

each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

#### WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID "YES"

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's have a little pop quiz: How many million dollars would you say are in a trillion dollars? In answering, remember that Congress has run up a debt exceeding \$4½ trillion.

To be exact, as of the close of business yesterday, Monday, January 9, the Federal debt—down to the penny—at \$4,795,838,481,378.56. This means that every man, woman, and child in America owes \$18,205.09 computed on a per capita basis.

Mr. President, to answer the pop quiz question—how many million in a trillion?—there are a million millions in a trillion, for which you can thank the U.S. Congress for the present Federal debt of \$4½ trillion.

#### THE RULES OF THE COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 104th Congress as adopted by the committee, Monday, January 9, 1995.

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

##### RULES OF THE COMMITTEE ON THE BUDGET— ONE HUNDRED FOURTH CONGRESS

###### I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the Chair as the Chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial in-

formation pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

###### II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

(4)(a) The Committee may poll—

(i) internal Committee matters including those concerning the Committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other Committee business that the Committee has designated for polling at a meeting, except that the Committee may not vote by poll on reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, the Chair shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2)(a)–(f), then the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

###### III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberation on Budget Resolutions.

###### IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

###### V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

#### VIOLENT CRIME CONTROL AND LAW ENFORCEMENT AMEND- MENTS ACT OF 1995

Mr. HATCH. Mr. President, I ask unanimous consent that the full text and section summary of S. 38, the Violent Crime Control and Law Enforcement Amendments Act of 1995, introduced on January 4, 1995, be printed in the RECORD.

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

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

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Amendments Act of 1995".

##### SEC. 2. ELIMINATION OF INEFFECTIVE PROGRAMS.

The Violent Crime Control and Law Enforcement Act of 1994 is amended by striking subtitles A, B, C, D, G, H, J, K, O, Q, S, U and X of title III, title V, and title XXVII.

##### SEC. 3. AMENDMENT OF VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANT PROGRAM.

(a) IN GENERAL.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 and the amendments made thereby are amended to read as follows:

##### "Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants "SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve conventional correctional facilities, including prisons and jails, for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General that includes—

"(1)(A) except as provided in subparagraph (B), assurances that the State or States have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is

appropriately related to the determination that the inmate is a violent offender and for a period of time determined to be necessary to protect the public;

“(B) in the case of a State that on the date of enactment of the Violent Crime Control and Law Enforcement Amendments Act of 1995, practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of times served for such offenses in all of the States;

“(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

“(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve conventional correctional facilities;

“(4) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

“(5) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

“(6) assurances that the State or States have implemented, or will implement not later than 18 months after the date of the enactment of the Violent Crime Control and Law Enforcement Amendments Act of 1995, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled; and

“(7) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

#### **“SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.**

“(a) **TRUTH IN SENTENCING GRANT PROGRAM.**—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth in Sentencing Incentive Grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

“(1) has in effect laws that require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed;

“(2) since 1993—

“(A) has increased the percentage of convicted violent offenders sentenced to prison;

“(B) has increased the average prison time that will be served in prison by convicted violent offenders sentenced to prison; and

“(C) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

“(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

“(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense; or

“(3) in the case of a State that on the date of enactment of the Violent Crime Control and Law Enforcement Amendments Act of

1995 practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of times served for such offenses in all of the States.

“(b) **ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.**—The amount made available to carry out this section for any fiscal year shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

#### **“SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.**

“(a) **VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.**—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for Violent Offender Incarceration Grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

“(b) **ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.**—

“(1) **FORMULA ALLOCATION.**—0.6 percent shall be allocated to each eligible State except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

“(2) **REMAINDER.**—The amount remaining after application of subparagraph (A) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

#### **“SEC. 20104. RULES AND REGULATIONS.**

“(a) **IN GENERAL.**—The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle not later than 90 days after the date of enactment of the Violent Crime Control and Law Enforcement Amendments Act of 1995.

“(b) **BEST AVAILABLE DATA.**—If data regarding part 1 violent crimes in any State for the previous year is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for that State for the purposes of allocation of any funds under this subtitle.

#### **“SEC. 20105. DEFINITIONS.**

“In this subtitle—

“(1) the term ‘part 1 violent crimes’ means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports;

“(2) the term ‘State’ or ‘States’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

“(3) the term ‘indeterminate sentencing’ means a system by which the court has discretion on imposing the actual length of the sentence, up to the statutory maximum and an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence.

#### **“SEC. 20106. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this subtitle—

“(1) \$1,000,000,000 for fiscal year 1996;

“(2) \$1,150,000,000 for fiscal year 1997;

“(3) \$2,100,000,000 for fiscal year 1998;

“(5) \$2,200,000,000 for fiscal year 1999; and

“(6) \$2,270,000,000 for fiscal year 2000.”.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) **TECHNICAL AMENDMENT.**—The table of contents for the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the items for subtitle A of title II, and inserting the following:

“Sec. 20101. Grants for correctional facilities.

