent nearly all of my community here in the House. While Ballard High School itself is not located in my congressional district, many of its students do reside in the Third District.

Therefore, I am taking this opportunity to salute the Academic Excellence team of Ballard High School, faculty and administrators at Ballard which made this great triumph possible.

SALUTE TO THE 25TH ANNIVERSARY OF WLEN

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. PURSELL. Mr. Speaker, I rise to acknowledge the 25th year of broadcast service to Lenawee County, MI, by radio station WLEN.

Located in Adrian, MI, WLEN continues a tradition of service to the listeners of Lenawee County. From "First To Know News" to "Partyline" to the morning show with Bob Butler, WLEN fills its airwaves with the news and information of importance to the residents of Lenawee County—as well as focusing on the lighter, entertaining side of life.

WLEN plays an important role in the community. The station's dedication to providing forums for opinion, local classified, lost and found, farm news, high school sports, and remote live broadcasts, continues to make it a favorite among the area's listeners. The station also provides an important conduit for the many civic organizations, which includes being host to radio auctions and other special events. It is this outstanding service that contributes so greatly to the close-knit sense of community enjoyed by the residents of Lenawee County.

Mr. Speaker, as WLEN commemorates its 25th anniversary, I would like to mention the names of some of the people who make the station such a success: News Director, Mike Clement; program director, Dale Gaertner; morning man, Bob Butler; afternoon/operations manager, Doug Spade; station manager, Julie Koehn; marketing manager, Steve Barkway; marketing consultants, Betty Wilson-Payne and Sherry Betz; evening DJ, Scott White; and overnight DJ, Jim McKee.

Mr. Speaker, I ask my colleagues to join me in congratulating WLEN on 25 years of outstanding service.

EXCELLENCE IN INTERVENTION AWARD FOR LA CROSSE LUTHERAN HOSPITAL'S TEEN HEALTH PROGRAM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1990

Mr. GUNDERSON. Mr. Speaker, I want to inform this body that Lutheran Hospital's Teen Health Services [THS] Program, in La Crosse, WI, has received the American Medical Associations' 1990 AMA National Congress on Adolescent Health Services Award—for the category of "Coordination of Adolescent Health Services Within a Rural Area." This honor reflects not only on the Lutheran Hospital, but also on the efforts of Wisconsin's Division of Health and Division of Rural Health whose staffs contributed guidance and manpower in initiating the THS Program. Each of these three organizations played an important role in making this award-winning program work.

Teen Health Services is a comprehensive program providing mental health and counseling services, and physical health services to rural adolescents and their families. The program provides outreach services to pregnant/parenting and other high-risk adolescents in a community setting; that is, schools, homes, and civic organizations. At the present time THS is working with 40 school districts, in 11 counties, which span 3 States.

The program was initiated in an attempt to replicate the Milwaukee Teen Pregnancy Service. However, the needs of rural adolescents require innovations due to limited transportation, lower incomes, and restricted resources. To compensate for these conditions, all services are provided from a single site within the community's youth environment.

The services provided by this award-winning program can be divided into three categories. First, THS provides counseling. Adolescents are screened and assessed, then crisis and short-term counseling care is provided. In cases when THS does not provide the counseling service which meets the youth's needs, the counselor will provide a qualified referral whereby help can be obtained.

Second, THS provides adolescent pregnancy and parenting services. The classes which are offered range from prenatal care, to training to care for a child which has reached the age of a year or more.

Finally, THS provides preventive education. Programs are held in the schools, through youth groups and by civic organizations on a wide variety of adolescent health issues.

From its inception the program has expanded and specialty programs have been added. Programs are now offered which include adolescence suicide prevention, intervention and consultation; weight management classes; school-age parent programs; and an adolescent pregnancy prevention task force. Each of these programs and services entail a high degree of cooperation and coordination with area schools, hospitals, and community agencies which undertakes their day-to-day operations. Coordination of available resources—assessment counseling, referrals and intervention—are provided to bring optimal care to adolescents.

Since 1984, over 11,000 people have participated in the prevention education program. Additionally, health services have been provided to some 700 high risk adolescents and 250 pregnant teens. The multidisciplinary staff provides intervention and prevention services to rural youth and serves as the coordinators of local resource concerns. In 1989, 60 percent of the referrals went to existing community resources.