“Sec. 20102. Truth in sentencing incentive grants.

“Sec. 20103. Violent offender incarceration grants.

“Sec. 20104. Rules and regulations.

“Sec. 20105. Definitions.

“Sec. 20106. Authorization of appropriations.”.

(2) **CONFORMING AMENDMENT.**—Section 310004(d) of the Violent Crime Control and Law Enforcement Act of 1994 is amended in the definition of “State and local law enforcement program”, in paragraph (13), by striking “20101–20109” and inserting “20102–20108”.

#### **SEC. 4. PUNISHMENT FOR YOUNG OFFENDERS.**

(a) **IN GENERAL.**—Subtitle B of title II of the Violent Crime Control and Law Enforcement Act of 1994 and the amendment made by that subtitle is repealed.

(b) **CONFORMING AMENDMENTS.**—The Violent Crime Control and Law Enforcement Act of 1994 is amended—

(1) in section 32101,

(2) in section 310004(d), in the definition of “State and local law enforcement program”—

(A) in paragraph (14), by inserting “and” at the end;

(B) in paragraph (15), by striking “; and” and inserting a period; and

(C) by striking paragraph (16).

#### **SEC. 5. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.**

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: “Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

“(A) be punished by imprisonment for not less than 10 years;

“(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

“(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

Notwithstanding any other law, the 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 or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.”.

**SEC. 6. MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.**

(a) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be not less than 10 years. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c), (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

**SEC. 7. MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS CONVICTED OF DISTRIBUTION OF DRUGS TO MINORS.**

(a) IN GENERAL.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a)—

(A) by striking "eighteen" and inserting "twenty-one";

(B) by striking "twenty-one" and inserting "eighteen";

(C) by striking "not less than one year" and inserting "not less than ten years"; and

(D) by striking the last sentence;

(2) in subsection (b)—

(A) by striking "at least eighteen" and inserting "at least twenty-one";

(B) by striking "under twenty-one" and inserting "under eighteen";

(C) by striking "not less than one year" and inserting "a mandatory term of life imprisonment"; and

(D) by striking the last sentence;

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

"(C) OFFENSES INVOLVING SMALL QUANTITIES OF MARIJUANA.—The mandatory minimum sentencing provisions of this section shall not apply to offenses involving five grams or less of marijuana."; and

(4) by amending the section heading to read as follows:

"DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN".

(b) TECHNICAL AMENDMENT.—The table of contents for the Controlled Substances Act is amended in the part relating to title D, by striking the items for sections 416 through 422, and inserting the following:

"Sec. 416. Establishment of manufacturing operations.

"Sec. 417. Endangering human life while illegally manufacturing a controlled substance.

"Sec. 418. Distribution to persons under age eighteen.

"Sec. 419. Distribution or manufacturing in or near schools and colleges.

"Sec. 420. Employment or use of persons under 18 years of age in drug operations.

"Sec. 421. Denial of Federal benefits to drug traffickers and possessors.

"Sec. 422. Drug paraphernalia.".

**SEC. 8. PENALTIES FOR DRUG OFFENSES IN DRUG-FREE ZONES.**

(a) REPEAL.—Section 90102 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(b) IN GENERAL.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a)—

(A) by striking "not less than one year" and inserting "not less than five years"; and

(B) by striking the last sentence;

(2) in subsection (b), by striking "not less than three years" and inserting "not less than ten years";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

"(c) The mandatory minimum sentencing provisions of this section shall not apply to offenses involving five grams or less of marijuana.".

**SEC. 9. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.**

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) any criminal history points under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against a person or a drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against a person or a drug trafficking offense);

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person to carry a firearm and the defendant had no knowledge of any other conspirator involved in the offense possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense;

"(F) the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense;

"(G) the defendant did not own the drugs, finance any part of the offense, or sell the drugs; and

"(H) the Government certifies that the defendant has timely and truthfully provided

to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies, a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable, unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) EMERGENCY AMENDMENTS.—If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of the Violent Crime Control and Law Enforcement Amendments Act of 1995.

(d) REPEAL OF TITLE VIII OF VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Title VIII of Violent Crime Control and Law Enforcement Act of 1994 and the amendments made by that title are repealed effective as of the effective date specified in subsection (c).

**SEC. 10. MANDATORY RESTITUTION TO VICTIMS OF VIOLENT CRIMES.**

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

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

"(4) 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 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 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 an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

“(2) the entity designated by the Director of the Administrative Office of the United States Courts 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

“(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts 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.