Coordination with the schools and joint program development are two keys to the success of THS. Evidence of the program's impact is seen in the yearly increases in referrals to the THS program, positive satisfaction ratings received from clients, higher rates of high school graduation in THS schools and additional prenatal visits kept by THS adolescents. Efforts are currently being made to expand the services—including an adolescent health clinic and a mobile health unit.

In conclusion, THS has become a model program for all areas of the country because it shows that resources are available for adolescent health care in rural areas if resources are properly distributed. Unlike other programs of its type, THS is successful because it fits health care to the needs of rural adolescents, rather than the adolescent to the needs of rural health care. It is creative efforts like those of the Teen Health Services which we need to meet the demands of rural adolescent health care.

Mr. Speaker, I applaud the fine work of Teen Health Services of La Crosse, WI, and I congratulate them on receiving the AMA's 1990 Adolescent Health Award.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 12, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 13

9:00 a.m.
Armed Services
Closed business meeting, to mark up S. 2171, authorizing fund for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, and to consider other pending calendar business.
SR-222

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Timothy J. McBride, of Michigan, to be an Assistant Secretary of Commerce, and C. M. Schauerte, of Texas, to be Federal Insurance Administrator, Federal Emergency Management Agency.
SD-538

Conferees
On S. 1630, to amend the Clean Air Act to provide for the attainment and maintenance of health protective national ambient air standards.
345 Cannon Building

10:00 a.m.
Governmental Affairs
To hold hearings on S. 2675, to require the Census Bureau to count overseas military personnel and their dependents as residents of their home states, the nomination of Barbara E. Bryant, of Michigan, to be Director of the Census Bureau, Department of Commerce, and to review the progress of the 1990 census and to examine problems including low response rate, slowness of the door-to-door work, and difficulty counting the homeless.
SD-342

11:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2748, to provide deterrents for the counterfeiting of Federal Reserve notes and to increase efforts to combat casual and professional counterfeiting.
SD-538

1:30 p.m.
Armed Services
Closed business meeting, to mark up S. 2171, authorizing funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, and to consider other pending calendar business.
SR-222

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2742, to revise the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements.
SD-215

JULY 16

1:00 p.m.
Judiciary
To hold hearings on the nominations of Paul V. Niemeyer, of Maryland, to be United States Circuit Judge for the Fourth Circuit, Randall R. Rader, of Virginia, to be United States Circuit Judge for the Federal Circuit, John H. McBryde, to be United States District Judge for the Northern District of Texas, and Fred I. Parker, to be United States District Judge for the District of Vermont.
SD-226

JULY 17

9:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to examine negotiated rates between shippers and motor carriers.
SR-253

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona.
1324 Longworth Building

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 2046, to establish the National Infrastructure Council to establish, coordinate, and implement Federal infrastructure policy.
SD-406

Foreign Relations
To hold hearings on threshold test ban and peaceful nuclear explosions treaties with Russia, and verification protocols for each treaty.
SD-419

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on proposed legislation to revise antitrust laws relating to joint ventures, including S. 1006 and S. 2692, to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.
SD-226

JULY 18

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine issues relating to the interstate transport of solid waste.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on visitor facilitation of U.S. points of entry.
SR-253

Judiciary
To hold hearings on the nominations of Jimmy Gurule, of Utah, to be an Assistant Attorney General, and Steven D. Dillingham, of South Carolina, to be Director of the Bureau of Justice Statistics, Department of Justice.
SD-226

JULY 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) international antitrust jurisdiction over foreign companies.
SR-253

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2426, to authorize the President to designate a private nonprofit organization, the National Tree Trust Foundation, to promote tree planting and to establish rural and community tree planting and forest improvement programs.
SR-332

JULY 20

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
To hold hearings to examine concentration in the meat packing industry.
SR-332

JULY 23

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2770, to establish the Indian Finance Corporation, an independent, Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country.
SR-485

JULY 24

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2800, to permit telephone companies to engage in video programming.
SR-253

10:00 a.m.
Judiciary
To hold hearings to examine methods for combatting fraud in the savings and loan industry.
SD-226

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the methods of transporting hazardous materials and on proposed legislation authorizing funds for the Hazardous Materials Transportation Act.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 2044, to require that tuna products containing tuna caught by methods lethal to dolphins be labeled to inform consumers of that fact.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings to examine the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program.
SD-366

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.
SD-366

AUGUST 2

9:30 a.m.
Select on Indian Affairs
To hold joint hearings with the House Committee on Interior and Insular Affairs on provisions of H.R. 4117, to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona.
1324 Longworth Building