“(1) 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 rec-

ommendations as to disposition, subject to a de novo determination of the issue by the court.”.

## THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT AMENDMENTS ACT

This legislation is based on Republican proposals championed during the debate on the Conference Report on the 1994 Crime Bill. The bill eliminates much of the “pork” contained in the 1994 Crime Bill and strengthens prison and sentencing provisions.

Should you have questions about the bill not answered by this summary, please call Mike O’Neill or Mike Kennedy of the Judiciary Committee staff at extension 4-5225.

### SECTION-BY-SECTION ANALYSIS

#### Sec. 1. Short Title

The short title of the bill is the Violent Crime Control and Law Enforcement Amendments Act of 1995.

#### Sec. 2. Elimination of Ineffective Programs

Section 2 eliminates the wasteful social programs passed in the 1994 Crime Bill, including the Local Partnership Act, the National Community Economic Partnership Act and the Family Unity Demonstration Project, among many others. These programs would have wasted billions of dollars on duplicative, top-down spending programs without reducing violent crime.

Of the over \$4.5 billion dollars saved by eliminating these programs, approximately \$1 billion is redirected to prison construction and operation grants.

#### Sec. 3. Amendment of Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program

Section 3 amends the prisons grants included in the 1994 Crime Bill to insure that the funds are spent on the actual construction and operation of prisons for violent offenders and would also remove provisions tying the funds to federal mandates on state corrections systems. Specifically, the proposal would make the following changes:

The Act currently allows prison funds to be spent on alternative correctional facilities in order “to free conventional prison space.” This section requires that prison grants be spent on conventional prisons to house violent offenders, not on alternative facilities.

The proposal removes from the Act a provision which would have conditioned state receipt of the prison grants on adoption of a comprehensive correctional plan that would include diversion programs, jobs skills programs for prisoners, and post-release assistance. Accordingly, these grants will be used exclusively to build and operate prisons.

The proposal amends the prisons grant allocation provisions of the Act by increasing the minimum per-state allocation and removing the Attorney General’s discretionary grant authority.

#### Sec. 4. Punishment for Young Offenders

Section 4 repeals Subtitle B of title II of the 1994 Crime Bill, authorized \$150 million in discretionary grants for alternate sanctions for criminal juveniles.

#### Sec. 5. Increased Mandatory Minimum Sentences for Criminals Using Firearms

Section 5 establishes a mandatory minimum penalty of 10 years’ imprisonment for anyone who uses or carries a firearm during a federal crime of violence or federal drug trafficking crime. If the firearm is discharged, the person faces a mandatory minimum penalty of 20 years’ imprisonment. If death results, the penalty is death or life imprisonment.

#### Sec. 6. Mandatory Minimum Prison Sentences for Those Who Use Minors in Drug Trafficking Activities

Section 6 establishes a mandatory minimum sentence of 10 years’ imprisonment for

anyone who employs a minor in drug trafficking activities. The section also establishes a sentence of mandatory life imprisonment for a second offense.

*Sec. 7. Mandatory Minimum Sentences for Persons Convicted of Distributions of Drugs to Minors*

Section 7 establishes a mandatory minimum sentence of 10 years' imprisonment for anyone 21 years of age or older who sells drugs to a minor. The section also establishes a sentence of mandatory life imprisonment for a second offense.

*Sec. 8. Penalties for Drug Offenses in Drug-Free Zones*

Section 8 establishes new mandatory minimum sentences for drug offenses in drug-free zones which were omitted from the 1994 Crime Bill.

*Sec. 9. Flexibility in Application of Mandatory Minimum Sentence Provisions in Certain Circumstances*

Section 9 includes a narrowly circumscribed mandatory minimum reform measure that returns a small degree of discretion to the federal courts in the sentencing of truly first-time, non-violent low-level drug offenders. To deviate from the mandatory minimum, the court would have to find that the defendant did not finance the drug sale, did not sell the drugs, and did not act as a leader or organizer.

*Sec. 10. Mandatory Restitution to Victims of Violent Crime*

Section 10 amends 18 U.S.C. 3663 by mandating federal judges to enter orders requiring defendants to provide restitution to the victims of their crimes.

**REGARDING S. 14, THE LEGISLATIVE LINE-ITEM VETO ACT OF 1995**

Mr. EXON. Mr. President, year after year, billions of the taxpayers' dollars are larded across the Nation for pork barrel projects created at the behest of our fellow Members.

This is nothing new. Each session, Congress persists in passing appropriations bill groaning with this type of spending for individual projects in a Members home State or district.

Pork barrel spending has become a symbol of political prowess and effectiveness. Members can stump back home, claiming that they have the clout to deliver these projects to their constituents.

Although some of these projects no doubt have their merit, pork barrel spending has become an emblem of out of control spending. Pork is Congress' shameful scarlet letter.

Ideally, Congress should exhibit the type of self-restraint and sacrifice that would swiftly put this wasteful practice to an end. We owe that to future generations of Americans and to our commitment to continue to reduce the deficit.

However, I am a realist and I know that while some Members would voluntarily refrain from pork barrel spending, others would continue with business as usual.

Mr. President, the American people are fed up with business as usual. It's time to change the Nation's spending habits.

The President is also faced with an enormous dilemma. These pork projects are carefully woven into the appropriations legislation, or as Senators BRADLEY and DOMENICI have rightly observed, through targeted tax credits and expenditures in revenue acts. The President cannot simply pull out one thread without unravelling the entire bill. He does not have that authority.

The President must look at each bill as a whole, determining whether to accept the bad with the good—whether the bad outweighs the good. More often than not, it's a case of the President holding his nose and signing the spending bill.

The obvious solution is to grant the President the line-item veto. Today, 43 of the 50 State Governors have some form of veto authority. As Governor of the State of Nebraska, I was privileged to have the line-item veto authority. To me, it was an invaluable weapon in my arsenal to effectively control the spending of my State legislature.

I have long believed that the President too should have this power to challenge wasteful Government spending and keep us on the path of deficit reduction. All but two Presidents in the 20th century have supported some type of line-item veto authority. It's not time; it's past time we granted the President this power.

Mr. President, in previous years, I have championed efforts to amend the Constitution to allow for a line-item veto. I have led the charge to give the President enhanced rescission powers.

Over 7 years ago, I worked with then Senator Dan Quayle in sponsoring a porkbuster enhanced rescission proposal. I also supported an amendment by my distinguished colleague from Arizona, Senator MCCAIN that would have granted the President greater rescission powers.

It is a somewhat melancholy task to come to the Senate floor year after year seeking these powers for the President and then to come away empty handed. The McCain amendment garnered only 40 votes—far short of the 60 votes needed to break the filibuster that would surely occur on any such proposal.

I have come to the sad conclusion that proposals such as these stand little if any chance of becoming law. But that does not mean that we should allow the perfect to become the enemy of the good. Through compromise—a bipartisan compromise—we can still move forward on this issue. As such, I am an original sponsor of the legislative Line-Item Veto Act.

The bill would change our current rescissions process by giving the President the authority not to spend specific funding included in the appropriations bills.

Upon making a decision to rescind certain spending, the President would then be required to seek congressional approval. If Congress does not agree by at least a majority vote—not a super

majority—in both Houses, the funding is released.

Members are less likely to pile on the pork in the appropriations bill if they know that they might have to defend each item on its own merits.

Mr. President, there are some critics who argue that the savings reaped from such a proposal will not make a significant dent in the menacing budget deficit; but that is a feeble excuse to oppose these efforts.

Of course, a single bill is not going to solve the budget deficit in and of itself, or erase a \$4.5 trillion debt. These problems did not occur overnight and they will not be solved overnight. There are no quick fixes, silver bullets or panaceas. We should not rise to these shiny lures.

I believe that those who think clearest about reducing the budget deficit realize that we will solve the problem in an incremental fashion. We will solve it in a bipartisan fashion.

In the coming weeks I look forward to working with the distinguished chairman of the Budget Committee Senator DOMENICI to move this legislation. I also plan further discussion with Senator BRADLEY of the Finance Committee as to whether we should include rescission authority over tax expenditures as well.

What is demanded of us now is to push the process forward to a speedy and successful conclusion. This bill is the vehicle of compromise that will carry us to the finish line.

Mr. President, I yield the floor.

**THE RETIREMENT OF SENATOR BENNETT JOHNSTON**

Mr. LEVIN. Mr. President, I was greatly saddened to learn yesterday of the decision of my friend and colleague BENNETT JOHNSTON of Louisiana not to seek reelection to a fifth term in the U.S. Senate.

BENNETT JOHNSTON has been a leader in the Senate. Indeed, when I first entered the Senate in 1979, he already had a long record of accomplishment. He has long been established as one of the Senate's most knowledgeable and respected voices on energy policy, and also as a persuasive voice on a broad range of issues. He was, during the Reagan administration, for example, one of the foremost opponents of the excesses of the strategic defense initiative.

I know that my good friend has made a difficult decision. I hope that he has made the right one for him and his family. I know that it is one which will leave the Senate diminished. Over the years he has been constant in his decency, his independence and his openness. We are all going to miss him and his many fine qualities.

While I look forward to 2 more years of productive work alongside the senior Senator from Louisiana, I know that I will sorely miss BENNETT JOHNSTON when he leaves this body at the end of the 104th Congress.